

Central Administrative Tribunal Jammu Bench, Jammu



T.A. No.3244/2021
(S.W.P. No.2610/2012)

Wednesday, this the 19thday of May, 2021

(Through Video Conferencing)

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Tarun Shridhar, Member (A)**

Farooq Ahmad Paray, aged 28 years
s/o Habibullah Paray
r/o Wangipora Sumbal, Sonawari
District Bandipora

..Applicant
(Mr. Mohammad Iqbal Dar, Advocate)

VERSUS

1. State of Jammu & Kashmir through Commissioner
Secretary to Govt.,
Home Department, Civil Secretariat,
Srinagar/Jammu
2. Director General of Police, J & K Srinagar
3. Additional Director General of Police,
Armed, Srinagar
4. Deputy Inspector General of Police,
IRP, Jammu
5. Commandant, 17th Bn,
IRP, Jammu

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

ORDER (ORAL)

Mr. Justice L. Narasimha Reddy:

The Jammu & Kashmir Police initiated steps for appointment in the year 2009. The selection process provided for



award of marks on various grounds, including the one of holding a valid driving license, for which 2 marks were earmarked. The applicant had secured 24 marks on other grounds; and on the basis of driving license hold by him, he was awarded 2 marks, and the aggregate became 26 marks. Accordingly, he was selected against the unreserved vacancy for Bandipora District. A clause was added to the effect that the appointment is subject to verification of the certificates and record. Accordingly, he was appointed on 07.10.2009. He was also subjected to training.

2. In the course of verification of the driving license, it was found that the one, produced by the applicant is not a genuine one. Therefore, his selection and appointment was cancelled vide order dated 22.07.2010. Thereafter, the respondents made further verification. On finding that the driving license produced by the applicant was not issued by the concerned authority at all, the respondents passed an order dated 14.07.2012, cancelling the appointment of the applicant. He filed SWP No.2610/2012 before the Hon'ble High Court of Jammu & Kashmir, challenging the order dated 14.07.2010.

3. The applicant pleaded that the selection and appointment was made after verification of the concerned record and that there was absolutely no basis for cancellation of the same. He further pleaded that no departmental inquiry was conducted and



the appointment could have been cancelled only by taking recourse to such procedure.

4. The respondents filed a detailed counter affidavit. According to them, the applicant was selected on the basis of the driving license held by him and once the driving license was found to be not genuine, the order of appointment was cancelled, through order dated 14.07.2012.

5. The SWP has since been transferred to the Tribunal in view of the reorganization of the State of Jammu & Kashmir and renumbered as T.A. No.3244/2021.

6. Today, we heard Mr. Mohammad Iqbal Dar, learned counsel for applicant and Mr. Rajesh Thappa, learned Deputy Advocate General.

7. The applicant was selected and appointed as Constable vide order dated 07.10.2009. It has already been mentioned that the selection process provided for awarding of 2 marks for candidates, who held the valid driving license. The applicant secured 26 marks on addition of 2 marks for driving license. It may be true that he was also subjected to training along with other candidates, appointed on the basis of the selection. The fact, however, remains that the driving license, which was relied upon by the applicant, was found not to be genuine. An order



dated 22.07.2010 was passed, cancelling the selection and appointment of the applicant. However, to be fair to the applicant, a further verification was undertaken and ultimately, the authority of the Transport Department in Srinagar District issued letter dated 07.07.2012, stating that no such driving license was issued to the applicant at all. Therefore, the impugned order dated 14.07.2012 was passed.

8. Once the competent authority has stated that the driving license was not issued to the applicant at all, two aspects become relevant. The first is that the marks awarded for the driving license need to be ignored. The second is that in case it was deliberate suppression of the facts, further steps need to be taken. The respondents confined their action, only to the first aspect.

9. The applicant contends that the candidates with 24 marks were appointed as Constable in Bandipora District against unreserved category, to which the applicant belongs. When the T.A. was heard earlier, this aspect was noticed and we directed Mr. Rajesh Thappa, learned Deputy Advocate General to verify the records and to furnish the information. It is informed that nearly 100 candidates belonging to general category secured 24 marks and one of them, by name Mr. Azhar Ahmad Wani with 24 marks, was selected against the last unreserved vacancy, on account of his age.

10. It is not uncommon that whenever quite large number of candidates secure same marks and vacancies are few, the tiebreaker is adopted by taking into account, the age or qualifications of the candidates. In the instant case, the age was taken as the factor and only one candidate with 24 marks was selected against the last unreserved category. Unfortunately, the applicant could not make it through the selection with 24 marks.



11. We do not find any merit in the T.A. It is accordingly dismissed. There shall be no order as to costs.

(Tarun Shridhar)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

May 19, 2021
/sunil/jyoti/sd/