IN THE SUPREME COURT OF AZAD JAMMU AND KASHMIR

(Appellate Jurisdiction)

PRESENT:

MR. JUSTICE RAZA ALI KHAN

CIVIL PLA No. 349 OF 2024

CIVIL MISC. NO. 171 OF 2024

(Against the judgment dated 21.05.2024, passed by the High Court in writ petition No. 682 2024)

Raja Kashif Latif Khan s/o Raja Muhammad Latif Khan r/o Village Katkair presently residing at Jalalabad Tehsil and District Muzaffarabad.

…Petitioner

VERSUS

Azad Government and others.

…Respondents

Appearances:

For the Petitioner:	Mr. M. Saghir Javed, Advocate.
For the Respondents:	Raja Sajjad Ahmed Khan, Advocate.
Date of hearing:	09.09.2024

JUDGMENT:

***Raza Ali Khan, J*:-** This petition arises from the judgment of the High Court dated May 21, 2024, wherein the writ petition preferred by the petitioner was summarily dismissed in limine.

2. The petitioner filed a writ petition before the High Court, contending that the Public Service Commission (PSC) had advertised several vacancies through Advertisement No. 7/2018, including seven positions for the post of Assistant Director (BPS-17) at the Ehtesab Bureau, which were to be filled on an open merit basis. The requisite qualifications for appointment to this position was a Master's Degree or L.L.B from a recognized university. As the petitioner possessed the prescribed qualifications, he applied for the advertised position. Following the scrutiny of applications, the PSC invited the petitioner to participate in the selection process, which included a written examination. The petitioner appeared for the written test, securing 485 marks and was declared to have passed. Consequently, the petitioner was shortlisted for an interview by the PSC. However, following the interview, the PSC published a list of selected candidates on its official website, wherein candidates were selected on a unit/district basis, contrary to the open merit stipulation in the advertisement. The petitioner, who ranked second in the merit list after the written test, was overlooked by the PSC in the final recommendations on the grounds that a candidate from Muzaffarabad had already been selected, precluding the recommendation of a second candidate from the same unit. The respondents, in their reply, refuted the petitioner's claims. Upon hearing preliminary arguments, the learned High Court dismissed the writ petition in limine.

3. Mr. Muhammad Saghir Javed, learned counsel for the petitioner, contended that the impugned judgment of the High Court is in stark contravention of the law, facts, and the record. The learned counsel argued that the petitioner, relying on two previous judgments of this Court, had approached the High Court, asserting that the policy dated January 4, 2013, was not operative at the time of the issuance of these judgments. Therefore, the effect of the said policy on the petitioner's case required a meticulous examination, which was overlooked by the High Court in the impugned judgment. The learned counsel further contended that the High Court erroneously held that the petitioner had not challenged the conditions set out in the advertisement and other notifications regarding the quota system. He argued that this observation was legally flawed, as the prayer clause of the writ petition explicitly challenged all notifications, circulars, and conditions that were inconsistent with the policy notification. He concluded by asserting that the questions raised in this petition are of substantial legal significance and merit the grant of leave.

4. Conversely, Raja Sajjad Ahmed Khan, learned counsel for respondents No. 5, 6, 7, 9, and 11, maintained that the High Court had rightly rendered its judgment, which does not warrant any interference by this Court. He submitted that the petitioner had accepted all conditions, participated in the written test and interview, and therefore, could not now challenge the selection process. The learned counsel argued that the High Court committed no illegality in passing the impugned judgment, and thus, the present petition for leave to appeal should be dismissed.

5. Having heard the learned counsel for both parties and reviewed the case record, it is my considered opinion that this matter involves significant questions of law of public importance that necessitate a deeper judicial scrutiny. Accordingly, leave to appeal is granted. The petitioner is directed to deposit a security of Rs. 1,000 within one month; failing which, this leave-granting order shall automatically stand rescinded. The office is instructed to proceed in accordance with the relevant rules.

JUDGE

Muzaffarabad,
09.09.2024