

CENTRAL ADMINISTRATIVE TRIBUNAL,
JAMMU BENCH, JAMMU

Hearing through video conferencing

Original Application No. 61/622/2020

Friday, this the 9thday of October, 2020

Hon'ble Mr. Rakesh Sagar Jain, Member (J)
Hon'ble Mr. Pradeep Kumar, Member (A)

Nisha Bhagat, age 30 years, W/o. Sh. Amit Kumar,
R/o. Village Ghagwal, Tehsil Ghagwal, District Samba. **Applicant**

(By Advocate : Mr. Faheem Shokat Butt)

V e r s u s

1. Union Territory of Jammu and Kashmir through its Principal Secretary to Government, School Education Department, Civil Secretariat, Jammu/Srinagar.
2. Jammu & Kashmir, Service Selection Board, Through its Secretary, Sehkari Bhawan, Rail Head Complex, Jammu.
3. Kanchan Lata, D/o. Jagdish Kumar, R/o. Ward No. 01, Thalori, Vijaypur, District Samba. **Respondents**

(By Advocate : Mr. Sudesh Magotra, Deputy Advocate General)

O R D E R (Oral)

Hon'ble Mr. Pradeep Kumar, Member (A) -

The applicant herein was an aspirant for recruitment to the post of Junior Librarian for which advertisement No. 02/2017 was issued on 18.10.2017. There

were 4 vacancies, out of which 2 were unreserved and 1 each was reserved for SC and ST categories. She belongs to Scheduled Caste community. She secured 64.75 marks in written examination and was shortlisted at Open Merit Rank 3 and was kept in waitlist and was called for document verification. The document verification was conducted on 21st and 22nd February, 2018. The candidate at Open Merit Rank 4 Ms Kanchan Lata, who is also a SC candidate, secured 63.75 marks. Ms Kanchan Lata is private respondent no 3 in this OA.

2. The applicant pleads that unfortunately she had a miscarriage and had to undergo abortion (suction evacuation done on 8.2.2018) and she was discharged from the hospital on 8.2.2018. She has submitted a certificate from Medical Authority which indicates that she continued receiving the treatment up to 24.2.2018. She could not attend the Document verification held on 21st and 22nd Feb 2018.

3. Thereafter, she approached the respondents on 26.2.2018 (Monday) to consider her candidature for the said recruitment. However, this was not accepted on the plea that the letter Dt. 5.2.2018 inviting the candidates for document verification, had a very clear clause that unless the applicant presents

himself/herself on 21st and 22nd February, 2018, no further opportunity shall be granted.

4. Feeling aggrieved, the applicant approached Hon'ble High Court of J&K in SWP 483/2018. Interim directions were issued on 15.3.2018, to the effect not to finalise the selection for one post in open category. Subsequent developments in this writ, have not been advised by applicant.

5. The Merit Rank no 4 Ms Kanchan Lata has now been offered the appointment vide letter Dt. 14.1.2020. The applicant is aggrieved at her non-selection. It is pleaded that another Scheduled Caste candidate (Ms Kanchan Lata) who secured less marks, has been appointed leaving a more meritorious candidate (the applicant). She has approached this Tribunal by filing this instant OA. The relief has been sought to cancel the appointment letter dated 14.1.2020 in respect of Ms Kanchan Lata, who has been arrayed as private respondent herein.

6. The applicant also relies upon certain letters Dt 14.1.2020, issued by JKSSB for some other selection, where the candidates were appointed after given them an opportunity to make good the deficiency which came to light in their document

verification. It is thus pleaded that non completion or absence of a candidate, at Document verification stage, cannot lead to total rejection.

7. Matter has been heard at length. Mr. Faheem Shokat Butt, appeared for the applicant and Mr. Sudesh Mangotra, ld. DAG appeared for the respondents.

8. It is noted that the applicant had an unfortunate miscarriage and abortion was conducted and as per medical documents submitted, she was discharged from the hospital on 8th February, 2018. It is also true that she remained under treatment till 24.2.2018. However, it is no ground for her to not even inform the respondents on 21st or 22nd February, 2018 of her temporary medical disability and seek an extension/opportunity. This non-responsiveness is even more telling, as the notice for document verification has a very specific clause that unless the applicant present herself, her case will not be considered and the next in the waiting list shall be considered for the appointment. The said clause reads as under:

“5. In case, a candidate fails to produce Print out of his/her Online Application Form, original documents/certificates/Bonafide etc, on the day of counselling or if he/she remains absent, the next candidate in order of merit will be recommended without any further opportunity to appear before the document verification committee as the Board cannot keep the selection process perpetually open. Any such candidate who remains absent or fails to produce his/her documents will be declared “disqualified wit reasons recorded by the Members of the verification committee.”

9. The applicant has also pleaded that she was not aware that the document verification has been called on 21st and 22nd February, 2018. There is no such mention of ignorance, in the interim order by Hon'ble High Court (Para 4 supra). This plea is not acceptable even otherwise, because had it been so, she could not have approached the respondents on 26.2.2018.

10. The applicant also pleads that in some other cases, the respondents have given liberty to the candidates to submit their deficient document for verification subsequently (Para 6 supra). A perusal of these letters indicates that these candidates had actually presented themselves on the assigned date for document verification and certain deficiency was found which was removed by them later and appointment letter was issued.

As against this, the instant applicant had chosen neither to present her nor to advise reasons for her absence on the assigned date. In such circumstances, the decision of recruiting agency to treat the candidate as uninterested and ignore applicant's candidature, cannot be faulted. The tribunal notes that recruiting agencies need to follow certain norms and time schedule to finalise a selection. Keeping the issue open due to absenting candidates, will lead to non finalisation, which cannot be allowed.

11. This Tribunal finds that the OA is without merit, and it is accordingly dismissed at the admission stage itself. No costs.

(PRADEEP KUMAR)
MEMBER (A)

(RAKESH SAGAR JAIN)
MEMBER (J)

“SA”