

**0CENTRAL ADMINISTRATIVE TRIBUNAL
JAMMU BENCH, JAMMU**

Hearing through video conferencing

O.A. No. 61/477/2021

This the 18th day of March, 2021

HON'BLE MR. RAKESH SAGAR JAIN, MEMBER (J)
HON'BLE MR. ANAND MATHUR, MEMBER (A)

Farooq Ahmed Sheikh Age: 57 years, S/o Late Ghulam Rasool Sheikh, R/o Ward No. 07, Batote, District Ramban.

.....Applicant

(Advocate:- Mr. P.N. Bhat)

Versus

1. U.T. of J&K through Commissioner/Secretary to Gov. Tourism Department, Civil Secretariat, Jammu/Srinagar-180004.
2. Director Tourism, Jammu-180004.
3. Sunny Kumar, (Chowkidar) Class-IVth Office of Directorate of Tourism, Jammu-180004.
4. Miss Jyoti Devi, (Orderly) Class-IVth CEO Patnitop Development Authority, Kud-182142.
5. Miss Sumiksha Pandita (Mali) Office of Directorate of Tourism, Jammu-180004.

.....Respondents

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

ORDER
ORAL

(Delivered by Hon'ble Mr. Rakesh Sagar Jain, Member-J)

Learned counsel for the applicant submits that the applicant Farooq Ahmed Sheikh was appointed as a daily wages worker in the year 1992 and he was regularized along with other daily wages worker on 29.08.2003 w.e.f., 01.04.2000. The applicant was given first in-situ promotion w.e.f., 01.10.2005 and he was granted the second in-situ promotion w.e.f., 01.10.2014. Some posts of Junior Assistant were found to be lying vacant in the office of respondent no. 2 and it was decided that Class-IV employees would be promoted after seeking their integrity certificate from their concerned officers.





The Respondent No.2 after seeking the integrity certificate of the Class-IV employees, found that 24 Class-IV employees were eligible for promotion to the post of Junior Assistant including the applicant. Accordingly, type/computer test was held and only five out of twenty four candidates including the applicant passed the test. However, Respondent No. 2 to the utter violation of the service rules and to the utter violation of fundamental rights of the applicant passed order no. 54 DTJ of 2020 dated 26.12.2020 wherein, promotion was denied to the applicant without assigning any reason, however, private respondents who were juniors to the applicant came to be promoted against the post of Junior Assistant in the Office of Directorate of Tourism, Jammu and its subordinate offices. Hence, the present O.A.

2. We have heard Mr. P.N. Bhat, learned counsel for the applicant and Mr. Rajesh Thappa, learned D.A.G. for the respondents and perused the record.

3. It has been stated by the learned counsel for the applicant that the private respondent no. 3 to 5 were regularized as Class-IV employees much later than the applicant, hence, the applicant was senior to respondent no. 3 to 5 but the applicant has been denied promotion without any assigning any reason vide order dated 26.12.2020, thus in these circumstances, the said order be declared null and void ab initio by setting aside the same with further direction to the respondents to promote the applicant as Junior Assistant and issue seniority list of Junior Assistant by including the name of the applicant the appropriate place.



4. Looking to the facts and circumstances of the case, we dispose of the O.A. with direction to the respondents to revisit the promotion list/order and if the applicant is found to be eligible looking to his seniority, provided that there is nothing adverse against the applicant, necessary action be taken for according promotion to him and if the applicant is found to be ineligible for promotion, a speaking and reasoned order needs to be passed. This exercise be completed within a period of one month from the date of receipt of certified copy of this order.

5. It is made clear that we have not entered into the merits of the case.

6. There shall be no order as to cost.

(ANAND MATHUR)
MEMBER (A)
Arun

(RAKESH SAGAR JAIN)
MEMBER (J)