

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH  
AT JAMMU**

SWP No.951/2017

Vishal Khajuria

...Petitioner(s)

Through :- Mr. M.K.Bhardwaj, Sr. Advocate with  
Mr. Kapil Sharma, Advocate

V/s

Staff Selection Commission

...Respondent(s)

Through :- Mr. Vishal Sharma, DSGI with  
Mr. Sumant Sudan, Advocate for R-1 to 3 & 5 to 7  
Mr. Ranjit Singh Jamwal, CGSC for R-4

**Coram: HON'BLE MR. JUSTICE SANJEEV KUMAR, JUDGE**

**JUDGMENT(Oral)**  
**30.01.2024**

1. The petitioner, in this petition filed under Article 226 of the Constitution of India, has sought a direction to respondent Nos. 1 to 7 to appoint the petitioner as Constable (GD) in the Indo Tibetan Border Police (ITBP).
2. The short grievance projected by the petitioner is that the petitioner along with other eligible candidates participated in the selection process initiated by the Staff Selection Commission for filling up in as many as 6224 vacancies of Constables in the ITBP. The petitioner was provisionally allowed to sit in various tests including the written test conducted by the Staff Selection Commission. The petitioner claims that he scored 44 points and was having more marks than the candidate last selected, yet he was not finally selected and offered appointment.

3. On enquiry, the petitioner came to know that he has not been finally selected and appointed on the ground that he does not possess the requisite qualification prescribed in the advertisement notification. Feeling aggrieved of his ouster from the final select list and consequent denial of appointment letter, the petitioner has filed the instant petition.

4. On being put on notice, respondent Nos. 4 and 6 have filed their separate objections. It is pointed out by the respondents that the petitioner was provisionally allowed to participate in the selection process having regard to the fact that there was enormous response to the advertisement notification and there was hardly any time to determine the eligibility of each candidate, who had submitted their application forms along with their testimonials. The respondents, however, submit that the petitioner though got the points in the selection process higher than the last selected candidate, yet he could not be finally selected and offered appointment for the simple reason that he was not found to possess the qualification of matriculation or equivalent as prescribed in the advertisement notification.

5. Having heard learned counsel for the parties and peruse the material on record, the short point that arises for consideration is “whether the petitioner who has done Adeeb from Jamia Urdu, Aligarh possesses the qualification of matriculation or equivalent, as prescribed in the advertisement notification and, therefore, eligible to participate in the selection process.

6. The qualification prescribed in the advertisement notification reads as under:-

*“Aspirants who want to apply for the SSB SSC Constable GD posts must have 10<sup>th</sup> or its equivalent certificate from the recognized school or board with good academic records.”*

7. Indisputably, the petitioner does not possess the qualification of matriculation (10<sup>th</sup>) from any recognized school or board of school education. He, however, has done Adeeb from Jamia Urdu, Aligarh. Government of India, Ministry of Home Affairs, Department of Personnel and Administrative, New Delhi has issued an office memo dated 28<sup>th</sup> June, 1978 for recognition of qualifications imparted by Jamia Urdu, Aligarh for the purpose of employment under the Central Government. The relevant extract of the office memo is reproduced here under:-

*“Adeeb Standard Examination: Recognized for the purpose of employment to the posts which require knowledge of Urdu of High School/Matriculations/Standard.”*

8. From a reading of the extract of the office memo reproduced herein above, it is abundantly clear that the qualification of Adeeb imparted by Jamia Urdu, Aligarh has been recognized by the Government of India as equivalent to matriculation/high school standard for the purpose of employment to the posts which require knowledge of Urdu of that level.

9. Needless to say that prescribing a requisite qualification and the qualification equivalent thereto for a particular job is the prerogative of the employer and the Courts are loath to enter into this arena and determine the qualifications which are equivalent to a particular qualification prescribed for recruitment to a post. In the instant case, the respondents have, in their wisdom, prescribed qualification of 10<sup>th</sup> standard or equivalent from recognized institute

or board and they are well within their rights to lay down as to which other qualifications are to be treated as equivalent to the prescribed qualification. This has been done by the Government of India vide office memo dated 28<sup>th</sup> June, 1978. There is no dispute with regard to the fact that post of Constable is not such as would require the knowledge of Urdu of High School/Matriculation standard, *a fortiori* it would mean that the petitioner possessing the qualification of Adeeb from Jamia Urdu, Aligarh does not possess the qualification of 10<sup>th</sup> or equivalent and therefore, is not eligible to be appointed as Constable (GD). This is notwithstanding the fact that he has provisionally participated in the selection process and has even made the grade. The eligibility for recruitment goes to the root of selection and the person, who does not possess the prescribed qualification, cannot be appointed against the post even if he has qualified all the tests laid down for such recruitment. The view which I have taken is fortified by the judgment of Punjab & Haryana High Court rendered in the case of **Zedha Kiran v. State of Haryana and others, CWP No.24805 of 2013 decided on 25.05.2018.**

10. In view of the aforesaid, I find no merit in this petition and the same is, accordingly, dismissed.

**(Sanjeev Kumar)**  
**Judge**

Jammu:  
30.01.2024  
Vinod, PS

Whether order is reportable: Yes