

GOVERNMENT OF JAMMU AND KASHMIR
JAMMU AND KASHMIR SERVICES SELECTION BOARD
CPO Chowk, Panjtirthi, Jammu / Zamzam Complex, Rambagh, Srinagar
(www.jkssb.nic.in)

Order No: 340-SSB of 2023
Dated: 29.12.2023

Subject: OA No. 1030/2023 titled Aashaq Hussain Shah vs Union Territory of Jammu & Kashmir & Ors. - Consideration order thereof.

Whereas, the applicant has filed an Original Application (OA), bearing No. 1030/2023 before the Hon'ble Central Administrative Tribunal, (CAT) Srinagar Bench, and upon consideration of the matter on 22.12.2023, the Hon'ble Tribunal, was pleased to pass an order, the operative portion whereof, is reproduced as under:

"In the meanwhile, respondents are directed to address to the representation filed by the applicant on its merits and strictly in accordance with the rules governing the selection/appointment in question. It is expected of the respondents that they will consider the representation of the applicant before the cut off date fixed for the purpose."

Whereas, having regard to the order dated 22.12.2023 passed by the Hon'ble Central Administrative Tribunal, Srinagar Bench, the representation of the applicant has been examined and the factual position which has emerged is noted as under:

- a) The Jammu and Kashmir Services Selection Board (JKSSB) conducted Computer Based Written Test (CBT) for 1200 posts of Sub-Inspector (Home Department) advertised vide Notification No. 06 of 2021 read with Notice No. SSB/Secy/2021/7926-43 dated 24.11.2023 which commenced with effect from 7th December 2022 to 20th December 2022 in multiple shifts.
- b) That among other candidates applicant has also offered his candidature for the said post under Ex-Servicemen category (ESM), as such is qualified for consideration under Horizontal Reservation.
- c) Part (5) of the advertisement notification provides for age under the heading **Age Limit**. It is qualified within brackets of the heading Age Limit (**as on 01.01.2021**) which means and indicates that age is to be reckoned till 01.01.2021, resultantly, the natural corollary which may follow is that any entitlement with respect to age is to be counted as on 01.01.2021, which is also beaten law.
- d) It is also indicated against the category of the Ex-Servicemen that, "Ex-Servicemen having served in the Armed Forces shall be allowed to deduct the period of such Service from his **actual Age** and if the Resultant age does not exceed the maximum age limit prescribed for the post by more than three years, he shall be deemed to satisfy the condition regarding Age Limit."

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- e) Bare perusal of the aforementioned note may indicate that **actual age** is to be co related and counted with respect to cut of age limit that is **01.01.2021** and any concession is to be reckoned up till then and not thereafter.
- f) Part 11 of the advertisement notification provides for the Scheme of Examination and Ex-Servicemen are entitled to certain relaxations in Physical Endurance Test (PET) in comparison to general candidates as laid down in para c sub para C as under:

Age –Above 30-40 years: Long Race 1600 meters -7 ½(Seven minutes and thirty seconds)

Push ups- 16(one cycle of up and down to be counted as one)

- g) Applicant falls in the age bracket of 30-40 as such is entitled to relaxation as provided herein above, however applicant has premised his case on the ground that at the time JKSSB conducted PET his age was 41 years 10 months and 23 days and as such was entitled to the relaxation provided for the candidates falling under the age bracket of above forty years.

Whereas, the applicant has invited the attention of the Hon'ble Central Administrative Tribunal Srinagar Bench towards Explanation I appended to **Rule 7** of SO, 361 Jammu and Kashmir Ex- Servicemen (Re- Employment in Public Services and Posts) Rules, 2021 which is reproduced as under:

"Explanation I: For the purpose of this rule, the age of the Ex-Serviceman shall be his actual age.

Whereas, the term actual age is used in contradistinction to the prescribed age limit, therefore, reliance is placed on the note against the category Ex-Serviceman at part (5) serial No. xi which reads as under:

*Ex- Servicemen having served in the Armed Forces shall be allowed to deduct the period of such Service from his **actual Age** and if the Resultant age does not exceed the maximum age limit prescribed for the post by more than three years, he shall be deemed to satisfy the condition regarding Age Limit.*

Whereas, the afore-stated note in advertisement notification has derived its force from Rule 4 of the above referred rules which begins with *non obstante clause* and is reproduced as under:

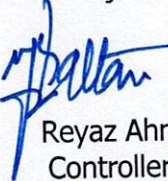
Special Provision regarding age limit.- *Notwithstanding anything contained in any other law for the time being in force every ex-serviceman having served in the armed forces shall be allowed to deduct the period of such service from his actual age for the purpose of appointment against any vacancy whether reserved or not under these rules, and if the resultant age does not exceed the maximum age limit prescribed for the post or service for which he seeks appointment by more than three years, he shall be deemed to satisfy the condition regarding age limit.*

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Whereas, the term actual age is used only in comparison to and for the purpose of calculating age with respect to the prescribed age limit and no further meaning can be supplied.

Now therefore, in view of above and with due deference to the order passed by the Hon'ble Central Administrative Tribunal, Srinagar Bench dated 22.12.2023, the representation of the applicant upon consideration is disposed of in light of afore-stated rule position, and the same is found devoid of any merit, hence rejected.

By Order.


29.12.2023
Reyaz Ahmad Malik (JKAS)
Controller of Examinations
J&K Services Selection Board

No: JKSSB/63/2023-05 (7375909)

Dated: 29-12-2023

Copy to the:

1. Commissioner/Secretary to the Government, General Administration Department, Civil Secretariat, Srinagar/Jammu.
2. Mr. Bikram Deep Singh, Ld. Deputy Advocate General, JKSSB, for information.
3. Aashaq Hussain Shah S/o Wali Mohammad Shah R/o Muqam, Lolab, Kupwara, J&K.
4. In-charge website, JKSSB.
5. Order file.