

**CENTRAL ADMINISTRATIVE TRIBUNAL
JAMMU BENCH, JAMMU**

Hearing through video conferencing

O.A. No. 62/1161/2020

This the 30th day of June, 2021



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

1. Ghulam Mohamad Chowan, S/o Faqeer Mohammad Chowan, R/o Shutroo, Rafia abad, Aged 63 years.
2. Manzoor Ahmad Zargar, S/o Mohammad Yusuf Zargar, R/o Bulgam, Sopore Aged 60 years.
3. Ghulam Qadir Shah, S/o Skindar Shah, R/o City Colony, Bypass, Sopore, Aged 58 years.
4. Ghulam Mohammad Hazar, S/o Lal Hazar, R/o Bulbul Lanker, Srinagar, Aged 60 years.
5. Niyaz Ahmad Bhat, S/o Ghulam Mohammad Bhat, R/o Zainakoot, Umerabad, Aged 58 years.
6. Abdul Qayoom Bakshi, S/o Abdul Rehman Bakshi, R/o Natipora, B, Aged 60 years.
7. Noor-ud-din Hazar, S/o Abdul Rahim Hazar, R/o Badgari, Aalikadal, Aged 62 years.
8. Nazir Ahmad Gilkar, S/o Ghulam Rasool Gilkar, R/o Shallapora, Alochi Bagh, Aged 54 years.
9. Ghulam Rasool Sheikh, S/o Abdul Rahim Sheikh, R/o Kambura, Rajward, Aged 50 years.
10. Mst. Reshan Jan, W/o Late Ajay Mohammad Checha R/o Nechiyan Karna.
11. S. Babu Singh, S/o S. Kartar Singh, R/o Beaaya, Tangmarg, Aged 52 years.
12. Abdul Rashid Chupan, S/o Mohammad Asan Chupan, R/o Kanisa Pora, Baramullah, Aged 57 years.
13. Mohammad Amin Bhat, S/o Mohammad Ismail Bhat, R/o Kheybagh Baramullah, Aged 55 years.



14. Rafiq Ahmed Sofi, S/o Ali Mohammad Sofi, R/o Jamai, Baramullah, Aged 56 years.
15. Abdul Rashid Bhat, S/o Mohammad Subhan Bhat, R/o Tengpora, Batmaloo, Aged 8 years.
16. Ghulam Mohammad Teli, S/o Mohammad Ahmed Sheikh, R/o Malshahi Baghi Ganderbal, Aged 58 years.
18. Abdul Aziz Shah, S/o Mohammd Maqbool Shah, R/o Khalmula Ganderpora, Aged 58 years.
19. Ghulam Nabi Malik, S/o Abdul Jabbar Malik, R/o Shah Mohallah Ahmad Nagar, Aged 54 years.
20. Abdul Rahmid Dar, S/o Sona-ullah Dar, R/o Dogripora, Awantipora, Aged 54 years.
21. Abdul Hamid Mir, S/o Abdul Gaffar Mir, R/o Moominabad, Batamaloo-Aged 54 years.
22. Ghulam Qadir Hajam, S/o Abdul Rehim Hajam, R/o Taka Mohallah, Shopian, Aged 60 years.
23. Ali Mohammad Dar, S/o Abdul Gani Dar, R/o Redwanibala, Aged 58 years.
24. Manzoor Ahmed Wagay, S/o Ghulam Mohammad Wagay, R/o Sumbal, Arampora, Aged 45 years.
25. Ghulam Mohammad Dar, S/o Ali Mohammad Dar, R/o Maishahi Bagh, Ganderbal, Aged 55 years.

....Applicants

(Advocate:- Mr. M I Qadri, Sr. Advocate assisted by Mr. Naveed Gul)

Versus

1. Union Territory of J&K through, Secretary to Public Health Engineering/Jalshakti Department, Civil Secretariat, Srinagar-180001.
2. Chief Engineer, Public Health Engineering/Jalshakti Department, Near Silk Factory Road, Rajbagh, Srinagar-190008.
3. Superintending Engineer (Hyd), Circle, Public Health Engineering/Jalshakti Department, Srinagar-Rajbagh.
4. Financial Advisor (Chief Accounts Officer), Public Health Engineering/Jalshakti Department, near Silk Factory Road, Ragjbagh, Srinagar-190008.
5. Departmental Promotion Committee, through Chairman, Chief Engineer PHE/Jalshakti Department, near Silk Factory Road, Srinagar-190008.

.....Respondents.

(Advocate: Mr. Sudesh Magotra, learned D.A.G. for Mr. Amit Gupta, learned A.A.G.)

ORDER**[ORAL]****(Delivered by Hon'ble Mr. Rakesh Sagar Jain, Member-J)**

The applicants are working in various divisions of the PHE/Jalshakti Department in Kashmir Province of the Jammu and Kashmir Union Territory as Incharge Chauffeurs/Drivers in the grade of Rs. 5600-9100 and 4000-6000 (Pre-revised) respectively. Seventeen applicants are working as Incharge Chauffeurs in the above mentioned grade but only six Chauffeurs are drawing charge allowance, when they are working against clear vacancies of Chauffeurs. It is the case of the applicants that the Government took a policy decision in the year 1998, from General Department that whenever the Department purchased small or bigger vehicle, the post of Driver/Cleaner will automatically get created, so that with increase of the fleet of tankers/trucks, the post of Drivers/Cleaners gets automatically created as such number of such posts of Drivers depends on increase from time to time in the trucks/tankers and other vehicles, but till date these posts have not been included in SRO 380 of 1989 for recruitment or other purposes. The respondents constituted a Departmental Promotional Committee in the year 2017 for the purpose of promotion and filling up of the vacant posts of Chauffeurs and Drivers. The said Committee deliberated upon the service record of all the eligible Drivers and made a recommendation in terms of order no. 142 dated 16.07.2017 in favour of six senior most Drivers of the Department for promotion as Chauffeurs. Out of nominated members of DPC, the representative of the administrative department, viz., Respondent No. 1 was made through the then Under Secretary to PHE Department, who did not attend three scheduled meetings of the DPC but keeping in view the golden principle of law of decision “by majority”, the recommendations for promotions were made by majority decision without his participation. It is stated that nowhere is it provided that all members of the DPC must concur and conclude with a particular decision, but the same is to be done on the basis of “majority decision”. It is always that “majority view” of the members should prevail and, accordingly, decision has been concluded by the department in the year 2017, which has been accepted by competent authority and orders of promotion were made. A number of vacancies of Chauffeurs and Drivers fell vacant in the department, which necessary for filling up the same, amongst the eligible Drivers as the posts of Chauffeurs are only to be filled by promotion from

amongst the eligible senior Drivers and not by direct recruitment, therefore, the vacancies arose in the Department because of the retirement or otherwise, which were referred to DPC and the representative of the Administrative Department in the year 2018, again failed to attend the said DPC meetings and promotions have not been made till date by the respondents.



2. The respondents have filed a status report in which it is stated that a DPC was constituted on 12.07.2019 to discuss and approve the functional promotions/confirmations granted to Chauffers of the Grade 500-9100 (PR), 9300-34800+4240 GP. The said Committee reportedly approved the regularization/promotion of Drivers as Chauffers and it was further decided that the formal orders in favour of the said Drivers as Chauffers will be issued only after obtaining Vigilance Clearance. The aforesaid minutes of the meetings were not signed by all the members of the DPC at that point of time. The Officers who did not sign the aforesaid minutes of meeting had either retired or transferred from the Department as such it is not possible to ascertain the reasons which prevented them from signing the minutes of meeting so as to finalize the matter. In order to finalize the matter, the Respondent No. 2 vide letter No. PHE/Estt/203-7 dated 02.04.2021 has constituted a Committee under the Chairmanship of Financial Advisor/Chief Accounts Officer Jal Shakti Department, Srinagar to ascertain the authenticity of the list, sanction strength, seniority/merit of the promotees with the direction to finalize the matter on priority and submit the report. However, due to prevailing conditions of Covid-19 pandemic and subsequent lockdown imposed by the Government, the constituted Committee could not deliberate upon the matter as such the matter got delayed. However, the efforts are on to convene the meeting at the earliest so that the matter is settled on priority.

3. Learned counsel for the applicants has filed rejoinder affidavit to the status report filed by the respondents.

4. We have heard Mr. M I Qadri, Sr. Advocate assisted by Mr. Naveed Gul, learned counsel for the applicants and Mr. Rajesh Thappa, learned D.A.G. for the respondents and perused the records.



5. In the status report filed by the respondents it has been stated a Committee has been constituted to settle the matter on priority. We are of the view that the O.A. can be disposed of by directing the respondents to take a decision in the matter at the earliest.

6. Accordingly, we dispose of the O.A. with direction to the respondents to expedite the matter i.e., convene the meeting of the Committee and take a decision with regard the promotions of the applicants within a month from the date of receipt of a certified copy of this order.

7. No order as to costs.

(ANAND MATHUR)
MEMBER (A)

Arun

(RAKESH SAGAR JAIN)
MEMBER (J)