

**CENTRAL ADMINISTRATIVE TRIBUNAL
JAMMU BENCH, JAMMU**

Hearing through video conferencing

T.A. No. 62/8623/2020

This the 27th day of May, 2021

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



1. Tarun Raina (aged 35 years) S/o Ashok Kumar Raina, R/o Budgam, District Budgam.
2. Mohammad Ashraf Shah (aged 58 years) S/o Mohammad Afzal Shah R/o Hubi Colony, Lal Bazar, Srinagar.
3. Gulshan Akhter (Aged 57 years) D/o Late Abdul Gani Bhat, R/o Shamaswari, Babadem, Srinagar.
4. Rafiq Bano (aged 57 years) D/o Sana Ullah Gadda, R/o Khalifapora, Khanyar, Srinagar.
5. Shagufta Parveen (aged 53 years) D/o Lt. Ghulam Mohammad Baba R/o Shah Anwar Colony, Hyderabad, Srinagar.
6. Abdul Rashid Sheikh (aged 57 years) S/o Ghulam Mohammad Sheikh R/o Nunner, Ganderbal
7. Ghulam Nabi Parray (aged 58 years) S/o Lt. Mohammad Ramzan Parray R/o Goigam, Tangmarg.
8. Peer Mukhtar Ahmad (aged 57 yrs.) S/o Peer Ghulam Mohi-ud-din R/o Nowshara, Srinagar.
9. Ali Mohammad Joo (aged 55 Yrs.) S/o Ghulam Hassan Joo R/o Goom, Ahmadpora, Pattan Baramulla.
10. Ghulam Nabi Mir (aged 56 years) S/o Ghulam Ahmad Mir, R/o Kargam, Handwara, District Kupwara.
11. Abdul Majid War (Aged 55 years), S/o Ghulam Nabi War, R/o Haril, Handwara, District Kupwara.
12. Jagdish Kumar Sharma (aged 57 years) S/o Jagat Ram R/o Brij Nagar, Meeran Sahib Tehsil R.S Pora, District Jammu.
13. Darbar Singh (aged 54 years) S/o Perwant Singh R/o VPO Paloura, Tehsil & District Jammu.
14. Chanchal Kumari (aged 58 years) D/o Dharam Chand R/o Gari More Poorkhoo Domana Tehsil & District Jammu.
15. Mangat Ram (aged 58 years) S/o Badri Nath R/o Village Bhalwal Bhramna Akhnoor District Jammu.
16. Kamal Kumar (aged 56 years) S/o Roop Chand R/o Village Sallan Tehsil Hiranagar, District Kathua.
17. Joginder Paul (aged 57 years) S/o Persh Ram, R/o Village Gatti Thalangal, Tehsil Bani District Kathua.
18. Tarun Behnthal (aged 49 years), S/o Chant Ram R/o Village Bassi Jamwal P.O. Jandi Tehsil Hiranagar, District Kathua.



19. Surinder Singh (aged 56 years) S/o Dalbir Singh, R/o Village Barwal, Tehsil & District Kathua.
20. Anjil Singh (aged 28 years) S/o Angrez Singh, R/o Village Phagsoo, Tehsil Phagsoo, District Doda.
21. Tasaduq Hussain (aged 51 years,) S/o Late Hakeem Ghulam Mustafa R/o Gund Khawaja Qasim, Pattan, District Baramulla.
22. Fayaz Ahmad Khaki (aged 48 years) S/o Ghulam Mohammad Khaki R/o Bijbehara, Anantnag.
23. Mohammad Ismail Dar (aged 47 years) S/o Ghulam Ahmad Dar, R/o Namtehal Chadoora, Budgam.
24. Farooq Ahmada Malik (aged 33 years) S/o Ghulam Ahmad Malik R/o Haripora, Kangan, Ganderbal.
25. Mir Nizam –ul-Islam (aged 40 years) S/o Abdul Khaliq Mir R/o Wadwan, Tehsil Narbal, District Budgam.
26. Tanzen Lovevon Bodh (aged 26 years) S/o Bishan Lal Bodh, R/o Village Lassani, Tehsil Machail District Kishtwar.
27. Darshan Paul (aged 58 years), S/o Chuni Lal R/o Village Dayala Chack, Tehsil Hiranagar, District Kathua.
28. Omkar Singh (aged 30 years), S/o Mohinder Singh R/o H. No. 72, W. No. 32 Munshi Chack, Gole Gujral, Tallab Tillo, Jammu.
29. Sunil Kumar (aged 30 years) S/o Basant Raj, R/o Gurekra, P/o Malhotra, Tehsil Thattri, Doda.
30. Jagjeet Singh (aged 5 years) S/o Sukhdev Singh R/o Village Khalu Tehsil Bhaderwah, District Doda.
31. Kamlesh Kumari (aged 55 years), D/o Maghar Singh, R/o Village Misrata, Tehsil Bhaderwah, District Doda.
32. Sham Lal (aged 58 years) S/o Sita Ram, R/o Village Sagoon, Tehsil & District Jammu.
33. Janak Raj (aged 59 years), S/o Bholu Ram R/o Village Rehal, District Jammu.
34. Raj Kishor (aged 41 years) S/o Romesh Chander R/o Janipur, Thesil and District Jammu.
35. Abid Hussain Khan (aged 28 years) S/o Khurshid Iqbal Khan R/o Liver, Pahalgam.
36. Nizam-ud-din (aged 57 years) S/o Gulam Ali Bhat, R/o Village Beoli, Tehsil and District Doda.
37. Mohammad Hanif Mir (aged 58 years) S/o Abdul Ghani, R/o Najhoor thana Mandi, District Rajouri.
38. Riyaz Ahmad Yatoo (aged 35 years) S/o Ghulam Nabi Yatoo, R/o Goshbugh, Pattan, Baramulla.
39. Shahina Anjum (aged 27 years), D/o Iftikhar Ahmad, R/o Lower Shey, Larjey House Leh, Ladakh.
40. Asif Ahmad Lalgroo (aged 31 years) S/o Abdul Hamid Lalgroo, R/o Panzmulla Seerhamadan, Anantnag.
41. Aubid Bashir (aged 31 years) S/o Bashir Ahmad Sheikh, R/o Bamloora, Ganderbal.

.....Applicants

(Advocate: Mr. Showkat Ahmad Makroo, Sr. Advocate assisted by Mr. Bilal Ahmad Malla)

Versus



1. State of Jammu and Kashmir through Chief Secretary of the State Civil Secretariat, Jammu/Srinagar.
2. Commissioner/Secretary to Government Industries & Commerce Department, Civil Secretariat, Jammu/Srinagar.
3. Principal Secretary to Government Finance Department, Civil Secretariat, Jammu/Srinagar.
4. Director, Handloom Development Department Sanat Ghar Bemina, Srinagar/Udhyog Bhawan, Panama Chowk, Jammu.

.....Respondents

(Advocate: Mr. Amit Gupta, learned A.A.G.)

ORDER

ORAL

(Delivered by Hon'ble Mr. Anand Mathur, Member-A)

The applicants herein are working as Accountant-cum-Storekeepers in the Department and by virtue of the present writ petition they are seeking a writ of mandamus commanding upon the respondents to re-designate them as 'Assistant Handloom Training Officers' on the analogy of Accountant-cum-Storekeepers of Handicrafts Department who have been re-designated as 'Assistant Handicrafts Training Officers' vide Government Order No. 240-IND of 2008 dated 03.10.2008 with a further direction upon respondent no. 2 to implement/finalize the recommendation of respondent no. 4 and approve the draft amendments in J&K Handloom Development (Subordinate) Recruitment Rules without further delay and create posts of Handloom Training Officers as proposed and recommended by the Respondent No. 4 in the grade of Rs. 9300-34800 with grade pay of Rs. 4820/-.

2. The brief facts of the case as stated in the O.A. are that the J&K Handicrafts Department and the Handloom Development Department were a single entity prior to



1980. The Government of Jammu and Kashmir in order to rationalize the above said department bifurcated the same in the year 1980 and accordingly the departments viz J&K Handicrafts Department and J&K Handloom Development Department came into existence. Both the departments are under the administrative control of Industries & Commerce Department. At the time of bifurcation of the above two departments, the State of Jammu & Kashmir principally agreed that apart from rationalizing the above two departments, sufficient promotional avenues will be provided to the employees in order to avoid the stagnation of various posts. In this behalf the post of Accountant-cum-Storekeeper was also under the consideration of the Government as the said post was existing in both the new departments i.e, J&K Handicrafts Department and J&K Handloom Development Department. A representation was moved by the Accountant-cum-Storekeeper (Supervisor) of the Handicrafts Department before the respondent no. 2 for change of designation of their post to Assistant Handicrafts Training Officers and the representation was considered and the Accountant-cum-Storekeeper (Supervisor) of the Handicrafts Department were re-designated as Assistant Handicrafts Training Officers and further promotional avenues were created for them by creating 30 posts of Assistant Handicrafts Training Officer, vide Government Order No. 240-IND of 2008 dated 03.10.2008. Since, the respondents had principally agreed that same treatment will be given to the applicants, as such, the applicants also moved a representation before the respondents pleading therein that similar treatment be given to them keeping in view the functions of the applicants as well as their job profile and also the treatment given to the Accountant-cum-Storekeepers of Handicrafts Department. The case with regard to re-designation of the applicants as Assistant Handloom Training Officers and creation of



posts of Handloom Training Officers was processed by the Department, however, on 23.11.2010, the Respondent No. 4 was informed that Finance Department has not agreed with the proposal submitted by the respondent department and the file was returned without assigning any reason. The said order/communication was never communicated to the applicants. In order to process the case of the applicants for their re-designation as well as for creation/upgradation of posts, comments vis-a-vis the working and functioning of the Accountant-cum-Storekeepers of Handloom Development Department was sought from the immediate officers of the applicants. The comments were submitted by the immediate officers regarding the fact that as to whether there was any financial implication in the eventuality the benefit of re-designation is granted to the applicants and the creation/upgradation of the posts of Handloom Training Officers. The respondent No. 4 submitted the case of the applicants to Respondent No. 2 vide communication dated 09.09.2013. When nothing substantial was done after submitting the comments report, the applicants served a notice dated 05.10.2013 on the respondents. In response to the communication dated 05.10.2013, it was admitted the applicants are similarly situated as Accountant-cum-Storekeepers of Handicrafts Department whose grievance has been redressed and more so the pay scale is same and in the eventuality applicants grievance is redressed, there will be no financial implication/burden and no other employee will be subject to any sort of loss of service benefits. Again vide communication dated 16.01.2014, the case of the applicants have been recommended for change of their designation to the post of Assistant Handloom Training Officers on the analogy of Assistant Handicrafts Training Officers of Handicrafts Department. When the respondents did not initiate any action and failed to redress the grievance of the



applicants, the applicants yet again filed a detailed representation on 15.03.2018. In the meanwhile, Respondent No. 4 yet again submitted a revised proposal for amendment in the J&K Handloom Development (Subordinate) Service Recruitment Rules wherein recommendation has been made for re-designation of the posts of Accountant-cum-Storekeeper as Assistant Handloom Training Officer and creation of 22 posts of Handloom Training Officer in the grade of Rs. 9300-34800 with grade pay of Rs. 4280/-. The above said recommendations along with draft recruitment rules have been submitted to the Respondent No. 2. The said draft recruitment rules along with the aforementioned recommendations is presently pending with the Respondent No. 2 who has not taken any decision on the same.

3. Learned counsel for the applicants submits that due to the delay in taking a decision by Respondent No. 2, many of the colleagues of the applicant have superannuated from service as Accountant-cum-Storekeeper without any promotion. It has also been submitted that in reply to the notice dated 05.10.2013 served by the applicants on the respondents, the respondents had accepted the genuine grievance of the applicant in toto.

4. The respondents have filed a detailed counter affidavit.

5. We have heard Mr. Showkat Ahmad Makroo, Sr. Advocate assisted by Mr. Bilal Ahmad Malla and Mr. Amit Gupta, learned A.A.G. and perused the records.



6. The applicants herein are working as Accountant-cum-Storekeepers. They are seeking redesignation of their post as 'Assistant Handloom Training Officers' on the analogy of Accountant-cum-Storekeepers of Handicrafts Department who have been redesignated as 'Assistant Handicrafts Training Officers vide Government Order No. 240-IND of 2008 dated 03.10.2008. The grievance of the applicants is that their request has been considered and the respondents have acted upon the same, however, the respondents are unnecessarily dragging on the process and are not taking any further action. In this regard, the applicants have referred to sub-para (4) of the Para-6 of the counter reply which is quoted below:-

“In reply to sub-para (iv) of para 6, it is submitted that the Handloom Development Department has submitted a comprehensive proposal regarding revision/review of recruitment rules wherein amendments have been proposed to remove the stagnation of the petitioners by providing better promotional avenues to them. The said proposal is under consideration of the Department.”

7. The applicants have also brought on record letter dated 08.11.2019 whereby necessary approval has been granted for re-designation of the post of Accountant-cum-Storekeeper as Assistant Handloom Training Officer and creation of 22 posts of Handloom Training Officer. The letter dated 08.11.2019 is reproduced below:-

“Reference No: U.O. No. IND/HL/87/1989-II dated 25.06.2019

Returned; To implement the Hon'ble High Court order dated 27.03.2019, Finance Department conveys its agreement to the:-

- i) Re-designation of the post of Accountant-cum-Storekeeper in Level-6 (35400-112400) as Assistant Handloom Training Officer in Level-6 (35400-112400) and;
- ii) Creation of 22 posts of Handloom Training Officer in Level-6E (35900-113500) by corresponding reduction of 25 posts of Assistant Handloom

Training officer (erstwhile Accountant-cum-Storekeeper) in Level-6 (35400-112400).

The above agreement is subject to the following conditions:-

- 1) The posts are created strictly in the applicable Pay levels as prescribed in the Service Recruitment Rules of the Department.
- 2) The department shall update the Service Recruitment Rules accordingly by incorporating above re-designated and created posts subsequently.
- 3) Orders are issued with prior approval of the Competent Authority.

With regard to creation of 84 posts in various categories, the department is advised to justify the same and also identify the vacant/redundant posts for abolition in lieu of creation of proposed posts. As regards, inclusion of left out posts in Schedule-I of the relevant Recruitment Rules, the department is advised to furnish the creation orders of these posts subsequently.

Accounts Officer (Codes),
Finance Department

Principal Secretary to Government,
Industries and Commerce Department,
UO No. A/63 (2007)-647
Dated-08-11-2019”

8. From the above, it is clear that the respondents have initiated the process for re-designation of the post of Accountant-cum-Storekeeper as Assistant Handloom Training Officer and creation of 22 posts of Handloom Training Officer in Level-6E (35900-113500). We are of the opinion that the T.A. can be disposed of by directing the respondents to conclude the process initiated by them within a stipulated time frame.

9. Accordingly, we dispose of the T.A. with direction to the respondents to conclude the process they have initiated with regard to re-designation of the post of ‘Accountant-cum-Storekeeper’ as ‘Assistant Handloom Training Officers’ and re-designate the applicants as ‘Assistant Handloom Training Officers and creation of posts of Handloom



Training Officers in the Level-6E (35900-113500), in view of the recommendation submitted by Respondent No. 4. Let this exercise be completed within a period of three months from the date of receipt of certified copy of this order.



10. No order as to cost.

(ANAND MATHUR)
MEMBER (A)

Arun

(RAKESH SAGAR JAIN)
MEMBER (J)