

**CENTRAL ADMINISTRATIVE TRIBUNAL
JAMMU BENCH, JAMMU**

Hearing through video conferencing

O.A. No. 62/657/2021

This the 28th day of April, 2021

HON'BLE MR. RAKESH SAGAR JAIN, MEMBER (J)
HON'BLE MR. DINESH SHARMA, MEMBER (A)

Hamida Bano (Qureshi), Age: 60 years, D/o Kh. Ghulam Rasool, W/o Syed Bashir Ahmad, R/o Bemina, Srinagar-190018.

.....Applicant

(Advocate:- Mr. Showkat Ahmad Makroo, Sr Advocate assisted by Mr. Danish Yousuf)

Versus

1. Union Territory of Jammu and Kashmir through Commissioner cum Secretary to Government Revenue Department, Civil Secretariat, Srinagar/Jammu-180001.
2. Financial Commission (Revenue) J&K, Rail Head Complex, Jammu-180001.
3. Accountant General (A&E), Union Territory of J&K and Ladakh, Srinagar-190001.

.....Respondents

(Advocate: Mr. Rajesh Thappa, learned D.A.G.)

**ORDER
[ORAL]**

(Delivered by Hon'ble Mr. Dinesh Sharma, Member-A)

The case of the applicant Hamida Bano is that, her services were regularized as 'Junior Assistant' in the office of Financial Commissioner (Revenue) as the applicant was earlier working on ad-hoc basis. The applicant joined at her place of posting and her service book was compiled and the date of birth of the applicant was mentioned as 01.02.1964 as per the matriculation certificate. After regularization of the applicant's services the certificates were verified by the office of Financial Commissioner and nothing adverse was reported against the applicant. In this behalf vide letter No. FC (NG-Misc) 1329/2013 dated 26.03.2013 the Office of Financial Commissioner (Revenue) forwarded the certificates of 28 officials including the applicant for verification and the verification report was received vide letter dated 04.03.2014 in which it was communicated that date of birth of the applicant is 01.02.1964 and her certificate was declared genuine. Subsequently, to the utter surprise and shock of the applicant, the State





Board of School Education vide office letter dated 04.01.2016, reported that Smt. Hamida Bano bearing Roll No. 11587 of the year/session 1980 (Oct-Nov) pertaining to the matriculation examination has been declared as “absolutely fake and fabricated”. The Board authorities without giving any opportunity of hearing to the applicant has written a communication bearing No. F (Legal-KD) B/2016 dated 13.06.2016 to the Inspector General of Police, Crime Branch and has requested for registration of FIR against the applicant. The Crime Branch on the basis of the said communication registered FIR bearing no. 43 of 2016 for offences under Section 420, 468 & 471 of RPC. The applicant was summoned by the Investigating Office in the Crime Branch and the applicant not only produced the Primary School record before the said Investigating Officer but also replied to the questionnaire which was supplied to her. It was brought to the notice of the Investigating Officer that date of birth maintained by the Primary School is the only authentic date of birth which was also available in the office of the Board and the date of birth in the Primary School records is 01.02.1964, which is substantiated by the records furnished by the Headmaster of the Primary School where the applicant was enrolled. Thereafter, the case was taken up by another Investigating Officer and the said Investigating Officer filed the closure report before the Ld. Chief Judicial Magistrate, Srinagar on 21.05.2019 and the same was transferred to the Court of Ld. City Judge (Judicial Magistrate 1st Class) Srinagar on 26.08.2019. The Ld. Court of Judicial Magistrate 1st Class (City Judge) Srinagar did not accept the closure report and has examined the Investigating Officer as well as the Complainant, namely, Mukhtar Ahmad Jaloo, Joint Secretary (Legal) and refused to accept the closure report filed by the Crime Branch and directed the SSP, Crime Branch Kashmir to conduct further investigation within a period of 8 weeks by virtue of order dated 14.10.2019. The Inspector General of Police, State Crime Branch, Headquarters, J&K Jammu, vide communication bearing No. CHQ/FIR-43/2016/CBK-3883-84 dated 22.03.2019 addressed a communication to the respondent no. 2 and has stated that the matter is being referred to the office of Respondent No.2 with the request to take administrative action for adopting the date of birth of suspect Hamida Bano as 01.02.1961 which as per BOSE records is her actual date of birth instead of wrongly recorded date of birth viz. 01.02.1964. The applicant approached the Hon’ble High Court of J&K at Srinagar by filing Writ Petition bearing



WP (C) No. 3449/2019, C.M. No. 6955/2019 and assailed the order of the Ld. City Judge/Judicial Magistrate 1st Class, Srinagar dated 14.10.2019 and the Hon'ble High Court has been pleased to allow the writ petition directing that a duplicate/photocopy of the service book duly authenticated by the competent officer of the Crime Branch be sent to respondent no. 2 who shall consider the grievance of the petitioner with regard to the service benefits that may have fallen due to her under law. When respondent no. 2 failed to consider the judgement, the applicant moved a detailed representation and also produced the Hon'ble Court order dated 29.11.2019 and requested the respondent no. 2 to consider her grievance. The Respondent No. 2 vide Order No. 46-FC (REV) of 2020 dated 12.02.2020 considered the representation of the applicant and granted the benefit of 7th Pay Commission and other benefits, i.e., increment/D.A. in favour of the applicant, but her confirmation as Head Assistant and further promotion to the level of Section Officer was not considered and in the order dated 12.02.2020 it has been mentioned that her case for promotion and confirmation will be decided by the State Level Departmental Promotion Committee as and when conducted and it was also ordered that the applicant's date of birth be treated as 01.02.1961 and she shall retire on superannuation on 31.01.2021. The applicant has retired on superannuation on 31.01.2019 but till date neither pension & pensionary benefits have been released nor has her case for promotion been considered by the DPC. The applicant is aggrieved of the inaction and discriminatory treatment of the part of respondents as the same has effect on the rights of the applicant as guaranteed to her under Article 14, 16, 21 & 300-A of the Constitution of India. Hence, the present O.A.

2. Learned counsel for the applicant submits that the O.A. can be disposed of by directing the respondents to take a decision with regard to the applicant in accordance with Government Order 46 FC (REV) of 2020 dated 12.02.2020 within a stipulated time frame.

3. We have heard Mr. Showkat Ahmad Makroo, Sr. Advocate assisted by Mr. Danish Yousuf, learned counsel for the applicant and Mr. Rajesh Thappa, learned D.A.G. for the respondents and perused the records.



4. Looking to the facts and circumstances of the case, we dispose of the O.A. with direction to the respondents to take action with regard to the applicant in accordance with Government Order No. 46 FC (REV) of 2020 dated 12.02.2020 with special emphasis on para 14 and 15 of the said order within a period of three months 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 orders as to cost.

(DINESH SHARMA)
MEMBER (A)

Arun

(RAKESH SAGAR JAIN)
MEMBER (J)