



Central Administrative Tribunal Jammu Bench, Jammu

T.A. No.496/2020
M.A. No.706/2020
(S.W.P. No.386/2002)

Wednesday, this the 13th day of January, 2021

(Through Video Conferencing)

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Mohd. Jamshed, Member (A)

Saber Hussain, aged : 31 years, S/o Haji Lal Hussain, r/o Dodasan Pain, Tehsil Thana Mandi, District Rajouri.

..Applicant

(Mr. Rahul Pant, Advocate)

Versus

1. State of Jammu and Kashmir, through Principal Secretary to Government, Home Department, J&K Government, Civil Secretariat, Jammu.
2. Director General of Police, Jammu and Kashmir Government, Police Head Quarters, Jammu.
3. Deputy Inspector General of Police, Rajouri-Poonch Range, Chairman Selection Committee, Head Quarter, Rajouri.
4. Sr. Superintendent of Police, Telecommunication, Jammu Zone, Jammu.
5. Wazir Hussain, S/o Mohd. Hussain, R/o Manjote Tehsil Thana Mandi, District Rajouri.
6. Shamim Ahmed, S/o Mohd. Shafi, R/o Manjakote, Tehsil and District Rajouri.
7. Arshad Ahmed, S/o Sh. Bashir Hussain, R/o Saj. Tehsil Thana Mandi, District Rajouri.
8. Khalil Ahmed, S/o Mohd. Safi, R/o Fatehpur, Tehsil and District Rajouri.

..Respondents

(Mr. Sudesh Magotra, Deputy Advocate General)

O R D E R (ORAL)**Mr. Justice L. Narasimha Reddy:**

The Jammu & Kashmir Police initiated steps for appointment of Constables in the year 1999 by issuing Advertisement dated 14.01.1999. The applicant, respondent Nos. 5 to 8 and certain others, responded to Advertisement claiming the status of scheduled tribe candidates. The selection process comprised of written test, physical endurance test and viva voce / personality assessment test. The respondent Nos. 5 to 8 were selected and appointed as Constables, whereas the applicant was left out.

2. The applicant contends that though he secured 55 points and the respondent Nos. 5 to 8 have got lesser marks than him, the latter were selected and he was left out. He contends that the appointing authority has acted in an arbitrary and capricious manner. He filed SWP No.386/2002 before the Hon'ble High Court of Jammu & Kashmir for issuance of writ of *certiorari*, quashing the appointment of respondent Nos. 5 to 8 as Constables (Operator) and for *mandamus* to respondent Nos. 1 to 4 to appoint the applicant as Constable (Operator).

3. On behalf of the respondents, a detailed counter affidavit is filed. It is stated that the applicant did not submit his application at all, much less did he take part in the written

Item No.12



examination. According to them, in conspiracy with some officials, the applicant has manipulated the records and got his name inserted. They have also stated that an FIR No.330/2003 was filed against the applicant and other connected persons.

4. The applicant filed a rejoinder disputing the contentions raised in the counter affidavit.

5. Earlier, the SWP was dismissed on 14.09.2015 by the Hon'ble High Court. However, on a Review Petition No.10/2018 submitted by the applicant, stating the matter was decided on merits, though there was no representation by the applicant, the Review Petition was allowed on 02.07.2019 and the SWP was restored. In view of re-organization of the State of Jammu, the SWP has since been transferred to this Tribunal and registered as T.A. No.496/2020.

6. Today, we heard Mr. Rahul Pant, learned counsel for applicant and Mr. Sudesh Magotra, learned Deputy Advocate General, through video conferencing.

7. According to the respondents, the applicant was not selected because he was not a candidate at all, much less, did he appear in the written test, etc. Reference is also made to an FIR alleging that the applicant tempered with the records. Mr. Rahul Pant, learned counsel for applicant strongly urged that the allegation made against the applicant is not tenable, and

Item No.12



that the Forensic Science Laboratory has also issued a report to the effect that the answer-scripts are in the handwriting of the applicant. However, a copy of the report is not made part of the SWP. It is pleaded that the criminal case was closed on a report submitted by the Police. However, even that report is not filed in this TA.

8. The facts of this case are somewhat extraordinary. The selection took place about two decades ago. Even if there exists any factor warranting adjudication, it becomes difficult to grant any tangible relief, at this length of time. The plea taken by the respondents that the applicant was not one of the candidates, nor did he appear in the examination, remains un-rebutted, despite the fact that the applicant filed a rejoinder.

9. We do not find any merit in this T.A. It is accordingly dismissed. M.A. No.706//2020 shall stand disposed of.

There shall be no order as to costs.

(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

January 11, 2021

/sunil/dsn/sd/shakhi