

## IN THE SUPREME COURT OF INDIA

## CIVIL APPELLATE JURISDICTION

SPECIAL LEAVE PETITION(C)NO.7612 OF 2003

STATE OF J&amp;K &amp; ORS.

Petitioner(s)

VERSUS

VIJAY SHARMA &amp; ORS.

Respondent(s)

WITH SLP(C)NOS.9574 TO 9587/2003 AND SLP(C)NOS.17165 TO 17168/2003 AND WITH SLP(C) NOS.12875, 12909, 10008 AND 10006/2003

## O R D E R

In the year 1997, the State of Jammu & Kashmir issued a Notification inviting applications

for appointment to various posts, including Technician Gr-III in the Power and Development

Department. The vacancies in various districts were assessed and the recruitment was made on district-

wise basis. The Notification contained a note to the effect that no application shall be entertained in

district cadre posts from the candidates belonging to other districts or who possess the ambiguous

permanent residence certificate. The selection was made on the basis of district-wise candidates and the

candidates were selected and appointed accordingly.

The respondents herein challenged the selection of Technician Gr.III on various grounds.

One of the grounds urged by the respondents was that the selection should have been made on State-

wise and any restriction to make the application to another district was violative of constitutional

provisions and this plea raised by the respondents was accepted by the learned Single Judge and the

learned Single Judge was pleased to direct that the petitioners be given appointment to the remaining

vacancies. This was challenged by the State in Letters Patent Appeal. The Division Bench held that the

direction to appoint the writ petitioners was not correct. However, the petitioner-State herein was

directed to prepare the State-wise list and the list of selected candidates was directed to be re-drawn

within a period of two months and this is under challenge in these petitions.

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We have heard counsel for the State and counsel for the respondents.

Counsel for the State submitted that the selected candidates have been appointed as early

as in the year 1998 and are continuing in service for the last seven years and if the list is re-drawn as

directed by the Division Bench, it will cause a serious prejudice to the various employees who have been

working in the State for a fairly long period. Counsel for the respondents, on the other hand submitted

that many of these respondents had obtained higher marks in the selection but they were denied

employment as the posts were filled up on district-wise basis and many candidates who had secured

lesser marks got appointment in some of the districts and thereby the respondents were denied

opportunity of getting the selection. It is also pointed out that series of vacancies are still lying vacant

and many of the posts were not filled up and some had not joined their duty and the non-joining

vacancies are also left unfilled.

Under the above circumstances, it is just and proper to direct that out of the notified

vacancies, if any of the posts are remaining unfilled either due to want of candidates or non-joining

duties, these vacancies shall be filled up by candidates out of the petitioners who have secured more

than the cut-off marks secured in the 1997 selection and they be appointed according to the marks

secured in the selection. This exercise shall be completed within a period of four months and their

appointments shall be effected by the petitioner State within this period. It is also clarified that in case

any of the candidates have become over-aged by this time, that criterion shall not stand in the way of

their appointment.

All applications for impleadment are dismissed.

The special leave petitions are disposed of accordingly.

.....J.

(K.G. BALAKRISHNAN)

.....J.

(ARUN KUMAR)

.....J.

(P.P. NAOLEKAR)

NEW DELHI;

26TH OCTOBER, 2005

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ITEM NO.3

COURT NO.5

SECTION XVIA

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).7612/2003

(From the judgement and order dated 16/11/2002 in LPA No. 378/1999 of The  
HIGH COURT OF J & K AT JAMMU)

STATE OF J&K & ORS.

Petitioner(s)

VERSUS

VIJAY SHARMA & ORS.

Respondent(s)

(With appln(s) for impleadment and prayer for interim relief )

(FOR FINAL DISPOSAL)

WITH SLP(C) NO. 10006 of 2003

(With prayer for interim relief)

SLP(C) NO. 10008 of 2003

(With office report)

SLP(C) NO. 12875 of 2003

(With appln(s) for exemption from filing c/c of the impugned Judgment,impleading party)

(With office report)

SLP(C) NO. 12909 of 2003

(With appln(s) for exemption from filing c/c of the impugned Judgment)

(With office report)

SLP(C) NO. 17165 of 2003

(With prayer for interim relief)

SLP(C) NO. 17166 of 2003

(With prayer for interim relief)

SLP(C) NO. 17167 of 2003

(With prayer for interim relief)

SLP(C) NO. 17168 of 2003

(With prayer for interim relief)

SLP(C) NO. 9574 of 2003

(With prayer for interim relief and office report)

SLP(C) NO. 9575 of 2003

(With prayer for interim relief and office report)

SLP(C) NO. 9576 of 2003

(With prayer for interim relief and office report)

SLP(C) NO. 9577 of 2003

(With prayer for interim relief and office report)

SLP(C) NO. 9578 of 2003

(With prayer for interim relief and office report)

SLP(C) NO. 9579 of 2003

(With prayer for interim relief and office report)

SLP(C) NO. 9580 of 2003

(With prayer for interim relief and office report)

SLP(C) NO. 9581 of 2003

(With prayer for interim relief and office report)

SLP(C) NO. 9582 of 2003

(With prayer for interim relief and office report)

SLP(C) NO. 9583 of 2003

(With prayer for interim relief and office report)

SLP(C) NO. 9584 of 2003

(With prayer for interim relief and office report)

SLP(C) NO. 9585 of 2003

(With prayer for interim relief and office report)

SLP(C) NO. 9586 of 2003

(With prayer for interim relief and office report)

AND WITH

SLP(C) NO. 9587 of 2003

(With prayer for interim relief and office report)

(FOR FINAL DISPOSAL)

Date: 26/10/2005 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE K.G. BALAKRISHNAN

HON'BLE MR. JUSTICE ARUN KUMAR

HON'BLE MR. JUSTICE P.P. NAOLEKAR

For Petitioner(s)

Mr. Anis Suhrawardy, Adv.

Mr. Mehdi Iman, Adv.

For Respondent(s)

Mr. G.M. Kawoosa, Adv.

Mr. Ashok Mathur, Adv.

Mr. P.V. Yogeswaran, Adv.(N.P.)

Mr. Dinesh Kumar Garg, Adv.

Mr. P.D. Sharma, Adv.(N.P.)

UPON hearing counsel the Court made the following

O R D E R

Heard both sides.

The special leave petitions are disposed of in terms of the signed order.

(G.V.Ramana)

Court Master

(Veera Verma)

Court Master

(Signed order is placed on the file)