

(Reserved)

**CENTRAL ADMINISTRATIVE TRIBUNAL
JAMMU BENCH, JAMMU**

Hearing through video conferencing

O.A. No. 62/21/2020



Pronounced on: This the 06th day of August 2021

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

1. Masroor Elahi Malik, age 30 years, S/o Bashir Ahmad Malik, R/o Kalwal Mohalla Rainawara Srinagar.

.....Applicant

(Advocate: Mr. Bhat Fayaz Ahmad)

Versus

1. Union Territory of J&K through Principal Secretary/Commissioner/Secretary to Government, Housing and Urban Development Department, Civil Sectt. Srinagar/Jammu.
2. Chairman, Service Selection Recruitment Board, Srinagar/Jammu.
3. Mohammad Irfan Wani, S/o Abdul Rashid Wani, R/o Kulgam.
4. Mohammad Iqbal Bhat, S/o Mohammad Shaban Bhat, R/o Khag Budgam.
5. Suhail Ahmad malik, S/o Khazir Mohammad Malik, R/o Kiloora Shopian.
6. Mir Tafveez, S/o Mir Mohammad Mansoor, R/o Herpora Shopian.
7. Suhail Mushtaq, S/o Mushtaq Ahmad Mir, R/o Chadoora Budgam.

.....Respondents

(Advocate: Mr. Amit Gupta, learned A.A.G./Mr. P.S. Thakur/Mr. B S Bali)

(ORDER)

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



1. Applicant Masroor Elahi Malik has filed the present O.A. seeking the following reliefs:

“I. Issue a writ of certiorari seeking quashment of appointment of the private respondents.
 II. Issue a writ of mandamus commanding upon the respondents to exhaust the two posts of RBA Category for which respondent No. 3 and 4 have been selected/appointed.
 III. Issue a writ of mandamus commanding upon the respondents to restore two posts of open merit from RBA Category and consider the petitioner against one of the post of Executive Office in Housing and Urban Development Department.
 IV. Issue a writ of mandamus commanding upon the respondents to give due weightage to the objections filed by the petitioner and award proper marks to the petitioner for the questions by either treating two preference as more suitable especially to the extent of question No. 107 and 117 on the pattern of question No. 29 and 46.
 V. Any other order or direction which this Hon'ble Court deem fit and proper in the circumstances of the case in favour of the petitioner against the respondents.”

2. Case of applicant is that he appeared in the computer based or OMR based written examination conducted by Service Selection Recruitment Board for selection to the post of Executive Officer in Urban Local Bodies. The respondents have treated as wrong, his correct answer to Question 107 and 117 and if his correct answers are taken into consideration, he would be ahead of the cut off marks of 77.50 of the last candidate.
3. It is the case of applicant that respondents have considered three options in question no. 46 and two options in question no. 29 to be



correct answer. The respondents deliberately had given two options to the particular questions in order to make some blue eyed candidates to surface in the selection list while as in the case of the petitioner, the two answers which are completely correct have not been considered even some remotely connected correction to the answers especially to question No. 107 and 117 have been left out, the respondents have chosen preference B for question No. 117 and preference C for the question No. 107. The answers given by the petitioner though are more perfect and suitable answers instead of the answers taken as suitable and perfect by the board. The two options as being suitable answers could have been taken for these questions as well, but a deliberate attempt on the part of the respondents to ensure that the petitioner is thrown out of consideration zone on account of which indulgence of this Tribunal is warranted.

4. As per the applicant he had filed representation dated 27.12.2019, application dated 31.12.2019 under RTI Act and another application dated 04.02.2020 which should have been considered by the respondents before issuing the appointment orders but it was not done by the respondents. Hence the present O.A.
5. In reply, respondent No. 1 while giving details of the mode/procedure of the exam conducted. In the reply filed by respondent No. 2 it has been averred that the applicant did not make the representation during the period from 15th to 19th May, 2019 as prescribed by notification No. SSB/Sel/Secy/2019/3106-10 dated 15.05.2019 when the

objections/claims with respect to answer keys along with documentary proof had been invited by the respondent, therefore, the O.A. deserves to be dismissed.



6. We have heard and considered the arguments of Mr. Bhat Fayaz Ahmed, learned counsel for applicant and learned Mr. Amit Gupta, learned AAG for official respondents and Mr. B.S.Bali, advocate for private respondents and gone through the material on record.
7. Notification No. SSB/Sel/Secy/2019/3106-10 dated 15.05.2019 issued by J&K SSB clearly lays down that the candidate having objections/claims with respect to answer keys, if any, upload the same, along-with documentary evidence/reference from 15th to 19th of May, 2019. However, as accepted by the applicant, he had filed the first representation on 27.12.2019 which was beyond the dead line given by the SSB.
8. As per the Notification No. SSB/Sel/Secy/2019/3106-10 dated 15.05.2019, candidates were to file their objections etc. within the period of 15th to 19th of May 2019 but the applicant filed his objections/representation on 27.12.2019, which was highly belated and rightly not considered by the respondents and led to the applicant losing his right to seek remedial action.
9. Even so, to allow the applicant to file the representation/objection after the period limited by the respondents, would mean that there

would no end to the selection process since the others candidates may start making representation one after another and stall the process of appointment itself creating a vacuum in strength of employees in the concerned department which would ultimately create hurdles in the working of the Government.



10. It is to be seen that though the applicant was given the right to file objections within a limited period, he did not avail that opportunity and actually filed his objections beyond the period laid down by the notification. Belated objections cannot be termed as a right of a candidate, who admittedly committed a mistake. Therefore, in the peculiar facts of the present OA, we do not find any justification to issue any direction to the respondents to consider the representation and re-evaluate the OMR sheet of the applicant. To allow the prayer of applicant to consider his representation after the time limited by the notification dated 15.05.2019 is over, would lead to serious administrative complications to the employer (respondents).
11. In the circumstances and for the aforesaid reasons, the OA is dismissed. No costs.

(ANAND MATHUR)
MEMBER (A)

(RAKESH SAGAR JAIN)
MEMBER (J)

Arun/-