

## Sonia Sharma Vs State Of J&K And Others

**Court:** Jammu & Kashmir High Court

**Date of Decision:** Jan. 14, 2020

**Hon'ble Judges:** Sanjeev Kumar, J

**Bench:** Single Bench

**Advocate:** Surinder Kour, Manpreet Kour, Aseem Sawhney, G.S.Thakur, Munish Kumar Sharma

**Final Decision:** Dismissed

### Judgement

1 The petitioner is aggrieved of an order No. ZEO/SSA/RET/2575-78 dated 11.11.2010 issued by respondent No.5 whereby respondent No.6 has

been engaged as ReT in the upgraded Middle School, Shahpur. The petitioner in this petition seeks a direction to respondent Nos. 1 to 5 to offer her

appointment as ReT in the aforesaid School in place of respondent No.6.

2 Briefly stated, the facts leading to the filing of this writ petition, are that the petitioner being 10+2 with Math subject and a resident of village Shahpur

Manyalan, is eligible to be engaged as ReT in Math stream in the upgraded Middle School, Shahpur. She submits that her claim for appointment as

ReT has been rejected by respondent Nos. 1 to 5 primarily on the ground that, at the time of issuance of Advertisement Notification dated 25.4.2009,

she was married outside the village Shahpur Manyalan and, therefore, ceased to be the resident of the said village. She further submits that it is true

that, at the time of issuance of the Advertisement Notification aforesaid, she was married outside the village aforesaid, but claims that even after her

marriage, she continued to remain with her parents in village Shahpur Manyalan as she was adopted by her father after marriage.

3 In support of her claim, she places reliance on a certificate issued by the Sarpanch, Panchayat Halqa Doongi Brahamana and a copy of receipt of

payment of Chulla Chowkidar. On the basis of the said documents, the petitioner claims that being more meritorious than respondent No.6, she is

entitled to be appointed as ReT (Math stream) in the upgraded Middle School Shahpur.

4 In response to the averments made in the writ petition, respondent Nos. 1 to 5, in their objections, have taken a stand that in response to the

applications invited for two posts of ReT, one each in Math and Science stream available in the aforesaid School, the petitioner as well as respondent

No.6 submitted their application forms and sought consideration in the Math stream. Initially, it is pleaded, the petitioner was placed at S.No.1 in the

merit panel for the post of ReT in Math stream, but her placement in the panel was objected to by respondent No.6 on the ground that the petitioner

having married to one Atinder Kumar Sharma, a resident of village Pathanmohra Dassal, a different revenue village, had ceased to be the resident of

village Shahpur. The petitioner was asked to produce PRC certificate of her husband, but she failed to do so. It is submitted that on consideration by

the Village Education Committee, the application of the petitioner was rejected and the candidate next in the order of merit i.e, respondent No.6, who

was admittedly a resident of village Shahpur Manyalan, was placed in the merit panel. She being the candidate with highest merit available in the

village concerned was offered the appointment. It is also brought to the notice of this Court that during the pendency of this writ petition, on

completion of five years' service as ReT, respondent No.6 has since been regularized as General Line Teacher. To the similar effect is the reply

of respondent No.6.

5 Having heard learned counsel for the parties and perused the record, I am of the view that the plea of the petitioner that even after her marriage to

Atinder Kumar Sharma, a resident of a different revenue village, she continued to stay with her parents and was, thus, a resident of village Shahpur

Manyalan at the time of issuance of Advertisement Notification aforesaid is not substantiated by any evidence. With a view to substantiate her

assertion, the petitioner has relied upon several documents, but all prepared after the issuance of the Advertisement Notification. It may be noted that

the Advertisement Notification in question was issued by the CEO Rajouri on 25.4.2009 and there is not even a single document placed on record by

the petitioner which indicates her residence even after marriage in the village Shahpur Manyalan. The documents, which have been placed on record

by the petitioner, are all generated after the issuance of Advertisement Notification and obviously, to put forth the claim against the post notified for

the upgraded Middle School Shahpur. A copy of the mutation placed on record by the petitioner evidencing the transfer of land by her father in her

favour has been attested on 19th August 2009. The certificate jointly issued by the Sarpanch, Panchayat Halqa Karian, Block Rajouri and the

Sarpanch, Panchayat Halqa Dassal is dated 28th October 2014. A copy of voter list which has been obtained by making an application on 28.01.2014

pertains to the voter list of 2005. These are the documents which are prepared after the cut off date indicated in the Advertisement Notification and

the same have been placed on record by the petitioner by way of a supplementary affidavit.

6 Although during the course of arguments, I could not find out the supplementary affidavit filed in the Court, yet in the interest of justice, took a copy

of the supplementary affidavit forwarded by the learned senior counsel for the petitioner on record for appreciating the case of the petitioner. The

documents i.e, an affidavit of the father of the petitioner to the effect that he has given some land to her and a copy of a will deed, are the old

documents which have been procured prior to the issuance of the Advertisement Notification, but the same are not registered with any competent

Registering Authority and are only attested by the Notary Public. The aforesaid documents, on the face of it, appear to have been generated after the

issuance of Advertisement Notification.

7 From the perusal of the objections filed by respondent No.6 and the annexures appended thereto, it is abundantly clear that the petitioner, after her

marriage with one Atinder Kumar Sharma, has taken up residence in the village Pathanmorha since the year 2007. A copy of first page of the service

book of the father of the petitioner placed on record by respondent No.6 reveals that the father of the petitioner has indicated his residence in

W.No.10, Rajouri. When did he shift from Rajouri to Village Shahpur is also not forthcoming from the record. Be that as it may, from the perusal of

documents placed on record, it is clearly demonstrated that the petitioner, who might have been a resident of village Shahpur, shifted to village

Pathanmorha after she got married to one Atinder Kumar Sharma in the year 2007. The story projected by the petitioner that even after her marriage,

she continued to remain with her parents in village Shahpur Manyalan as she was adopted by her father is not supported by any cogent documentary

evidence.

8 All the documents placed on record by the petitioner clearly reveal that an attempt has been made by the petitioner after the issuance of

Advertisement Notification to procure the same by way of sheer manipulation. Such type of documents cannot be given any credence. The Judgment

rendered in the case of Firdous Ahmad Ganai and another vs State and others, 2012 (4) JKJ 1065 (HC) and a judgment of Division Bench of this

Court rendered in the case of Sudesh Singh vs State and others, 2016 (3) JKJ 125 (HC) are not applicable to the facts of the instant case. The

petitioner, in the instant case, has failed to prove that after her marriage to Atinder Kumart Sharma in the year 2007, she continued to stay in her

parental village after she was allegedly adopted by her father. The petitioner has not placed on record any cogent document of the year 2008-9 i.e.,

prior to the issuance of Advertisement Notification which would substantiate her claim.

9 That apart, during the pendency of this writ petition, respondent No.6, who was engaged as ReT, has since been regularized as General Line

Teacher on completion of five years' service as ReT. The appointment of respondent No.6 as General Line Teacher has not been questioned by

the petitioner and that makes this petition a *fait accompli*.

10 For the foregoing reasons, finding no merit in this petition, the same is, accordingly, dismissed.