

Item No.2

**Central Administrative Tribunal
Jammu Bench, Jammu**



T.A. No.235/2021
(S.W.P. No.2362/2017)
With
T.A. No. 248/2021
(S.W.P. No. 2231/2017)

Thursday, this the 08th day of April, 2021

(Through Video Conferencing)

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

TA No. 235/2021
(S.W.P. No.2362/2017)

Firdos Bukhari, Aged 40 years,
W/o Arab Hussain Shah,
R/o Village Surhooti, Post Office Ari,
Tehsil Mendhar,
District Poonch.

..Applicant

(Mr. Anil Gupta, Advocate)

VERSUS

1. State of Jammu & Kashmir through Commissioner-cum-Secretary Social Welfare Department J&K, Srinagar.
2. Director, State Mission Directorate ICDS/ICPS J&K Iqbal House 110/02 Wazir Bagh, Srinagar/Haj House 3rd Floro Rail Head, Jammu.
3. Chairman Service Selection Board, Zam Zam Hotel Rambagh, Srinagar.
4. Haseena Akhter, D/o Rehmatullah, R/o Ward No. 8 Main City Under Sub-Division Rajouri City Falls under EM&RE division Power Development Department, Rajouri.

..Respondents

(Ms. Shivali Jalali Pandita, Advocate and Mr. Amit Gupta, Additional Advocate General)

TA No. 248/2021
(S.W.P. No. 2231/2017)

Firdos Bukhari, Aged 40 years,
W/o Arab Hussain Shah,
R/o Village Surhooti, Post Office Ari,
Tehsil Mendhar,
District Poonch.



(Mr. Anil Gupta, Advocate)

..Applicant

VERSUS

1. State of Jammu & Kashmir through Chairman Service Selection Board, Zam Zam Hotel Rambagh, Srinagar.
2. Sub-Divisional Magistrate, Surankote, Tehsil Surankote, District Poonch.
3. Tehsildar Surankote, District Poonch.
4. Haseena Akhter, D/o Rehmatullah, R/o Ward No. 8 Main city under Sub-Division Rajouri City falls under EM&RE Division Power Development Department Rajouri.

..Respondents

(Ms. Shivali Jalali, Advocate and Mr. Amit Gupta, Additional Advocate General)

ORDER (ORAL)

Justice L. Narasimha Reddy:

The respondents issued a advertisement in May 2013 for selection of candidates for the post of Supervisor. In all, 5 posts were advertised and out of them one is earmarked for RBE category. The applicant in both the T.As, the 4th respondent, and several others applied. The selection process involved verification of records and conducting of interview. A list was published on 12.08.2017, under RBE category. The 4th respondent was

selected, whereas the name of the applicant was shown as No.1 in the waiting list. The applicant filed SWP.Nos.2231/2017 and 2362/2017, challenging the selection of the 4th respondent.



2. The applicants pleaded that the 4th respondent does not answer the description of RBE candidates and the certificate issued to her is not a genuine one. According to the applicant, the 4th respondent is the resident of Rajouri District, whereas the post is of Poonch District. The applicant has also taken plea that the 4th respondent did not hold the prescribed educational qualifications.

3. An interim order was passed by the Hon'ble High Court of Jammu and Kashmir, on 26.09.2017, staying the operation of the selection of the 4th respondent.

4. On behalf of the State Government, on one hand and the 4th respondent, on the other hand, separate replies are filed.

5. It is stated that the concerned revenue authority issued RBE certificate in favour of the 4th respondent, stating that she is the resident of Poonch District, and the plea of the applicant, to the contrary is incorrect. It is also stated that the certificate

issued in favour of the 4th respondent was subject matter of inquiry by the Court and the a specific finding was recorded to the effect that the certificate is genuine. The plea of the appicnat that the 4th respondent does not hold the educational qualifications is not denied.



6. The Writ Petitions have since been transferred to this Tribunal in view of reorganization of the State of Jammu and Kashmir and renumbered as TA.No.235/2021 and TA.No.248/2021

7. Today, we heard Mr.Anil Gupta, learned counsel for the Applicant, and Mr.Amit Gupta, learned Additional Advocate General, for the official respondents, and Ms. Shivali Jalali Pandita, learned counsel for the RespondentNo.4, in both the TAs.

8. The selection was to the post of supervisor in the social welfare department. The residential as well as educational qualifications for the post are stipulated as under:

“Permanent residents of J&K State.

It is reiterated here that in respect of Divisional/District cadre posts only those candidates belonging to the concerned Division/District can apply. However, candidate belonging to SC category shall be eligible to apply for the said reserved vacancies irrespective

of their residence in the concerned District or Division.

2. Having age as on 01.01.2013 not:-

- (i) Below 18 years; and
- (ii) Above:-



- (a) 37 years in case of Open Merit.
- (b) 40 years in case of SC/ST/RBA/ALC/OSC candidates.
- (c) 39 years in case of Physically challenged candidates.
- (d) 48 years in case of Ex.Servicemen.
- (e) 40 years in case of candidates already in Government Service/
Contractual employees:

3. In possession of the prescribed academic/professional/technical qualifications and fulfil all other eligibility conditions wherever required as shown against each post in the Annexures by or before last date of receipt/submission of application forms i.e., 10.06.2013.”

9. According to the applicant, the post of Supervisor was one for Poonch District and as per the Condition No.1, the candidate must be a resident of concerned district. He contends that the 4th respondent is the resident of Rajouri District. The applicant filed a copy of the certificate issued to the 4th respondent. It is clearly mentioned that she is the resident of Poonch District.



10. In the reply filed by the respondents, it is stated that at one stage, an inquiry was held to the genuineness of the certificate by the Court of law and a specific finding was recorded. Even otherwise, whenever a certificate issued by a prescribed authority as regards the social status or residential status is relied upon in the process of selection, the selecting agency has no other alternative except to accept it. If anyone intends to challenge it, the forum is elsewhere. Except the self-serving statement of the applicant, there is nothing on record to show that the 4th respondent is not a resident of Poonch district. Till the contrary is proved, the certificate issued to her deserves to be acted upon.

11. So far as the second plea about the educational qualifications are concerned, the applicant is not able to substantiate the same. The bald allegation that the 4th respondent is not qualified does not serve the purpose. The selecting agency has undertaken its own verification and it is too naive to believe that the authority did not have the wherewithal to verify adequacy or genuineness of the educational certificates. The selection was made way back in 2017 and on account of the interim order, the department is deprived of the service of a Supervisor. The selection and appointment is not a matter between the applicant and the 4th respondent, and what is at stake, is the service, which a public servant is supposed to render.

12. We do not find any merit in the TAs and the same are accordingly dismissed. The interim order shall stand vacated.



(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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