

**SUPREME COURT OF AZAD JAMMU AND KASHMIR**  
(APPELLATE JURISDICTION)

**PRESENT:**

**Ch. Muhammad Ibrahim Zia, C.J.**  
**Ghulam Mustafa Mughal, J.**

Civil Appeal No.181 of 2019  
(PLA filed on 04.03.2019)

Asima Shafique w/o Atta-ur-Rehman, r/o village Gulshan  
Pir Allaud-Din, Tehsil and District Muzaffarabad.

....APPELLANT

**VERSUS**

1. Public Service Commission, Azad Jammu & Kashmir  
through its Secretary, having his office at Narul  
Muzaffarabad.
2. Chairman, Public Service Commission, AJ&K, having  
his office at Narul, Muzaffarabad.

....RESPONDENTS

(On appeal from the judgment of the High Court dated  
13.12.2018 in Writ Petition No.919 of 2016)

FOR THE APPELLANT:                      Mr. Saqib Javed, Advocate.

FOR THE RESPONDENTS:                      Sardar Karam Dad Khan,  
Advocate-General.

Date of hearing: 05.07.2019

**JUDGMENT:**

**Ghulam Mustafa Mughal, J.**— The titled appeal by leave of the Court has been directed against the judgment dated 13.13.2018, passed by the Azad Jammu & Kashmir High Court in Writ Petition No.919 of 2016.

2. The facts forming the background of the captioned appeal are that the Azad Jammu & Kashmir Public Service Commission advertised various posts including 3 posts of Assistant Professor Islamiyat B-18, vide advertisement No.02/2013. The appellant, herein, being eligible applied against one of the posts and she was called for written test vide letter dated 15.01.2015. She was declared successful in the written test as per handout/press release issued by the Public Service Commission on 29.09.2015. It is stated that the appellant, herein, was not called to participate in the interview on the ground that she is lacking the required qualification. The appellant,

herein, filed a constitution petition before the Azad Jammu & Kashmir High Court seeking direction to the respondents to allow him to participate in the interview. The learned High Court vide order dated 07.04.2016, allowed the appellant, herein, to participate in the interview. It is alleged that at the time when the interview was conducted, the appellant, herein, was admitted in the hospital as such could not participate in the same and was declared unsuccessful by the Public Service Commission. This action of the Public Service Commission was challenged by the appellant, herein, by way of writ petition before the High Court on 30.03.2016. During pendency of the writ petition, an application for grant of amendment in the writ petition was filed by the petitioner/appellant, herein. The learned High Court, after hearing the parties, through the impugned judgment dated 13.12.2018 has dismissed the writ petition as well as the application for amendment.

3. Mr. Saqib Javed, the learned Advocate appearing for the appellant argued that the learned High Court has dismissed the writ petition as well as the application for grant of amendment erroneously and arbitrarily without taking into consideration the legal position of the case. The learned Advocate further argued that the appellant, herein, in response to the advertisement, applied for appointment and qualified the written test but she was not called to participate in the interview. He added that she was allowed by the learned High Court vide order dated 07.04.2016. The learned Advocate submitted that the appellant, herein, was seriously ill and was admitted in the hospital as is evident from the record, as such could not prepare for the interview, therefore, she may have given a chance to prove her eligibility by fixing some other date for her interview. The learned Advocate further submitted that the appellant, herein, has qualified the test, hence, a valuable right has

accrued in her favour which cannot be snatched in an arbitrary manner. He contended that the amendment sought was necessary for just decision of the case but the same has illegally been refused by the learned High Court. The learned Advocate prayed that the case may be remanded to the learned High Court to decide the same afresh after allowing the amendment in the writ petition.

4.           Conversely, Sardar Karam Dad Khan, the learned Advocate-General appearing for the respondents argued that the appellant, herein, participated in the test and interview but could not succeeded to get the merit position for appointment. He added that this fact was brought into the notice of the learned High Court, hence, the writ petition was dismissed through the impugned judgment on merits. The learned Advocate-General submitted that the application for grant of amendment was frivolous

which has rightly been rejected by the learned High Court on the ground that allowing the amendment is neither necessary nor just decision of the case.

5. We have heard the learned counsel for the parties and have perused the record of the case. A perusal of the record reveals that the appellant, herein, participated in the test and interview but she remained unsuccessful as is evident from the certificate issued by the Public Service Commission relied upon by the learned High Court. The Public Service Commission has the sole authority and prerogative to conduct the test and interview. If a candidate cannot prove his/her eligibility in the test and interview, then the same cannot be substituted in writ jurisdiction. No any illegality or departure from law has been pointed out by the appellant. The learned Advocate for the appellant has emphasized on the sole point that the appellant was admitted in the hospital. As per record produced by the appellant, she

remained in the hospital for 3 days only but she did not make any request/application to the Public Service Commission for fixing some other date for interview rather she has admittedly participated in the interview, hence, this stance is hereby repelled being without substance.

The upshot of the above discussion is that finding no force in this appeal, the same is hereby dismissed. No order as to costs.

**JUDGE**

**CHIEF JUSTICE**

Muzaffarabad  
08.07.2019