

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.: 417 -SSB of 2024

Dated: 17 .12.2024

Sub: OA NO. 993/2024 titled Samit Choudhary Vs UT of J&K and Ors.-Consideration thereof.

Whereas, the J&K Services Selection Board advertised the post of Accounts Assistant, Finance Department, UT Cadre vide Advertisement notification No. 04 of 2020 dated 16.12.2020; and

Whereas, the J&K Services Selection Board conducted the examination and after completion of the selection process, issued the final selection list vide JKSSB-Scry/05/2024-03(7415959) dated-10.03.2024 and forwarded the same to the Indenting Department; and

Whereas, the recommendation of one candidate namely Samit Choudhary S/o Sh. Balbir Singh under ALC/IB Category was kept withheld at S.No 01 **subject to production of valid within cut-off date ALC/IB category certificate;** and

Whereas, the category certificate (ALC/IB) submitted by the applicant is issued on 13.02.2021 by the Tehsildar Suchetgarh under endorsement no. TS/IB/1049 dated **13.02.2021** and valid for five years, whereas the cut-off date for considering the eligibility of the candidate as per advertisement notification is 31.01.2021; and

Whereas, the applicant has also misrepresented the Board while filing up the application form for the aforesaid post and also submitted the undertaking which reads as under:

"I hereby declare that I have carefully read the advertisement notification for this post and all the terms and conditions indicated therein and undertake to abide by the terms and conditions of the advertisement notification for participating in the selection process. I fulfill all the terms and conditions mentioned in the advertisement notification and the information provided by me herein is true and correct to the best of my knowledge. I also undertake that in case of failure to possess the qualification prescribed in the advertisement notification, the Board will be fully competent to debar me from the selection process. I further stipulate that I have carefully read the Government notification and assure that I am not barred by the provisions of the said notification. I further undertake that I shall not claim any benefit of any qualification/category that have not specifically indicated in this online application form. Further, I am aware that I will be liable for appropriate penal action, disqualification from the selection process or loss of the job in the event of selection having been made, if the information provided by me is proved to be incorrect at any stage."

Whereas, the JKSSB provided various opportunities to the applicant to submit the valid category certificate and the applicant filed O.A bearing no. 993/2024 titled Samit Choudhary Vs UT of J&K and Ors., seeking following reliefs:-



1. To quash the impugned final selection list bearing notification no. 15-Selection of 2024 dated 07.03.2024 to the extent the name of the applicant is figuring at S.no 1 under ALC/IB category with the remarks "RWH subject to the production of valid within date ALC/IB category", despite the fact that the applicant has valid ALC/IB category certificate.

2. To quash the impugned communication bearing no. JKSSB-Scry/5/2024-03 (E-7415959) dated 14.06.2024, whereby and wherein the recommendation of many candidates including the applicant has been kept withheld, despite the fact that the applicant has represented himself before the Respondent no.2 (JKSSB) several times.

3. To release the withheld recommendation of the applicant and thereafter, appoint the applicant against the post of Account Assistant (UT Cadre) which was illegally withheld, despite the applicant having the requisite category certificate.

Whereas, the Hon'ble CAT (Tribunal) disposed of the case on **06.09.2024**, the operative part of which is reproduced as under:

"6. Keeping in view the limited prayer made by the applicant, the Original Application is disposed of, at the admission stage itself, without going into the merits of the case, with a direction to respondent No. 2 to consider the representation dated 19.06.2024 filed by the applicant and decide the same by passing a reasoned and speaking order keeping in view the judgement of Hon'ble Supreme Court in the case of Ram Kumar Gijoriya and order dated 10.07.2024 passed by this Tribunal in the case of Javed Asad V/s UT of J&K and ors (supra) within a period of three weeks from the date of receipt of a certified copy of this order. A copy of speaking order shall also be communicated to the applicant.

7. Till a decision is taken on the representation of the applicant, the selection of the applicant shall not be cancelled."

Whereas, the case of the applicant was examined in view the judgment of Hon'ble Supreme Court in the case of **Ram Kumar Gijoriya** which provides reservation for the posts reserved for SC and ST categories and the case of the applicant is different and not covered under the said judgment. The operative part of judgment is as under:-

"...18. While taking a particular view in such matters one has to keep in mind the objectives behind the post of SC and ST categories as per constitutional mandate prescribed in Articles 15(4) and 16(4) which are enabling provisions authorising the Government to make special provisions for the persons of SC and ST categories. Articles



14(4) and 16(4), therefore, intend to remove social and economic inequality to make equal opportunities available in reality. Social and economic justice is a right enshrined for protection of society. The right in social and economic justice envisaged in the Preamble and elongated in the Fundamental Rights and Directive Principles of the Constitution, in particular Arts. 14, 15, 16, 21, 38, 39 and 46 are to make the quality of the life of the poor, disadvantaged and disabled citizens of the society meaningful..”

Whereas, one of the candidate who figured in the same selection process in waiting list for the post of Accounts Assistant, Finance Department also filed writ petition before the Hon'ble High Court, Jammu bearing WP(c) No. 2545/2024 titled Abhinav Sharma Vs UT of J&K and Ors., wherein the Hon'ble High Court vide order dated 14.10.2024 directed as under:

“...In view of the statement made by learned counsel for the petitioners, this petition is, disposed of, with a direction to respondent No.2 that while considering the representation of the petitioners in terms of learned Central Administrative Tribunal, Jammu Bench, Jammu judgment dated 06.09.2024, he shall also take into account the judgment rendered in case titled “Divya vs. Union of India and others”, WP(C) No.724 of 2023 reported in 2024(1)SCC 448....”

Whereas, the Board also considered the case titled **Divya Vs Union of India**, judgment dated 09.10.2023 passed by the Hon'ble Supreme Court, the operative part of which is reproduced as under:

ii) As a sequel to conclusion (i) above, we record that the UPSC was justified in prescribing the cut-off date for possession and for uploading of the I&AC in the prescribed format for claimants claiming benefits under the EWS Category. This flows from the O.M. dated 19.01.2019 & 31.01.2019 read with Rules 13, 27(3) and 28 of the CSE-Rules, 2022 and the long line of judgments in which principles for prescription of cut-off for eligibility are laid down.

iv) Rules 13, 27(3) and 28 of the CSE-Rules, 2022 are constitutionally valid for the reasons set out in para 61 herein above under the sub-heading "Validity of CSE- Rules, 2022 - Validity of the cut-off date".

v) The UPSC was justified in rejecting the claim of the petitioners, for consideration under the EWS Category in CSE-2022.”

Whereas, the cases of the candidates were examined in the 281st Board meeting in light of the aforesaid facts and it was decided to provide one more opportunity to all the similar candidates to fulfill the deficiency. Accordingly, vide notice no. JKSSB/Scry/5/2024-03(E-7415959) dated-31.10.2024 issued to all such similar candidates for submitting the requisite documents within 21 days and the applicant in response to the notice, submitted the same EWS category certificate which is beyond the



cut-off date and has also submitted the legal notice dated- 14.11.2024 for considering the case of the applicant in light of order dated- 06.09.2024 passed by the Hon'ble Central Administrative Tribunal, Jammu; and

Whereas, the judgment/order passed in Javed Asad case was taken up with the Department of Law, Justice and Parliamentary Affairs for their advice and the Department has advised to file writ petition before the Hon'ble High Court of Jammu & Kashmir and Ladakh at Jammu against the order of the Tribunal and the same is pending final adjudication; and

Now, therefore, in compliance to the Order dated 06.09.2024 passed by the Hon'ble Tribunal in OA No 993/2024 titled Samit Choudhary Vs UT of J&K and Others, the case of the applicant was considered in light of aforesaid facts and the same is found devoid of any merit, hence rejected.

By Order.


(Atul Kumar) JKAS
Secretary
J&K Services Selection Board
Jammu

No.: JKSSB-LEG/(E-7567751)
Copy to the:

Dated: .12.2024

1. Principal Secretary to the Government, Finance Department, Civil Secretariat, J&K, Jammu for kind information and necessary action please.
2. Commissioner/Secretary to the Government, General Administration 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.