



Government of Jammu and Kashmir
Services Selection Board
Sehkari Bhawan, Rail Head Complex, Jammu
(www.jkssb.nic.in)

Subject:- Issue of preferences sought from the candidates.

Order No. 51 –SSB of 2019

Dated. 21 .02.2019

Whereas, the Jammu & Kashmir Services Selection Board had invited online applications from eligible candidates for District cadre posts of Teachers vide Notification No.06/2017/01 to 06/2017/14 dated 28.12.2017 (General Line) No.06/2017/15 to 06/2017/28 dated 28.12.2017 (Math/Science) and No.06/2017/29 to 06/2017/42 dated 28.12.2017 (Urdu).

2. Whereas, the Board in the advertisements had also notified that “after the candidates have applied for online application forms, the Board will invite preferences from the candidates who had applied for multiple advertisements”, with the intent to explore the option of consideration of preferences in the event of selection of some candidates in multiple selections. Such preferences were also sought from the candidates.

3. Whereas, the preference system was not invoked for shortlisting of the candidates but while the matter was under examination for further appropriate action in terms of rules, the Board received representations from many candidates who had figured in the multiple shortlists that they want to change their preferences. Some candidates also approached the Board and pleaded that the preference system may not be considered and the list be framed strictly as per merit and they be selected and allowed to choose the discipline they want keeping in view chances of their carrier progression, which they were not initially acquainted with. Some candidates pleaded that they have not given their preferences.

4. Whereas, in the meantime, the General Administration Department in a matter related to preferences sought in some selections, forwarded the advice of the Department of Law, Justice and Parliamentary Affairs with regard to preferences, which stated that the question of preference to a post would arise only when the posts carrying a same scale of pay, are advertised in a combined notification of one selection category. For two different selections,

the Department of Law, Justice and Parliamentary Affairs held that these were advertised by way of two separate notifications and the SSB appears to have proceeded on an erroneous assumption of seeking preferences without any justification much less legal one and opined that the procedure for seeking preference adopted by the SSB in the peculiar facts and circumstances of the case was not in consonance with the law. It further stipulated that the advertisement of vacancies is the surest means to ensure equality of opportunity in the matter of employment so as to obtain the services of most meritorious candidates by way of open competition.

5. Whereas, the General Administration Department also advised the J&K Services Selection Board to observe the Law Department's, opinion in letter and spirit and avoid resorting to any approach which is not backed by the rules.

6. Whereas, previously in some cases, the Board had also sought preferences for different selections when some candidates figured in multiple selections, but it had not been able to act on preferences in most of these selections and in a few cases where Board resorted to preferences, the selections have run into issues leading to inordinate delay and other administrative and legal issues, as a result of which, candidates have suffered and the functioning of the Board has also suffered.

7. Whereas, while the Board was contemplating to finalize the selections strictly as per advice of the General Administration Department and Department of Law, Justice and Parliamentary Affairs and consider selections strictly in order of merit by following a fair process without impinging anybody's rights in any selection, it came to fore that some candidates have also filed a petition in the Hon'ble High Court at Srinagar, seeking directions of the Hon'ble Court to direct SSB to follow preference system. Some candidates also approached Board seeking resorting to preferences.

8. Whereas, after this came to fore, the matter was again taken up with the Department of Law, Justice and Parliamentary Affairs vide letter No.SSB/PS-C/2019/26-27 dated 12.02.2019, to adequately advise the Board in the issue, so that a stand is taken before the Hon'ble Court and selections are considered by the Board.

9. Whereas, the Secretary to the Government, Law Department, thereafter, convened a meeting of the officers of the Board, wherein, representative of General Administration

Department also participated, to render detailed advice on this issue.

10. Whereas, keeping all aspects of the issue in view and after thorough deliberation, it was resolved in the meeting taken by the Secretary to the Government, Department of Law, Justice and Parliamentary Affairs: -

1. That the Board is a creature of a statute and has a restricted mandate, governed by applicable statutes. Seeking of preferences is not provided in the J&K Services Selection Board (Business & Procedure) Regulations, 2013, J&K Services Selection Board (Conduct of Examination) Regulations, J&K Special Recruitment Rules, 2015 (SRO 202 dated 30.06.2015) or J&K Civil Services Decentralization and Recruitment) Rules, 2010 (SRO 375 dated 21.10.2010). Thus inviting preferences from the candidates who had applied for posts advertised in multiple advertisements is without any justification much less legal one and is required to be stopped forthwith.
2. That the meritorious candidates have legitimate right of appointment in any selection and resorting to preferences may lead to different issues including legal issues and to situations where preference first selection of a candidate with superior merit misses the chance of appointment in preference second selection when first preference selection runs into issue or litigation, which may subsequently lead to change in the status of selection. In such a situation, it could lead to onus of consequences falling upon the J&K Services Selection Board/ Government, besides delaying the selection process.
3. That the issue of following preferences also has a potential to create administrative issue for the JKSSB, in placing candidates in waiting lists while following preference and deciding about preference of such candidates whose recommendations are kept withheld, without being sure about subsequent release/cancellation of such withheld recommendations.

4. That the Board shall consider the candidates strictly in order of merit obtained in the selection process and to follow a fair and transparent process without infringing upon anybody's rights in any selection. However, the selection lists shall be notified simultaneously, so that appointments could be made by the indenting department at the same time which shall help to achieve the aim that no posts recommended remains unfilled and to obviate the chances of any candidate joining against more than one post, which is the aim for providing preferences in the advertisement notice.
5. That the Hon'ble Supreme Court vide its judgement dated December 5th, 2018, in Civil Appeal Nos.11853-11854 of 2018 [SLP(C) Nos.30797-30798 of 2017] titled Zahoor Ahmad Rather and ors Vs Sheikh Imtiyaz Ahmad and ors with Civil Appeal No.11855 of 2018 [SLP(C) No.31196 of 2017] titled Javid Ahmad Dar and ors Vs Naseer Ahmad Mir and ors, in a matter related to J&K Services Selection Board, observed that in not exercising an enabling power, no fault can be found with the J&K Services Selection Board. It has been further observed that an enabling provision postulates a discretion which may or may not be exercised and whether to do so or not is a matter for the Board to determine. So in light of the decision of the Hon'ble Supreme Court the Board shall at its discretion not adhere to preferences while finalizing selections.

11. Whereas, the Board in its 147th meeting endorsed the above decisions and decided to align the selections strictly as per law laid down on the subject of selections and the rules and regulations governing recruitments and avoid resorting to any enabling provision of acting on preference, that is not backed by the rules and is having potential to create administrative and practical difficulties. It, however, decided to make a specific request to the School Education Department for considering issuance of formal appointment orders in respect of selected candidates, simultaneously, in respect of a particular district cadre in all the disciplines, so as to obviate chances of any candidate who figures in more than one selection list, to join and undertake his/her process of document verification in the indenting department, against more than one post.

Now, therefore, the claim and representations on preferences, forming annexure to this order, shall be deemed to have been disposed off, accordingly.

By order.

(Ranjeet Singh), KAS
Secretary,
J&K Services Selection Board

Encl. Annexure.

No.SSB/Sel/Secy/2019/1215-19

Dated. 21.02.2019

Copy to: -

1. Commissioner/Secretary to the Government, General Administration Department.
2. Secretary to the Government, Department of Law, Justice and Parliamentary Affairs.
3. Private Secretary to Chairman, JKSSB, for information of the Chairman.
4. PA to Controller of Examinations, JKSSB.
5. Order file.

Annexure to Order No.51-SSB of 2019 Dated 21.02.2019

S.No.	Feeding S.No	Rpt Submitted No	Dated	Application Form No	Name	Parentage	Advt/Item No	District Cadre	Teacher	Representation/Claim of the candidate
1	290	6110	10-11-2018		Aabid Bashir	Bashir Ahmad Najar		Kulgam		The candidate is requesting that a candidate namely Aijaz ahmad Bhat S/O Abdul Hamid Bhat should be selected in the Urdu teacher category instead of General line as he is figuring in both the selection lists thereby giving him a chance to be selected in the General Line Teacher
2	292	SSB/PS-C/130/2018	15/10/18		Farooq Ahmad Dar	Ab Majeed Dar		Pulwama		Preference for General Line Teacher instead of Urdu Teacher
3	293	6110	10-11-2018		Aabid Bashir	Bashir Ahmad Najar		Kulgam		The candidate is requesting that a candidate namely Aijaz ahmad Bhat S/O Abdul Hamid Bhat should be selected in the Urdu teacher category instead of General line as he is figuring in both the selection lists thereby giving him a chance to be selected in the General Line Teacher
4	311				Mohammad Maqbool Ganie	Mohammad Shafie Ganie		Ganderbal	General Teacher and Urdu Teacher	The candidate is requesting for the change of preference from General Line Teacher to Urdu Teacher
5	316	5475	09-07-2018		Shaista Shabir	Shabir Ahmad		Anantnag	General Teacher and Urdu Teacher	Changing of preference for teacher post
6	324	5325	28/08/18		Miya Nooranie Gojar Paswal		06/2017/19 & 06/2017/05			Change of preference from General Line Teacher to Science Math Teacher

7	343			170000009009700006053	Aasif Mohammad Wagay	Gulam Mohammad Wagay	06/2017/10	Srinagar	General Teacher	Candidate has requested for changing of preference from Urdu Teacher to General Line Teacher District Cadre Srinagar and correction of mothers name Rafiqa instead of Rafeeqa
8	369	5333	28/08/18		Seraj U Din Shah	Gh Mohd Shah		Ganderbal		Change of preference from General Line to Urdu Teacher
9	273	5873	28/09/2018		Arsheed Khan			Anantnag	Science/Maths Teacher	Changing of preference for teacher
10	338	4180	07-03-2018	170000009017700000991	Rifat Akbar	Firdous Ahmad Dar		Budgam	Math/Science Teacher	Request for not to change or cancel the preference system
11	346	4797	08-07-2018		Rifat Akbar	Firdous Ahmad Dar		Budgam	Math/Science Teacher	Request for not to change or cancel the preference system
12	306	5334	28/08/18		Rouf Shaban Lone	Muhammad Shaban Lone		Ganderbal	Urdu Teacher	The candidate is requesting to change his preference from General Line Teacher to Urdu Teacher District Ganderbal
13	370	5191	27/08/18		Bilal Ahmad Malik	Mohammad Subhan Malik		Budgam		Change of preference for the post of Teacher. The candidate is requesting that his 1st preference shall be given to Urdu teacher
14	317	5474	09-07-2018		Rafaqat Ahmad Khatana	Bashir Ahmad Khatana		Anantnag	General Teacher and Urdu Teacher	Changing of preference for teacher post

Ranjeet Singh, KAS
Secretary, JKSSB