

W.P.(C) No. 61 of 2017
Yam Prasad Rai & Ors. v. State of Sikkim & Ors.

BEFORE
BHASKAR RAJ PRADHAN, JUDGE

21.03.2018: Present: Dr. Doma T. Bhutia and Mr. Ratan Gurung, Advocates for the Petitioners.

Mr. Karma Thinlay, Senior Govt. Advocate for the State-Respondent No. 1,2, 3 and 4 with Mr. Bhusan Nepal, Advocate for SPSC.

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I.A No. 03/2018 in WP(C) No.61/2017
With
WP(C) No.61/2017

The present Writ Petition had been filed challenging the impugned Notification no.34/GEN/DOP dated 23.05.2017 issued by the Department of Personnel, Administrative Reforms, Training and Public Grievances (Respondent No.2) as well as the impugned Advertisement no.9/SPSC/EXAM/2017 dated 13.10.2017 issued by the Sikkim Public Service Commission (Respondent No.3).

- 2.** The Petitioners would seek the quashing of both the impugned notification as well as the advertisement.
- 3.** The Chief Secretary, Govt. of Sikkim (Respondent No.1), Respondent no.2 and Human Resource Development Department (Respondent No.4) have filed a joint I.A No.03/2018 seeking to place on record Notification no.110/GEN/DOP dated 06.02.2018. The said application is allowed. Notification No.110/GEN/DOP dated 06.02.2018 rescinds impugned notification with immediate effect.
- 4.** The impugned notification had relaxed the reservation rule and application of roster points for filling up posts of Assistant Professors under the Respondent No.4 in the subjects of Mathematics, Botany, Zoology, Physics, Chemistry and Statistics for a period of three years to enable all eligible

candidates both from within and outside the State to apply against the posts.

- 5.** Pursuant thereto the impugned advertisement had been issued inviting application from eligible local candidates and eligible candidates of Indian origin for filling up 32 posts of Assistant Professors in the PB-3 of Rs.15600-39100 plus grade pay of Rs. 6000 under the Respondent No.4 through direct recruitment. In the said impugned advertisement, in the reservation column, the Respondent No.3 had applied the impugned notification.
- 6.** The impugned notification having now been rescinded, it is quite evident that the impugned advertisement which had invoked the impugned notification cannot be sustained and must go.
- 7.** In view of the aforesaid facts, the Petitioner's grievance having been partially met by the Respondent No.2 rescinding the impugned notification, this Court is of the view that the impugned advertisement cannot also stand and the State Respondent must re-advertise the said post making the necessary amendments in the impugned advertisement in view of the rescission of the impugned notification.
- 8.** Mr. Karma Thinlay, learned Senior Govt. Advocate fairly concedes that the impugned advertisement is also to be revoked and submits that it shall be done within a period of three days.
- 9.** In view of the categorical undertaking given by the learned Senior Govt. Advocate, this Court permits the State Respondents to revoke the impugned advertisement within a period of three days from today and to take the follow up action within a week, as prayed for. Failure to revoke the impugned advertisement within a period of three days

from today would automatically result in annulment of the impugned advertisement.

10. The Writ Petition is disposed of accordingly.

11. In view of the disposal of the Writ Petition finally, no order needs be passed in I.A No.01/2017 as well as in I.A No.02/2018.

Judge
21-03-2018

Index : Yes / No
/avi Internet : Yes / No