

Item No.1

Central Administrative Tribunal Jammu Bench, Jammu

O.A. No. 381/2020

Friday, this the 23rd day of April, 2021

(Through Video Conferencing)



Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Ms. Aradhana Johri, Member (A)

Sunita Kumari, age 30 years
d/o Sh. Girdhari Lal
r/o H.No.30, Ward No.3, Bishnah Bye-Pass
Tehsil Bishnah, District Jammu

..Applicant

(Mr. Abhinav Sharma, Senior Advocate assisted by Mr. Abhimanyu Sharma, Advocate)

VERSUS

1. Union Territory of J & K through
Commissioner/Secretary
General Administration Department
Civil Secretariat, Jammu/Srinagar
2. Commissioner/Secretary
Health & Medical Education Department
Civil Secretariat, Jammu/Srinagar
3. J & K Service Selection Board
Through its Secretary
Railhead Bahu Plaza, Jammu
4. Shaveta Bharti d/o Sh. Ashok Kumar
r/o Exchange Road, Jammu
5. Anuradha d/o Sh. Sardari Lal
r/o Bomal, Tehsil Jourian,
District Jammu

..Respondents

(Mr. Amit Gupta, Additional Advocate General)

ORDER (ORAL)**Mr. Justice L. Narasimha Reddy:**

The Jammu & Kashmir Selection Board, 3rd respondent herein, issued separate advertisements on 01.02.2019 for the post of Audio Visual Technician (AVT) and Telephone Supervisor (TS) in three Government Medical Colleges at Anantnag, Rajouri and Kathua. The selection process comprised of conducting of written test, followed by an interview for the short listed candidates. The applicant responded to the advertisements and claimed the status of scheduled caste (SC) category. On the basis of the performance in the written test, she was short listed for the post of AVT and TS for the Government Medical Colleges. It is stated that the result notice was published on 09.09.2019 and at that time, the applicant, who is a resident of Jammu, was stuck up in Kashmir, due to the disturbances, that ensued on account of the repelling of Article 370 of the Constitution of India and reorganization of the State of Jammu & Kashmir into Union Territory. She contends that even the internet facility was not available and that was restored only in the month of November, 2019. The applicant contends that the select list was published on 05.10.2019, at a time when she was in Kashmir and she was not permitted to join on the ground that she did not report for verification of records within the stipulated time. In this background, she filed this O.A. with a prayer to direct the respondent No.3 to verify her

documents and direct respondent Nos. 1 & 2 to appoint her against the post for which she has been found eligible. Ancillary reliefs are also prayed for.



2. The applicant contends that she was selected on the basis of her performance and social status in two Government Medical Colleges; and that the denial of verification of records and issuance of order of appointment, which is solely on the ground that she did not report within the relevant point of time, cannot be countenanced in law

3. The respondents filed detailed counter affidavit. It is stated that the results of the examination were published on 09.09.2019 and almost all the candidates, who were in the select list, have appeared for verification of records. They contend that once the applicant did not report for verification of the records within the stipulated time, she has no right to be insisted for the verification of records thereafter, much less to claim the appointment. The other contention of the respondents is that the selection process has since been completed.

4. Today, we heard Mr. Abhinav Sharma, learned senior counsel assisted by Mr. Abhimanyu Sharma, learned for applicant and Mr. Rajesh Thappa, learned Deputy Advocate General, in detail.



5. It is not in dispute that the applicant was one of the selected candidates for the posts of AVT and TS in three Government Medical Colleges. The next step is of verification of records. The applicant states that she went to Kashmir in the month of July, 2019 and was stuck up there due to the disturbances, that ensued on account of repelling of Article 370 of the Constitution of India and reorganization of the State of Jammu & Kashmir into Union Territory. According to her, she was about to come back to Jammu only in the month of November, 2019. By that time, the last date for verification of records had expired.

6. The O.A. was heard on the previous occasion. A specific prayer was made in the O.A. to set aside the selection of other candidates, who are also impleaded as private respondents. We wanted the learned Deputy Advocate General to find out as to whether any post of AVT or TS is remaining vacant. Today, it is stated that one post of AVT in the Government Medical College at Anantnag, which is meant for SC candidate, is remaining unfilled, on account of non-availability of the SC candidate.

7. The applicant is an SC candidate and she has already been selected. There is no point in keeping the post vacant, particularly when it is reserved in favour of an SC candidate. When law provides for carrying forward of SC vacancies, if suitable candidate is not available, instead of filling it with any other

candidate, the applicant, who is already selected, cannot be denied the benefit. Further, no prejudice would be caused to the respondents, much less the rights of any private individual is affected.



8. We, therefore, allow the O.A. and direct the respondent No.3 to verify the documents/certificates of the applicant, within four weeks from the date of receipt of a copy of this order. In case the documents of the applicant are found to be in order, other steps for issuing order of appointment in respect of the post of Audio Visual Technician (AVT) in Government Medical College at Anantnag shall be taken, within six weeks thereafter.

There shall be no order as to costs.

(Aradhana Johri)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

April 23, 2021
/sunil/rk/sd/