

GOVERNMENT OF JAMMU AND KASHMIR
J&K SERVICES SELECTION BOARD,
CPO CHOWK, PANJTIRTHI, JAMMU / ZAM ZAM COMPLEX RAMBAGH
SRINAGAR
(www.jkssb.nic.in)

Order No : 358 -SSB of 2024

Dated: 22.10.2024

**Sub: O.A 936/2024 titled Abhishek Khajuria Vs UT of J&K and Ors-
Consideration Order thereof.**

Whereas, the J&K Services Selection Board advertised 1395 posts of Panchayat Secretary, Department of Rural Development and Panchayati Raj vide Advertisement No. 03 of 2022 dated 26.05.2022; and

Whereas, the J&K Services Selection Board issued the provisional selection list for the posts of Panchayat Secretary falling under Department of Rural Development and Panchayati Raj on 01.02.2024 vide Notification No. JKSSB-Scry/3/2024-03(E-7402474) dated: 01.02.2024 and final selection list for the said post was notified vide Notification no. 19-Selection of 2024 dated: 21.05.2024; and

Whereas, feeling aggrieved, the applicants filed OA 936/2024 titled Abhishek Khajuria Vs UT of J&K and Others before the Hon'ble Tribunal seeking following reliefs:

"To allot districts to the wait listed candidates, who are sought to be appointed as Panchayat Secretaries against various items advertised vide advertisement notification No. 03 of 2022 dated 26.05.2022, only on the basis of merit cum preference and not to allot districts to the wait listed candidates belonging to a particular district and appointing him in the same district on account of Vacancy falling vacant on account of non-joining of the appointed candidates in the same but to allot the districts on the basis of merit cum preference i.e. by reconsidering and re-allotting the districts to the applicants as per their merit /preference against various posts falling vacant on account of non-joining of the appointed candidates on the basis of the higher merit of the applicants as compared to the wait listed candidates and not to allot those districts to the wait listed candidates by ignoring the higher merit of the applicants for each districts."



Whereas, the Hon'ble Tribunal disposed of the same vide order dated-29.08.2024 with the following directions, the operative part of which is reproduced as under:

"...1. Accordingly, the Original Application is disposed of with a direction to respondents to treat this O.A. as representation of the applicants and consider the case of the applicants in light of the Judgment passed by the Hon'ble High Court of Gujarat in case titled "D.G. Dalal vs State of Gujarat" reported in (2002)2GLR1011 dated 17.07.2001. Respondents are directed that before giving appointment to the waiting list candidates, they would take the preferences from the earlier candidates who has already been selected and appointed in the other districts. The vacancies which have fallen vacant on account of non-joining of the candidates shall not be allotted to the candidates on the basis of merits i.e first priority should be given to the already selected candidates because they have better merit than the waiting list candidates. So, the respondents are directed to decide the same by passing a speaking and reasoned order.

2. Respondents are further directed to communicate the order so passed to the applicants. The whole exercise shall be undertaken within a period of six weeks from the date of receipt of a certified copy of this order.

Whereas, it is pertinent to mention here that the Hon'ble CAT, Srinagar in a similar case titled Umar Ali wani Vs UT of J&K and Ors vide its order dated-29.8.2024 passed the following directions:

"At this stage, we are not inclined to issue any interim order as the applicants have already joined the service and are enjoying the fruits of their selection. Granting an interim order now would result in delays for those on the wait list. Moreover, with the joining of these applicants their selection process has been concluded."

Whereas, vide recent UO No. SWD-Resv/19/2024-01(e-7573083) Dated-18.09.2024, the advised tendered by the Department of Social Welfare to the Department of Home, in a similar matter, reads as:

"Returned: The Department has examined the matter thoroughly and it is to say that the original selection list and the candidates who have been selected under it and have joined, is a closed chapter, and therefore cannot be modified. The waiting list is to be treated as a new selection list and is unrelated to the original one. Candidates who were selected under reserved categories and have joined their



respective reserved categories cannot be shifted to Open Merit, even if their merit is higher than those on the waiting list. Such a shift would lead to an endless selection process and impact the seniority established in the original list.

Whereas, the matter was deliberated in 284th Board Meeting held on 03.10.2024 and the decision of the Board is reproduced as under:

"The Board perused the details of the court cases referred above and after deliberating upon the issues placed before it, decided that, in the first instance, the directions of the Hon'ble Central Administrative Tribunal, Jammu Bench in its Order dated 29.08.2024 in Original Application No. 61/936/2024 titled Abhishek Khajuria and Ors. Vs UT of J&K and Ors., shall be examined and a detailed consideration order shall be passed, wherein the practicality and the legal position regarding the finality of a selection list needs to be emphasized upon. Also, the Legal Sections shall examine the OA titled Umar Ali Wani and Ors. Vs UT of J&K and Ors for necessary action.

It was also decided that while drafting the consideration order and/or the draft objections in the aforementioned cases, the advice tendered by the Social Welfare Department vide UO No. SWD- Resv/19/2024-01(e-7573083) dated 18.09.2024, shall also be made a point of reference, which reads as under:

"Returned: The Department has examined the matter thoroughly and it is to say that the original selection list and the candidates who have been selected under it and have joined, is a closed chapter, and therefore cannot be modified. The waiting list is to be treated as a new selection list and is unrelated to the original one. Candidates who were selected under reserved categories and have joined their respective reserved categories cannot be shifted to Open Merit, even if their merit is higher than those on the waiting list. Such a shift would lead to an endless selection process and impact the seniority established in the original list."

Subsequently, the Waiting List shall be prepared and brought in the next Board meeting for consideration and approval. While finalizing the waiting list, the requests of the already selected candidates for consideration under waiting list (for favourable cadre) shall not be considered as that would defeat the very purpose of the combined selections and make it an unending process."

Whereas, the General Administration Department while issuing SOP (Standard Operating Procedure), for preparation of Wait list, vide its communication No. GAD/Mtg/RB-IV/76/2018 dated 06.02.2019, has clearly mentioned that:



“...The select list firmed up once can't be altered/changed to the advantage/disadvantage of any candidate as it would defeat the objective of drawing the select list.”

Whereas, the case of the applicants have been considered by the Board in light of aforesaid directions by the Hon'ble Tribunal and the judgment cited therein and also in light of opinion rendered by the Government and keeping in view the fact that the applicants have accepted their allotted District cadres and have already been appointed in the Rural Development Department, the case of the applicants does not find merit and consideration thereof would defeat the very purpose of the combined selections **and framing of selection list(s) altogether** and make it an unending process; and

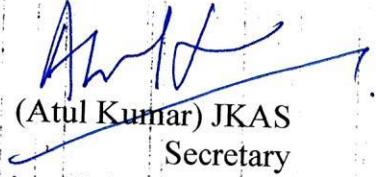
Whereas, the case of the applicants was also considered in light of the Judgment passed by the Hon'ble High Court of Gujarat in case titled *“D.G. Dalal vs State of Gujarat” reported in (2002)2GLR1011 dated 17.07.2001*, which pertains to a selection involving different pay levels, and involves a range of posts from administrative services to the official level posts, whereas the instant Selection of Panchayat Secretaries is a single pay level selection and totally unrelated to the mentioned case of state of Gujarat. As regards to the observation of the Hon'ble Court that **“No junior should be promoted till the disposal of the representation”**, it would automatically be taken care of as the seniority is fixed from the date of appointment and as such the Wait List candidates would always be lower in the order of seniority than the already selected candidates; and

Whereas, the averments in the instant OA have been examined and also deliberated in the 284th Board Meeting. It has been observed that the already selected candidates cannot be considered afresh for the cadres/districts presumably of their convenience while preparing the waiting list for these post of Panchayat Secretary, RDD&PR, as such a measure would affect the entire selection and there is every likelihood that some of the already selected candidates would have to be shifted to other cadres, thereby putting them to inconvenience and giving rise to further litigation. More importantly, the selection list, once firmed up and forwarded, cannot be altered as this would keep the selections open ended which is neither permissible nor desirable. In-fact, this view has also been held by the Hon'ble CAT, Srinagar Bench in Original Application titled *Umar Ali Wani and Ors. Vs UT of J&K and Ors.*



Now, therefore, in view of above stated facts and circumstances of the case and in due deference of the order dated- 29.08.2024 passed by the Hon'ble Tribunal Jammu, the case of the applicant has been considered and found devoid of any merit, hence rejected.

By Order.


(Atul Kumar) JKAS
Secretary

J&K Services Selection Board

No.: JKSSB-LEG/(E-7561281) /1374-79

Dated: 22.10.2024

- Copy to the:
1. Commissioner/Secretary to the Government, General Administration Department, Civil Secretariat, J&K, Jammu for kind information.
 2. Administrative Secretary to the Government, Rural Development Department, Civil Secretariat, J&K, Jammu for kind information.
 3. Ld. Counsel, J&K Services Selection Board.
 4. Private Secretary to Chairperson, JKSSB, for the information of the Chairperson
 5. Applicant concerned.
 6. Order File.