

HIGH COURT OF AZAD JAMMU & KASHMIR

Writ petition No.3511/2021.
Date of institution 22.10.2021.
Date of decision 30.05.2024.

Mohammad Ismail s/o Mohammad Bashir r/o Dhangroot
P/O Kotli, Tehsil & District Kotli, Azad Jammu & Kashmir.

Petitioner

VERSUS

1. University of Management Sciences Kotli through its Registrar, District Kotli Azad Kashmir;
2. Vice Chancellor University of Management Science Kotli Azad Kashmir;
3. Selection Committee for the selection of Grade 1 & 2 through its Chairman, University of Management Science Kotli Azad Kashmir;
4. Senate University of Management Science Kotli Azad Kashmir;
5. Syndicate University of Management Science Kotli Azad Kashmir;
6. Registrar, University of Management Science Kotli Azad Kashmir;
7. Accountant University of Management Science Kotli Azad Kashmir.

Respondents

WRIT PETITION

Before:- Justice Syed Shahid Bahar, J.

PRESENT:

Malik Mohammad Zarahat Khan, Advocate for the Petitioner.

Sardar Zaffar Iqbal, Legal Advisor for the University.

JUDGMENT:

Through this constitutional petition, the petitioner is seeking direction against the respondents to

issue his appointment order in light of recommendation of Selection Committee dated 18.07.2017.

2. The case of the petitioner is that University of Management Sciences and Information Technology Kotli Azad Jammu & Kashmir advertised different posts and 05 posts of Naib Qasid BPS-1 were also advertised and qualification for the posts of Naib Qasid as per advertisement was shown as Matric. The petitioner also applied and after test and interview placed at serial No.2 of the merit list, however, the authority made two appointments against the posts of Naib Qasid but ignored the petitioner without any plausible reason and petitioner in this regard time and again asked the authority for issuance of his appointment order but all in vain. It has been stated that some other recommended candidates filed writ petition before this Court which was accepted and the respondents were directed to issue their appointment orders and on filing appeal before the Hon'ble Supreme Court, the judgment of this Court was upheld, hence, this writ petition for seeking direction against the respondents to issue the appointment order of petitioner.

3. The respondents in reply to that instant petition filed written statement whereby, it has been stated that the

result was examined by the Voice Chancellor and rejected the same while exercising powers vested to him and he decided to re-interview all candidates. It has been alleged that the result obtained through fraud and malpractice cannot be allowed as the petitioner wants to get the benefit of his wrong doings and the petitioner is not an aggrieved party in the eye of law.

4. Heard, record perused. The petitioner by filing the instant petition has sought direction against the respondents to issue his appointment order in light of recommendations of the Selection Committee. After advertisement of the posts, the Selection Committee prepared result and gave their approval for issuance of the appointment orders of successful candidates. Annexure "PE" is a letter/recommendations of the Selection Committee for issuance of appointment orders of the successful candidates. Selection Committee was held on 16.02.2017 for appointment against the posts of Naib Qasid BPS-1 and against the 05 posts of Naib Qasid 10 candidates were called for interview. It is astonishing that despite placing at serial No.2 of the merit list, the petitioner could not be appointed since 2017. It is well established from the record that against five advertised posts, the petitioner got

the meritorious position and placed at serial No.2 of the merit list but due to procrastination and lethargic behavior of the Selection Committee, he could not be appointed despite elapsing so many years. Job is the fundamental right of every State Subject and the petitioner being 1st Class State Subject applied against the supra posts and got the meritorious position and was entitled for the appointment against the advertised post. As per right No.17 of the Interim Constitution 1974, no state subject otherwise qualified for appointment in the service of Azad Jammu & Kashmir shall be discriminated against in respect of any such appointment on the ground only of race, religion, caste, residence, sex or place of birth, so, the respondents have clear-cut violated the law while not appointing the petitioner despite the fact that he has obtained the 2nd position in the merit list against five advertised posts of Naib Qasid BPS-1. In my considered view, this was the discriminated and injustice made against the petitioner on part of Selection Committee, hence, the petitioner feeling disheartened and disappointed approached this Court for redressal of his grievance. Administrative justice should have been made transparently in favour of citizens/State Subjects without any discrimination so that the problems

and troubles of the people may be resolved timely without wastage of time and wealth and the rightly and deserved person may get their rights at administrative side without knocking the door of this Court. Only those people knock the door of the Courts against whom maltreatment and discrimination is made by the officials high ups. Everyone who will knock the door of the Courts his/her grievances will be redressed and all the necessary steps would have been taken in this regard to provide the justice to the aggrieved people as all the citizens are equal before law and equality before the law is a fundamental principle in most legal system which means that everyone regardless of their status, wealth, or power, should be treated fairly and equally under the law. Subsequently in guise of apprehension depriving the petitioner (a successful candidate) from appointment is arbitrary and unjust, that too, when so many similarly situated candidates have already took benefit of appointments under the same selection process, thus, discriminatory treatment and mala-fide on part of the answering respondents is oozing from record. Conscious of the Court is attracted on account of apathy exhibited by the relevant authority, thus, the petitioner was constrained to file the instant petition.

Doctrine of administrative justice demands fairness, transparency and reasoning in the administrative decisions. Section 24-A of the General Clauses Act speaks for reasoning in support of the orders adverse to someone in order to justify the issuance of the same.

(Under lining is mine)

In light of what has been stated above, the writ petition is accepted with costs and the respondents are directed to redress the grievance of the petitioner within one month and in this regard compliance report shall also be submitted before Registrar of this Court. File shall be kept in archive.

Announced.

Circuit Kotli.

25.05.2024 (Saleem)

JUDGE

Approved for Reporting

JUDGE