No fault found in the action of respondent in earmarking the post for direct recruitment: The High Court of Jammu & Kashmir and Ladakh

The quota for direct recruitment, as per NITs Non-Teaching Recruitment Rules, 2019, is 75% and quota for promotees is 25%, which means that if four posts are advertised, three posts will go to the direct recruits whereas only one post will go to promotees. The aforesaid has been considered by the High Court of Jammu & Kashmir and Ladakh while adjudicating the case of **Nazir Ahmad v. Union of India & Ors. [ WP(C) No.2169/2021 CM No/7042/2021]** which was decided upon by the single judge bench comprising *Justice Sanjay Dhar* on 10th November 2021.

The facts of the case are as follows. Petitioner has rendered more than five years’ service as SAS Assistant SG-II in grade pay of Rs. 4800 and, as such, he is eligible for promotion to the post of Student Activity and Sports Officer (SAS) in the technical cadre. It is averred that respondent No.4 by virtue of impugned advertisement notice has invited applications, inter alia, for one post of SAS Officer thereby jeopardizing rights of the petitioner who is eligible for the said post as he possesses the requisite qualification and experience for being promoted to the said post. It is further averred that despite recommendations of Board of Governors to the effect that the post of SAS Officer should be filled up by promotion, the same has been put to advertisement to be filled up by direct recruitment vide the impugned notification. According to the petitioner, the impugned action of respondents is illegal and it nullifies the promotional prospects of the petitioner. It is averred that the petitioner has agitated against the impugned advertisement notification by making several representations, but the respondents have not considered the same.

The Court perused the facts and arguments presented. It was of the opinion that *“ In the instant case, only one post has been advertised, as such, no fault can be found in the action of respondent No.4 in earmarking the said post for direct recruitment. As per Recruitment Rules, the minimum experience required for a person for his promotion from SAS Assistant SG-I with Grade Pay of 5400/ is two years regular service. Thus, even if it is assumed that one post of SAS Officer advertised vide the impugned notification is given to the promotees, still then petitioner is not eligible for consideration. So far as the contention of petitioner that respondent No.4, while issuing the impugned advertisement notice, has ignored recommendation of the Board of Governors is concerned, the same is also without any merit. The recommendation on which the petitioner is relying upon is not of Board of Governors but the same is report of a Committee constituted for examination and reworking of the proposal of restructuring of the non-faculty staff of the Institute which was constituted pursuant to decision of Board of Governors taken in its 90th meeting. The report has to be first examined by the Board of Governors and thereafter any further action can be taken on the basis of the recommendations of the Board of Governors. The report of the Committee, on which petitioner has relied upon, has no legal or binding force on respondents No.2. For the foregoing reasons, I do not find any merit in this petition. The same is, accordingly, dismissed along with connected CM*.”