

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

Case No. : WP (C) No. 2488/2023
CM No. 5890/2023

1. Akshay Mattoo, Age 28 years,
S/o Sh. Ramesh Mattoo,
R/o Lane No. 2 B/6, Roop Nagar
Enclave, Jammu.
Mobile No. 78899-25365
2. Vikram Singh Sohil, Age 30 years,
S/o Sh. Rashpal Singh Sohil,
R/o Village Sujmatna PO Pamsoo.
3. Vishal Veer Singh, Age 28 years,
S/o Sh. Karan Singh,
R/o VPO Halqa, Tehsil Marh,
District, Jammu.
4. Rashi, Age 28 years,
D/o Sh. Ramesh Kumar,
R/o H.No. 35, Sector-1, Upper Roop
Nagar, Jammu.
5. Sheraz Inayat Malik, Age 28 years,
S/o Shohab Inayat Malik,
R/o Pacca Talab Bahu Fort, Jammu.
6. Nashi Bhasin, Age 28 years,
D/o Sh. Chaman Bhasin,
R/o H.No. 28, near Power House,
Ward No. 9, Rampur District
Rajouri, At present Plot No. 115,
Sector-02, Swarn Vihar, Bantalab,
Jammu.
7. Mandish Bali, Age 27 years
S/o Captt. Rakesh Bali,
R/o Vijaypur, District Samba.
8. Lakshay Vaid, Age 24 years,
S/o Sh. Rajeev Gupta,
R/o Vijaypur, District Samba.
9. Millan Parihar, Age 29 years,
S/o Sh. Mangat Ram Parihar,
R/o Anand Nagar, Bohri, Jammu.
10. Ghulam Qadar, Age 26 years,
S/o Abdul Rehman,
R/o Village Rajdhani, Manjakote,
Rajouri.

11. Nitika Verma, Age 26 years,
D/o Sh. Madan Verma,
R/o H.No. 51, near Samta Star Public
School, Suraksha Vihar Paloura Top,
Jammu.

12. Vishal Kumar, Age 32 years,
S/o Sh. Mohan Lal,
R/o Dhanore Loharan near Army
Goodwill School Rethal, Rajouri.

13. Rohit Kumar, Age 28 years,
S/o Sh. Raj Kumar,
R/o Village Kahila, Tehsil Bhalla,
District Doda.

14. Saksham, Age 30 years,
S/o Sh. Subash Chander,
R/o Gurdeep Vihar, R.S.Pura,
Jammu.

15. Deepika Sharma, Age 30 years,
D/o Sh. Ashok Sharma,
R/O Ward No.6, House No. 9, Bari
Brahmana, District Samba.

.....Petitioners(s)..

Through :- Mr. Rajesh Bhushan, Advocate.

Vs

1. High Court of Jammu & Kashmir
and Ladakh through Registrar
General, Jammu.
2. UT of Jammu & Kashmir through
Department of Law, Justice and
Parliamentary Affairs, Civil
Secretariat, Jammu/Srinagar.
3. Jammu and Kashmir, Public Service
Commission through its Chairman,
Resham Ghar Colony, Jammu.
4. Secretary, Jammu and Kashmir
Public Service Commission, Resham
Ghar Colony, Jammu.

.....Respondent(s)..

Through :- Mr. F.A.Natnoo, Advocate for R-2 and R-3.

**Coram: HON'BLE MRS. JUSTICE SINDHU SHARMA, JUDGE
HON'BLE MR. JUSTICE PUNEET GUPTA, JUDGE**

ORDER
04.10.2023

1. The petitioners, fifteen in number, seek quashment of Notification No. 38-PSC (DR-P) of 2023 dated 27.08.2023, issued by respondent No.4, to the extent the date fixed for preliminary examination to be conducted on 08.10.2023 and competitive (Mains) examination with effect from 08.11.2023 for the post of Civil Judge (Junior Division). The petitioners also seek further time for preparation of the examination and at par with other exams conducted by the respondent Nos. 3 & 4, Jammu and Kashmir Public Service Commission.
2. It is submitted that as per the Notification issued on 27.08.2023 only forty days have been provided for preparation as the preliminary examination is to commence from 08.10.2023. As most of the petitioners have started practicing as lawyers very recently, thus, virtually have no time to prepare for examination. The petitioners are pitted against the candidates who are preparing for examination for more than ten years and, thus, there is no reasonable classification as far as the time granted for preparation of examination is concerned. Article 14 and 16 of the Constitution of India are invoked in this regard. It is also pleaded that the time granted for preparation of examination for other posts is 172 days and not the one which has been granted vide the impugned notification.

3. Mr. Rajesh Bhushan, learned counsel appearing for the petitioners, has indeed argued as per the submissions made in the writ petition. It is submitted that the petitioners who are having comparatively less experience as advocates are at disadvantageous position qua those advocates who have been practicing for a longer period. The advocates, who are in practice, for a decade or so do not require due to their experience as much time for preparation as the present petitioners. The petitioners form one class whereas the candidates having more experience are in separate class and, therefore, the same criteria for preparation of examination cannot be adopted by the Jammu and Kashmir Public Service Commission. The learned counsel has sought to compare the time granted for preparation of examination held by the PSC for other posts qua the one granted for the posts in question in order to impress upon the court that the time granted for the posts for which the petitioners have applied for is too short and inadequate.
4. Mr. F.A.Natnoo, learned counsel has appeared on behalf of the respondent Nos. 3 & 4, Jammu and Kashmir Public Service Commission and has filed objections. Mr. Natnoo has submitted through objections that the arrangements for the examination in question are complete in all respects as 90% expenditure likely to be incurred has been released in favour of the Institutions where the examination centers have been earmarked, material has been prepared with confidentiality, OMR sheets have been packed for use in the examination and that the schedule has also been fixed for preliminary examination for JKAS which is to

commence immediately after KCS Judicial Examination. Mr. Natnoo during the course of arguments has also submitted that the petitioners cannot claim any preference for the ensuing examination for the reasons mentioned in the petition. Infact they are on a better footing than the ones who are comparatively older in the profession.

5. The controversy in the present petition lies in narrow compass as the petitioners who are candidates for the KCS Judicial Examination have grievance qua the notification issued for the post of Civil Judge (Junior Division) in subordinate judiciary only to the extent that the notification of 27.08.2023 issued by the Jammu and Kashmir Public Service Commission does not provide adequate time to the petitioners herein for preparation of the preliminary examination as well as the main examination.
6. Article 14 and 16 of the Constitution of India have been espoused by the petitioners as they allege that the notification discriminates them qua the candidates who are in practice for the last more than ten years and may be preparing for the examination. The discrimination is alleged vis-à-vis the time granted by the Commission for preparation of the examination. It is pertinent to mention herein that as per the contention of the respondent Nos. 3 & 4, the Commission has received 3836 applications for the post for which the examination is being conducted and out of those 3836 candidates only 15 candidates have raised the grievance of being not given adequate time for preparation of the examination. The qualification required for the selection to the post is Bachelor Degree in

Law from University and other Degrees obtained from other places as mentioned in Advertisement and that the age as on 01.01.2023 should be 18 years minimum and 35 years maximum. Some of the candidates who have applied for the post could be those who have just acquired prescribed qualification and having no practice at Bar in comparison to some of the petitioners. The perusal of the petition reveals that some of the petitioners have experience of three to four years also. It is pertinent to mention that earlier two years practice at Bar was the requirement before the candidate could apply for the post of Civil Judge (Junior Division) but that criteria was done away with thereby granting opportunity to appear for the aforesaid post even to those who have just obtained 'Law Degree'. It only leads to the conclusion that the students who had just obtained the 'Law Degree' were found suitable for applying for the post and can get selected if they have merit. Can such candidates seek a particular time frame for preparation of examination? Obviously not. They are considered to be ready for taking examination any time and without clamoring for specific time period to prepare for examination. The discretion of the Commission to conduct the examination cannot be normally interfered with by the court unless the Court is of the view that the time period has been scheduled with some malafide purpose or extraneous reasons which of course is conspicuous by absence in the present petition. No such plea is raised.

7. The plea raised that the candidate who is in practice for a longer time than the petitioners will have advantage for appearing in the

examination given the time by the Commission is misconceived. If the petitioners are to raise the plea of experience of advocates at Bar as advantage for examination purposes, then the argument of advantage to the one just obtaining Law Degree or with little or no experience at Bar can also be raised as they may be in better position to cope with the examination pressure and being fresh in mind without all that they have studied. The advantage which the aforesaid categories may have in their own way cannot be weighed in golden scale so as to hold one having more advantage than other. The word 'advantage' is misnomer as far as the present case is concerned. The plea raised is misconceived. The plea of discrimination raised by the petitioners is only imaginary and untenable. It is not expected nor can it be otherwise conceived by the Commission that a particular candidate requires a specific time to prepare himself for the examination. It is not for the courts to determine and lay down the minimum period which may be required by the candidate who has just obtained the Degree, the candidate who is in practice for one year or two years or three years or for any length of time. What is required to be done by the Commission should be left to the Commission to do without any unnecessary interference from any quarter.

8. Once the candidate is ready to apply for any particular post, he cannot claim a specific period for preparation as he is supposed to be prepared and ready to face selection as and when the same is to be held by the concerned authority.

9. There can be no quarrel with the proposition that has been held in the Judgment cited by the counsel for the petitioners. It is indeed the facts and circumstances of the each case which ultimately decides its fate.
10. The other argument raised qua the time which is being granted by the Commission for conduct of examination qua for other posts is again without any force. The Commission has the discretion to conduct the examination in the manner it finds viable and practicable. The comparison theory sought to be invoked by the petitioners is without any substance.
11. The Court is not to venture itself in such comparison and declare time frame for different posts and don the cloak of an expert. The Court is not required to enter into the arena of Policy matter of the Commission unless it apparently appears to be unfair and unjust.
12. The contention raised by the petitioners qua the time granted for preparation of examination and the date sheet etc. is met by the judgment of this Court in Raja Anees Ali and Ors. v. State of J&K and Ors., reported in 2010 (1) JKJ 573 wherein the Division Bench of this Court dealt in the writ petition challenging the date sheet, timing etc. issued by the Jammu and Kashmir Public Service Commission for the post of 'Munsiff'. It was held that "the time schedule of the examination has nothing to do with the preparation of the candidate. The candidate is duty bound to prepare himself and take exams in all the circumstances and in all the seasons of the year." The court refuse to interfere into the administrative action of the Commission and dismissed the writ petition.

13. The challenge thrown to the Notification fails on all fronts. The pleas raised are specious and devoid of merit. The candidate, who is not able to cope with the date sheet can conveniently skip the selection process and prepare for the next selection as and when held. It is his choice to sit in the examination or quit before the examination takes place. It is for the candidate to prepare for examination within the time prescribed as it is same for all the candidates who intend to appear in the examination.
14. The clock for examination has ticked fast for the petitioners and cannot stop. The arrangement having been made in all respects for 4000 candidates the examination cannot be deferred for handful of candidates, petitioners herein, who wish for further time.
15. The Writ Petition is without merit and is, accordingly, dismissed.

(PUNEET GUPTA)
JUDGE

(SINDHU SHARMA)
JUDGE

Jammu :
04.10.2023
Pawan Chopra

Whether the order is speaking : Yes
Whether the order is reportable: Yes