

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

LPASW No.194/2016

1. Aurangzeb Khan, Aged 26 years
S/o Mohammad Azeem Khan,
R/o Village Bandi, Chechian, Tehsil Haveli
District Poonch
2. Azad Mehmood, Aged 28 years
S/o Shri Najab Din,
R/o Village Mandhaar, Tehsil Haveli
District Poonch
3. Mohd. Arif Aged 37 years
S/o Mohammad Azeem Khan,
R/o Village Bandi, Chechian,
Tehsil Haveli District Poonch

.. Appellant/Petitioner(s)

Through :- Mr. K.K.Pathan, Advocate

V/s

1. State of J&K thorough Commissioner/Secretary
to Govt.,
Sheep Husbandry Department, Civil Sectt.,
Jammu.
2. Director,
Sheep Husbandry Department, Jammu
3. District Sheep Husbandry Department,
Poonch
4. Dr. Boop Chand Sharma,
Then District Sheep Husbandry Officer, Poonch
(Chairman District Level Selection Committee)
5. Rajiv Kumari Bali S/o netar Parkash
R/o Village Khaneter, Tehsil Haveli District Poonch
6. Noor Hussain S/o Mohd. Hussain R/o Village Hari
Tehsil Surankote District Poonch
7. Shakeel Ahmad S/o Abdul Ghani
R/o Village Balla, Tehsil Mandi District Poonch

8. Aziz-ur-Rehman S/o Mohd. Din
R/o Village Saloonia Tehsil Mandi District Poonch
9. Javed Iqbal S/o Mohd Ismail R/o Village Bandichachian
Tehsil Haveli District Poonch.
10. Mukhtiar Layaqat S/o Liyaqat Ali
R/o Village Kallar Kattal, Tehsil Surankote
District Poonch.
11. Vinod Kumar S/o Puran Dass R/o Village Androlla
Tehsil and District Rajouri
12. Mohd. Imran S/o Mohd. Latif R/o Village Behramgalla
Tehsil Surankote District Poonch.
13. Mohd. Parvez S/o Mohd. Bashir R/o Village Mahra
Tehsil Surankote District Poonch.

....Respondent(s)

Through:- Mr. Sunil Malhotra, GA for R-1 to 4
Mr. V.B.Gupta, Advocate for R-5 to 13

14. Mohd. Sayeed 26 years S/o Sher Mohd R/o Village Dingla
Tehsil Haveli District Poonch.
15. Mohd. Rashid S/o Mohd. Bashir R/o Village Sathra,
Tehsil Mandi, District Poonch.
16. Shakeel Ahmad S/o Muneer Hussain R/o Village Sathra
Tehsil Mandi District Poonch
17. Mohd. Majeed S/o Abdul Gaffar R/o Village Sathra
Tehsil Mandi District Poonch
18. Jatian Sharma S/o Nanu Sharma R/o Ward No.1,
Near Police Check Post Qazi Morh, District Poonch.

.....Proforma respondent(s)

Coram:

HON'BLE MR. JUSTICE SANJEEV KUMAR, JUDGE
HON'BLE MR. JUSTICE MOHAN LAL, JUDGE

JUDGMENT (ORAL)
19.10.2023

Sanjeev Kumar J

1. This *intra Court* appeal is directed against the judgment dated 07.12.2016 passed by a learned Single Judge of this Court (“the Writ Court”] in SWP No.710/2014 titled *Aurangzeb Khan and others v. State of J&K and others*, whereby the Writ Court has dismissed the writ petition filed by the appellants along with some other connected matter.

2. Briefly stated, the facts leading to the filing of this appeal are that vide advertisement notification dated 25.09.2009, applications were invited for filling up 13 vacancies in class-IV cadre: 9 posts of Assistant Stock Man and 7 posts of Fieldman. The appellants herein along with private respondents and many others participated in the selection process. The selection process was conducted by the selection committee duly constituted by the Government. The petitioners, on the basis of their merit calculated in terms of the selection criteria duly published by the official respondents, figured in the list of candidates shortlisted for appearing in the final test as well as viva voce, which was conducted from 19.02.2014 to 25.02.2014. On conclusion of the selection process, select list was prepared by the selection committee headed by Incharge District Sheep Husbandry Officer, Poonch and released on 26.02.2014. Though, the same was published in daily “State Times” on 05.03.2014. After inviting objections and completing all the requisite formalities, appointment orders in favour of the selected candidates including private respondents herein were issued. Pursuant to the appointment orders issued, private respondents and other

selected candidates have joined. The appellants, who could not find their names in the select list and were not offered appointment, filed SWP No.710/2014, which was taken up by the Writ court along with other connected matters and disposed of vide judgment impugned in this appeal. It is this judgment of the Writ Court, the appellants have called in question in this appeal.

3. The impugned judgment is challenged by the appellants primarily on the following grounds:-

- i) That the select list was prepared and issued by the official respondents when the Chairman of the Committee stood transferred. It is submitted that the Chairman of the Committee was transferred on 04.03.2014 while as the select was published in the newspaper on 05.03.2014. It is, thus, argued that the select list was not prepared and signed by the competent person.
- ii) That some of the selected candidates, who had not even participated in the selection process, have been selected and appointed by the official respondents at the cost of the appellants.
- iii) That the selection criteria prepared and published by the official respondents for making selections in question was arbitrary and bad in the eye of law.

4. Having heard learned counsel for the parties and perused the material on record, we are of the considered view that the judgment passed by the

Writ Court is perfectly legal and falls within the four corners of law and, therefore, deserves to be upheld.

5. Insofar as, plea of the appellants that the select list was issued under the signatures of the Chairman on 05.03.2014, who stood transferred from his post on 04.03.2014 is concerned, the Writ Court has considered this issue in the light of the reply affidavit filed by the official respondents in which it has been amply clarified that the select list in question was prepared and submitted by the selection Committee on 16.02.2014, which was received by the Director, Sheep Husbandry, Jammu on 27.02.2014. It is submitted that the select list was published in local daily "State Times" on 05.03.2014. The Writ Court has correctly appreciated the plea of the appellants that the select list was prepared and issued by the selection committee much before the Chairperson heading the committee stood transferred w.e.f. 04.03.2014.

6. So far as plea of the appellants that some of the candidates, who had not even participated in the selection process, have made it to the select list and offered appointment is concerned, we do not find any specific submission in this regard made in the writ petition nor there is any material placed before the Writ Court to substantiate the same. The Writ Court has rightly not agreed with the appellants that there were some of the candidates, who had not even participated in the selection process, yet have been selected and appointed.

7. With regard to the challenge to the selection criteria, the Writ Court has rightly come to the conclusion that the appellants after participating in

the selection process without any protest or demur cannot be permitted to turn around and challenge the process of selection after having failed to find their names in the select list. The reliance placed by the Writ Court on **Madan Lal v. State of J&K, (1995) 3 SCC 486** and **Dhanajay Malik and others v. State of Uttaranchal and others, (2008) 14 SCC 454** is quite apt. The legal position is well settled and it is trite law that candidates, who participate in the selection process with their eyes wide open, cannot be allowed to turn around and challenge the selection on the ground that the criteria for selection or the constitution of the selection committee was arbitrary and not in consonance with law.

8. For the foregoing reasons, we concur with the view taken by the Writ Court while dismissing the writ petition filed by the appellants.

9. In view of the above, this appeal is found to be without any merit, hence dismissed.

(Mohan Lal)
Judge

(Sanjeev Kumar)
Judge

Jammu:
19.10.2023
Vinod, PS

Whether order is reportable: Yes/No