

SUPREME COURT OF AZAD JAMMU AND KASHMIR

[Review Jurisdiction]

PRESENT:

Ch. Muhammad Ibrahim Zia, C.J.
Raja Saeed Akram Khan, J.

Civil Review No.27 /2016

Civil Misc. No.211/2016

(Filed on 29.06.2016)

Sadia Nazir d/o Muhammad Nazir Abbasi r/o Ghari Dupatta, Tehsil & District Muzaffarabad, Headmistress Govt. Girls High School Gun Chatter, Tehsil Naseerabad Patikah District Muzaffarabad.

.....PETITIONER

VERSUS

1. Mst. Ambreen Khalique D/o Khawaja Abdul Khalique r/o Upper Plate, Tehsil and District Muzaffarabad.
2. Azad Govt. of the State of Azad Jammu & Kashmir through its Chief Secretary, having its office at New Secretariat, Muzaffarabad.
3. Public Service Commission through its Chief Secretary having his office at New District Headquarter Complex, Muzaffarabad.
4. Secretary, Elementary & Secondary Education Department having its office at New Secretariat Muzaffarabad.
5. Director Public instructions Schools Azad Jammu & Kashmir, having his office at New District Complex Muzaffarabad.

... RESPONDENTS

[In the matter of review from the judgment of this Court dated 25.05.2016 in Civil Appeal No.54/2015]

[Application for interim relief]

FOR THE PETITIONER: Barrister Humayun
Nawaz Khan, Advocate.

FOR THE RESPONDENTS: Nemo.

Date of hearing: 21.03.2017.

JUDGMENT:

Ch. Muhammad Ibrahim Zia, C.J.– The petitioner seeks review of the judgment dated 25th May, 2016, whereby while accepting the appeal filed by respondent No.1, herein, the judgment of the High Court was set aside.

2. Necessary facts for disposal of instant review petition are that the petitioner, Sadia Nazir, filed a writ petition in the Azad Jammu & Kashmir High Court on 7th May, 2010, alleging therein, that four posts of Headmistress (B-17) in the quota reserved for district Muzaffarabad were advertised. She participated in the test and interview and was placed at serial No.20 in the merit list. The official respondents have appointed the candidate who was at serial No.21 in the merit list. The department has not advertised all the posts. The learned Chief Justice of the High Court through judgment dated 15th June, 2013, accepted the writ petition and directed the authorities to appoint the

petitioner as Headmistress against the post which fell in the quota reserved for District Muzaffarabad. Against the said judgment of the High Court respondent No.1 approached this Court by filing an appeal by leave of the Court which was accepted through judgment dated 25th May, 2016, hence this review petition.

3. Barrister Humayun Nawaz Khan, Advocate, the learned counsel for the petitioner after narration of necessary facts submitted that the learned High Court has passed the judgment on the basis of proper appreciation of the record which has not been properly appreciated by this Court while handing down the judgment under review. Moreover, for drawing the conclusion in the judgment under review the reliance has been placed on the report of the Secretary Education which was produced before the Court at the back of the petitioner without providing her opportunity of hearing. It amounts to condemn the petitioner unheard which is against the principle of administration of justice. In this background, it appears to be an error and mistake apparent on the record, thus, review of the judgment is justified. To substantiate his arguments, he also requested that the interim orders

recorded by the Court are supportive to the version of the petitioner. The case was fixed for submission of report but without providing opportunity to the petitioner to go through the report or argue the case, the judgment under review has been passed.

4. After hearing the learned counsel for the petitioner, we have gone through the judgment under review and also examined the record of the appeal. Leaving aside other arguments, the point that the judgment is mostly based upon the report of the Secretary Education and parties have not been provided with opportunity to argue the case in the light of this report, apparently, to some extent finds support from the record. The interim order of the Court dated 16.03.2016 speaks that during arguments of the case it was felt advised to issue notice to the Secretary Education to appear before the Court alongwith the record and also bring the written report. Thereafter, for one or other reason the case was adjourned and ultimately the report was filed in the Court on 09.05.2016 and the judgment was reserved in the case. The order does not speak whether the parties have been provided with opportunity of perusing the

report or hearing in the light of record. In this background, the matter requires detailed deliberation, therefore, this review petition is admitted for regular hearing. Notices shall be issued to the parties for appearance and after due service of notices the file shall be placed before the Court for hearing on _____.

CHIEF JUSTICE

JUDGE
(J-I)

Muzaffarabad
_.04.2017

Date of announcement: 03.05.2017