

**CENTRAL ADMINISTRATIVE TRIBUNAL
JAMMU BENCH, JAMMU**

Hearing through video conferencing

O.A. 61/929/2020



Pronounced on: This the 07th day of July 2021

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

Himanshu Sharma, aged 28 years, S/o Shri Vishwa Mitter, R/o Parwah, P.O. Sangrampur, Tehsil Marh, District Jammu. (Group-C).

.....Applicant

(Advocate: Mr. Anil Sethi)

Versus

1. Union Territory of Jammu & Kashmir, Through Commissioner/Secretary, Higher Education Department, Civil Secretariat, Jammu.
2. Services Selection Recruitment Board, through its Chairman, Sehkari Bhawan, Panama Chowk, Jammu.
3. Secretary, Services Selection Recruitment Board, Through its Chairman, Sehkari Bhawan, Panama Chowk, Jammu

.....Respondents

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

O R D E R

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



Applicant Himanshu Sharma has filed the present O.A. seeking the following reliefs:

- “(i) Command the respondents to select and appoint the applicant to the post of Sr. Lab Assistant (Civil Engineering) Divisional Cadre, Jammu pursuant to Advertisement Notification No. 01 of 2015 Item No. 19) for which applicant has been interviewed under Open Merit Category.
- (ii) Such other relief as this Hon'ble Court may deem fit and proper in the given facts and circumstances of the case kindly be passed in favour of the applicant as against the respondents.”

2. Case of applicant that in response to advertisement notices issued by the respondent-SSB, he applied for the post of Junior Engineer (Civil) and Sr. Lab. Technician (Civil Engineering).

3. Respondent SSB vide letter dated 24.03.2016 (Annexure – A) took the position that in order to avoid repetition of candidates in the selection lists, short listed candidates to indicate their preference for Item No. 134 (02 of 2014) Junior Engineer (Civil) R&B Department or Item No. 001 (01 of 2014) Junior Engineer (Civil) PHE/I&FC Department. This option would be subject to the following points:

- I. Option would be considered is the applicant is in more than one item;
- II. Option shall operate strictly in order of merit



4. Similarly, on being asked for option in other posts vide communication dated 14.06.2016, applicant gave his option for post of Sr. Lab Technician. It is the case of applicant that not being found qualified for the posts of Junior Engineer (Civil), he is entitled to the post of Sr. Lab. Technician (Civil Engineering) falling within the zone of selection since he had given option for the said post under open merit.

5. It has been further averred in the petition that despite finishing the selection process, respondents are not issuing the select list for the posts of Sr. Lab. Technician (Civil Engineering). Hence, the present petition to appoint the applicant to the post of Sr. Lab. Technician (Civil Engineering) which would necessitate the issuance of the final select list.

6. In reply, respondent No. 2 and 3 (Service Selection Recruitment Board and Secretary, Services Selection Recruitment Board respectively) have opposed the case set up by the applicant by taking the stand below:

“I. That the petitioners (namely Sanjiv Singh) and Himanshu Sharma) approached the Hon’ble High Court of Jammu and Kashmir at Jammu which by way of writ petition bearing SWP No. 2854/2016 titled Sanjiv Singh and another V/S State and others, seeking therein following reliefs:-

“i) Writ of mandamus commanding the respondents to strictly adhere to declared criteria i.e., by evaluating merit of each candidate vis-a-vis the posts for which he has applied and has given his/her option including the



post of Sr. Lab Technician (Civil Engineering) Divisional Cadre Jammu.

- (ii) Writ mandamus commanding the respondents to honor and implement the rule of merit-cum-preference as indicated in its notice dated 24.03.2016 and 14.06.2016 for the purpose of selection for the post of Sr. Lab Technician (Civil Engineering) Divisional Cadre, Jammu.”

K. The writ petition was finally disposed of by the Hon’ble Court vide its order dated 30.11.2017 with the following directions:-

“.....In view of the submissions made by the learned counsel for the respondents, instant writ petition is disposed of with the direction that for selection of Sr. Lab Technician (Civil Engineering) and for other posts, Authority will adhere the criteria of merit-cum-preference, as indicated in Notices dated 24.03.2016 and 14.06.2016, issued by Secretary, J&K Service Selection Board...”

M. It is further submitted that candidate namely Himanshu Sharma (OM) S/o Sh Vishwa Mitter (R/o Parwah, Jammu represented before the Chairman to review his case (on the ground as indicated above) and the matter was placed before the Board in its 163rd meeting held on 19.02.2020, wherein it was decided to constitute a committee to examine the issue and submit its report/recommendation in its next meeting.



N. That the report/recommendation of the said committee was placed before the Board in its 171st meeting held on 12.06.2020 and the matter was discussed extensively in the Board meeting. Having regard to the facts of the case and directions passed by the Hon'ble High Court in the above said Writ petition, and the Board decided to release/forward the Select List for the post of Senior Laboratory Technician (Civil Engineering) Divisional Cadre Jammu in favour of Mr. Sanjiv Singh (RBA), as he figures in the shortlist prepared by the Board in the ratio of 1:5, as prescribed in the rules, as far as the case of Mr. Himanshu Sharma is concerned, it has been informed that he does not figure in the shortlist prepared by the Board following the norm of five times the number of vacancies. The Board accordingly, decided to reject his claim, being devoid of merit.”

7. We have considered the written arguments of learned counsel for applicant and arguments of learned Dy. A.G. for respondents and gone through the material on record.

8. The case of applicant is limited to the posts of Sr. Lab. Technician (Civil Engineering). Applicant in his written arguments has taken the plea that the respondents despite admitting the right of the applicant are not issuing the result/select list holding him entitled to be appointed as Sr. Lab. Technician (Civil Engineering). However, the respondents in their objections have categorically averred that the applicant has been informed that he does not figure in the shortlist and rejected his claim. This averment



of the respondents has been rebutted by the applicant by way of rejoinder affidavit. Even so, communication of SSB dated 20.11.2020 placed on record by applicant reveals that select list has been prepared and issued and as per Annexure 'A', the select list bears the name of one Sanjiv Singh in RBA category and that 2 posts under Open Merit remained unfulfilled due to non-availability of eligible candidates.

9. In the facts and circumstances of the case as appearing in the pleadings of the parties, the select list has been issued and the applicant has not been considered eligible for selection to the post of Sr. Lab. Technician (Civil Engineering).

10. Since the applicant has been considered to be ineligible to be appointed to the post of Sr. Lab. Technician (Civil Engineering), we are of the opinion that there is no merit in the O.A. Accordingly, the O.A. being meritless is dismissed. No costs.

(ANAND MATHUR)
MEMBER (A)

Arun/-

(RAKESH SAGAR JAIN)
MEMBER (J)