

Ramesh Chander Vs. State of Jandk; and ors

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Court : Jammu and Kashmir

Decided On : Nov-20-2012

Judge : Hon'ble Mr. Justice M. M. Kumar

Appellant : Ramesh Chander

Respondent : State of Jandk; and ors

Judgement :

HIGH COURT OF JAMMU AND KASHMIR AT JAMMU. LPASW no. 88 OF 2011. Ramesh Chander Petitioners State of J&K and ors Respondent !Mr. S. S. Lehar, Sr. Advocate with Mr. Meharban Singh, Advocate. ^Mr. S. K. Shukla, Advocate with Mr. Rahil Raja, Advocate Honble Mr. Justice M. M. Kumar, Chief Justice Honble Mr. Justice Mohammad Yaqoob Mir, Judge Date:

20. 11.2012 :

: M. M. Kumar, CJ 1. The instant appeal under Clause 12 of the Letters Patent is directed against Judgment and order dated 04.09.2012 rendered by the learned Single Judge in SWP no. 1305/2009 & CMA no. 1303/2010. The appellant-petitioner belongs to Handicapped Category (Locomotor Disability) and succeeded in persuading the learned Single Judge that his case deserves consideration at the hands of the respondents because the selected candidate belonging Handicapped Category, Shri Sajad Ahmed Wani, did not join. While disposing of the writ petition, the learned Single Judge tempered the directions with the observation that the

appellant-petitioner is to be considered for appointment if he figured in the waiting list and that the waiting list was in operation on the date of the order. It is this part of the direction which has been impugned in the Letters Patent Appeal.

2. Mr. S. S. Lehar, learned senior counsel states that his client would be satisfied if the respondents are directed to accord consideration to the claim of the appellant-petitioner under the Handicapped Category (Locomotor Disability) on the ground that the other candidate, Shri Sajad Ahmed Wani, did not join. According to the learned counsel, there was no waiting list and the direction issued by the learned Single Judge presuming the existence of waiting list would defeat his rights of consideration.

3. Mr. Shukla, learned counsel for the Services Selection Board has submitted that in order to succeed the appellant-petitioner must figure next to Shri Sajad Ahmed Wani in the merit list and that he has failed to qualify in the Urdu paper.

4. Mr. Lehar, learned counsel answering the argument that the appellant-petitioner has failed in Urdu paper has argued that the record was produced before the learned Single Judge when the issue was raised and it was highlighted that the appellant-petitioner secured two marks in Urdu paper and 3 many persons with two marks were selected and appointed.

3. As a sequel to the above discussion, we dispose of the appeal and modify the direction issued by the learned Single Judge. The case of the appellant-petitioner shall be considered under Handicapped Category (Locomotor Disability) on the ground that the other candidate belonging to the same reserved category did not join irrespective of the fact whether there was any waiting list or not. The needful shall be done within a period of four weeks from today.

4. The appeal stands disposed of. (Mohammad Yaqoob Mir) (M. M. Kumar) Judge
Chief Justice Jammu, 20.11.2012 Parshant