

17

HIGH COURT OF JAMMU AND KASHMIR AT SRINAGAR

LPA no. 104/2012  
CMA nos. 176/2012 & 209/2013

Date of order: 29.07.2013

Tanveer Majeed Chowdhary v. State of J&K and Ors

**Coram:**

Hon'ble Mr. Justice M. M. Kumar, Chief Justice.  
Hon'ble Mr. Justice Dhiraj Singh Thakur, Judge.

**Appearing counsel:**

For the Appellant(s) : Mr. Q. R. Shamas, Advocate.  
For the respondent(s) : Mr. Azar-UI-Amin, Advocate.

- i) Whether to be reported in Press, Journal/Media : Yes/No  
ii/ Whether to be reported in Digest/ Journal : Yes/No

M. M. Kumar, CJ

1. The instant appeal under Clause 12 of the Letters Patent is directed against judgment and order dated 23.04.2012 passed by the learned Single Judge of this Court, dismissing SWP no. 2337/2011, holding that the grievance made by the writ petitioner with regard to many questions being out of syllabus was not raised at the appropriate stage. The learned Writ Court further held that at a belated stage the writ petitioner-appellant could not have raised such a plea as the initial period of three days has expired as provided by Rule 12-A of the J&K Public Service Commission (Conduct of Examination) Rules, 2005.

2. The matter pertains to selection and appointment of 15 posts of Assistant Legal Remembrancers/ Public Law Officers.

Cf7

u

Obviously the writ petitioner-appellant could not make mark in the written test and then raised the grievance before the Writ Court that a number of questions were out of syllabus. However, the Writ Court did not feel persuaded to accept his claim and dismissed the writ petition. Feeling aggrieved the instant appeal has been filed.

3. It is conceded case of the parties that the written test was aimed at screening the candidates for viva voce. The marks obtained at the stage of screening were not to be considered for viva. The criteria for final selection was basic qualification, experience, marks for sports and marks obtained in vive voce etc.

4. This Court proceeded on the assumption that the writ petitioner-appellant qualified the screening test after the counsel for parties had agreed on 19.07.2012 that the writ petitioner- appellant be permitted to appear for viva voce provisionally and the following order was passed:-

"There is broad agreement between the parties that despite the cut of 7 marks of 91 in the written examination, the writ petitioner- appellant would be provisionally subjected to viva-voce and the marks obtained in the viva-voce shall be produced in a sealed cover before this Court along with the result of the fifteen selected candidates.  
Let the appellant be provisionally subjected to viva-voce test a week before the adjourned date. His marks secured in viva-voce test be produced in a sealed cover along with the marks of fifteen selected candidates."

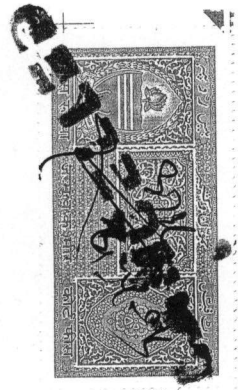
5. In pursuance of the aforesaid order, record showing the marks of 15 candidates and the marks obtained by the writ

15

petitioner- appellant, have been produced before us in two sealed covers by the learned counsel for the Public Service Commission. Both the sealed covers have been opened by the Court Master on our asking. We have perused the record which reveals that the writ petitioner- appellant has not been able to secure marks closer to the marks of last candidates out of 15 candidates. The result is yet to be declared by the commission and, therefore, we are refraining ourselves from recording the actual marks secured by the last of the 15 candidates and the writ petitioner- appellant. Moreover, the selection of Assistant Legal Remembrancers/ Public Law Officers has been upheld by a Division Bench of this Court in Jammu Wing in LPASW no. 25/2012 decided on 30.05.2013 (Yogeshwar Singh and ors v. State of J&K and ors).

6. In view of the above we find that this appeal is bereft of merit and the same is hereby dismissed along with connected applications.

7. The Court Master shall re-seal both the envelopes and return the same to learned counsel for the Public Service Commission.



Sd/- Hon'ble Mr. Justice  
M. M. Khandekar  
Sd/- Hon'ble Mr. Justice  
Dhiraj Singh Thakur

Application No. 7596  
 Date of Opp. for the copy 4/9/13  
 Date of which copy was ready for delivery 6/9/13  
 Date of making over the copy to the applicant 6/9/13  
 Fee charged including extra fee for Urgency 1500  
 Name & Signature of the copier [Signature]  
 Compared by [Signature]

CERTIFIED COPY

[Signature]  
 Joint Registrar  
 High Court of J&K, Srinagar

Dated 6<sup>th</sup> Day of Sept 2013  
 AUTHORISED UNDER SECTION 16  
 OF EVIDENCE ACT

HIGH COURT OF JAMMU AND KASHMIR AT SRINAGAR

LPA NO. 104/12

Tanveer Majeed Chowdary, aged 35 yrs S/o Abdul Majeed  
Chowdary R/o 67 Rose avenue Colony, HMT Srinagar..

.....petitioners.

Vs.

1. State of J&K through  
1. Chief Secty , J&K Govt , Civil Sectt, Srinagar.
2. Chairman, J&K Public Service Commission, Polo Ground  
Srinagar.
3. Secty J&K Public Service Commission, Polo Ground  
Srinagar.

.....respondents.

CERTIFIED COPY

  
Joint Registrar

High Court of J&K, Srinagar

Dated 6<sup>th</sup> Day of Sep 2012

AUTHORISED UNDER SECTION 7  
OF EVIDENCE ACT