

SUPREME COURT OF AZAD JAMMU AND KASHMIR

[Appellate Jurisdiction]

PRESENT:

Raja Saeed Akram Khan, ACJ.

Civil PLA No.333 of 2020

(Filed on 27.11.2019)

Abdul Rehman

.....PETITIONER

VERSUS

District Education Officer & others

....RESPONDENTS

[On appeal from the order of the High Court dated
15.11.2019 in writ petition No.204 of 2018]

FOR THE PETITIONER: Mr. M. Nadeem Khan,
Advocate.

FOR RESPONDENTS No.4-5: Mr. Fiaz Haider Nawabi,
Advocate.

Date of hearing: 21.05.2020

JUDGMENT

Raja Saeed Akram Khan, ACJ– The petitioner, herein, was appointed as Primary Teacher on adhoc basis. Vide advertisement dated 21.2.2018 the respondents advertised several posts of different units of different cadre including 16 posts of

Primary Teachers (Male) for Union Council Samahni, District Bhimber and 9 posts of Junior Teachers General Line (Male), constituency No.6, Samahni pertaining to District Bhimber. It is alleged that the petitioner being eligible, applied against the vacant posts of Primary Teachers allocated for Union Council, Samahni as well as Junior Teachers General Line (Male) for constituency No.6, Samahni, District Bhimber. It is further alleged that the petitioner successfully passed the NTS test, hence, is qualified to be appointed against the posts of Primary Teacher as well as Junior Teacher General Line, however, the respondents are going to cancel his adhoc appointment. In this background, he filed a writ petition before the High Court for restraining the respondents to abrogate his adhoc appointment. He also sought a direction to the respondents to appoint and confirm him against any vacant post being successful candidate. The writ petition was contested by the other side by filing objections. After necessary proceedings, the learned High Court dismissed the writ petition

through the impugned judgment, hence, this petition for leave to appeal.

2. Mr. Muhammad Nadeem Raja, Advocate, the learned counsel for the petitioner stated that the impugned judgment of the High Court is against the law. The petitioner is holding the post of Primary Teacher on adhoc basis since 2010 and has also qualified the NTS test. While referring to the notification dated 28.03.2018, he submitted that previously the Government has confirmed all the adhoc/temporary Primary/Junior Teachers, being successful candidates in NTS. The similarly placed other employees have been confirmed against the vacant posts. This version of the petitioner was admitted by the departmental authority in the written statement but the learned High Court has failed to consider the same. As important legal propositions are involved, hence, grant of leave is justified.

3. Conversely, Mr. Fiaz Haider Nawabi, Advocate, the learned counsel for the private respondents stated that the impugned judgment is

well in accordance with law. The petitioner has filed the writ petition just to protect his ill-gotten gains. The petitioner failed to produce the necessary record, hence, the learned High Court was justified in dismissing the writ petition.

4. I have heard the learned counsel for the parties and gone through the record. It appears that some important propositions of public importance are involved requiring an authoritative judgment. Leave to appeal is, therefore, granted. The petitioner shall deposit security of Rs.1,000/- within a period of one month otherwise the leave granting order shall automatically stand rescinded. The office shall proceed further according to rules.

ACTING CHIEF JUSTICE

Mirpur,
21.05.2020