



## **Central Administrative Tribunal Jammu Bench, Jammu**

T.A. No. 6073/2021  
(SWP No.1016/2011)

Thursday, this the 22<sup>nd</sup> day of July, 2021

(Through Video Conferencing)

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

1. Dr. Amit Kumar Kundal, S/o Shri C.R. Mundey,  
R/o H. No. 16, Shiva Nagar,  
Kathua, Age 27 years
2. Dr. Pratima, Age 26 years, D/o Sh. Sat Pal,  
R/o Vijay Pur Samba,  
House No. 76, Ward No. 13
3. Dr. Suneet Majotra, Age 28 Years  
S/o Sh. Som Raj  
R/o Ward No. 16, Kathua Jammu
4. Dr. Surishi Singh, Age 9 years, S/o Krishan Lal  
R/o H. No. 435, Puran Nagar,  
New Plots, Jammu

...Applicants

*(Nemo for applicants)*

### **Versus**

1. State of Jammu and Kashmir  
Through Chief Secretary  
Govt. of J&K, Civil Secretariat  
Jammu/Srinagar
2. Commissioner-Cum-Secretary  
Health & Medical Education Department  
Govt. of J&K, Jammu/Srinagar
3. Public Service Commission  
Through its Chairman  
Reshamghar Colony,  
Bakshi Nagar, Jammu

...Respondents

*(Mr. Rajesh Thappa, Deputy Advocate General)*



## ORDER (ORAL)

### **Mr. Justice L. Narasimha Reddy:**

The Jammu State Public Service Commission (PSC), the 3<sup>rd</sup> respondent herein, issued notification dated 18.02.2008, inviting applications for selection and appointment of 321 posts of Dental Surgeon. Out of them, 26 posts were reserved in favour of scheduled caste (SC) candidates. After the entire selection process, it so emerged that only 10 SC candidates were found fit. Similar position existed in other categories also, except the open merit (OM). It seems that orders of appointment were also issued to the selected candidates.

2. The applicants filed SWP No.1016/2011 before the Hon'ble High Court of Jammu & Kashmir, with a prayer to direct the respondents to carry forward the 16 left over vacancies reserved for SC candidates of Dental Surgeons, so that they can be considered for those posts, which are lying vacant. The applicants contend that they were also the candidates, but were not selected in the earlier round of selection; and since the posts are lying vacant, necessity has arisen for the respondents to issue notification confined to carry forward the vacancies, reserved for SC category.



3. The respondents filed a detailed counter affidavit. They have furnished the relevant facts and figures. It is stated that occasion to issue fresh notification would arise, if only the requisition is given by the Government and that, in turn, would depend upon the several factors.

4. The SWP has since been transferred to the Tribunal in view of the reorganisation of the State of Jammu & Kashmir and renumbered as T.A. No. 6073/2021.

5. Today, there is no representation for the applicants. We perused the record and heard the arguments of Mr. Rajesh Thappa, learned Deputy Advocate General.

6. It is a matter of fact that as against 26 posts of Dental Surgeon, reserved in favour of SC category, only 10 were found fit. The manner in which the left over vacancies must be dealt with, is always in the prerogative of the respondents. Once the selection and consequential appointments take place, the question as to whether a fresh notification must be issued either in respect of all left over vacancies or those, which are reserved in favour of a particular category, needs to be considered depending on the workload and other relevant factors. The Tribunal cannot compel any agency to issue advertisement in respect of any vacant post. The only



right, which the applicants would have, is to take part in the selection process, as and when the notification is issued.

7. We do not find any merit in the T.A. It is accordingly dismissed. There shall be no order as to costs.

**( Mohd. Jamshed ) ( Justice L. Narasimha Reddy )**  
**Member (A) Chairman**

**July 22, 2021**  
/sunil/jyoti/daya/