

SUPREME COURT OF AZAD JAMMU AND KASHMIR

[Appellate Jurisdiction]

PRESENT:

Ch. Muhammad Ibrahim Zia, C.J.

Ghulam Mustafa Mughal, J.

Civil Appeal No. 551 of 2019

(PLA filed on 08.07.2019)

1. Azad Jammu & Kashmir Technical Education & Vocational Training Authority (TEVTA) through its Chairman, Muzaffarabad.
2. Chairman, Azad Jammu & Kashmir Technical Education & Vocational Training Authority (TEVTA), having his office at Upper Chatter, Muzaffarabad.
3. Secretary/Chief Operating Officer, TEVTA, Azad Jammu & Kashmir Muzaffarabad.
4. Selection Committee/Selection Board for the appointment of Monitoring Officer and Assistant Director through its Chairman, Azad Jammu & Kashmir Technical & Vocational Training Authority (TEVTA), having his office at Upper Chatter, Muzaffarabad.

.... APPELLANTS

VERSUS

Waseem Butt s/o Muhammad Afzal, Refugee of 1990, presently settled in Manakpayyan Mahajar Camp, Tehsil and District Muzaffarabad.

..... RESPONDENT

(On appeal from the judgment of the High Court dated 12.06.2019 in Writ Petition No. 278 of 2019)

FOR THE APPELLANT: Ch. Muhammad
Manzoor, Advocate.

FOR RESPONDENTS: Nemo.

Date of hearing: 13.01.2020

JUDGMENT:

Ghulam Mustafa Mughal, J.— The captioned appeal by leave of the Court has been directed against the judgment dated 12.06.2019 passed by the Azad Jammu & Kashmir High Court in Writ Petition No. 278 of 2019.

2. The precise facts forming the background of the captioned appeal are that the appellants, herein, advertised the posts of Assistant Director B-17 and Monitoring Officer B-17 (one post of each category), to be filled in through open merit, vide advertisement dated 18.01.2019. The respondent, herein, challenged the aforesaid advertisement before the Azad Jammu & Kashmir High Court by way of writ petition on 11.02.2019, on the ground that seven posts of Assistant Director B-17, were created in the department and earlier six posts have

been filled in from only two units i.e. Muzaffarabad and Bagh, therefore, under the relevant rules, appointments from these units cannot be made now. It was prayed that these units may be excluded from the advertisement dated 18.01.2019, so that the candidates from the other units of the State may contest the test and interview. The advertisement to the extent of the post of Monitoring Officer B-17 was challenged by the respondent, herein, on the ground that no rules for the said post have been framed so far, therefore, the said post cannot be filled in. The other side contested the writ petition by filing written statement, whereby, the claim of the petitioner/respondent, herein, was refuted. The learned High Court after necessary proceedings through the impugned judgment dated 12.06.2019 has accepted the writ petition.

3. Ch. Muhammad Manzoor, the learned Advocate appearing for the appellants argued that the learned High Court has erroneously accepted the

writ petition and set aside the condition of experience for the post of Assistant Director B-17. The learned Advocate further argued that the authority who is authorized to appoint a person is also competent to place any condition such as experience etc. in the best interest of the institution as well as the Government. He added that the learned High Court has no jurisdiction to set aside the policy decision of an authority.

4. We have heard the learned counsel for the appellant in support of the grounds raised in the appeal. In view of the proposed conclusion, arguments raised on behalf of the appellants need not to be reiterated and discussion on merit would be academic. Suffice it to observe that the respondent on 01.01.2020, appeared before the Registrar of this Court and filed an application submitting, therein, that he has no objection, if the appeal is accepted. It was further submitted by the respondent, herein, in

the application that he does not want to defend the case.

In view of the statement of the respondent, herein, made in the application dated 01.01.2020, this appeal is accepted and the impugned judgment of the learned High Court is hereby vacated. Resultantly, the writ petition filed by the respondent, herein, before the learned High Court stands dismissed.

JUDGE

CHIEF JUSTICE

Muzaffarabad
14.01.2020