

**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 : 75-SSB of 2025
Dated: 11.03.2025**

Sub: CP 213/2024 in TA 3608/2020 titled Vishalni Koul Vs state of J&K and others-Consideration thereof.

Whereas, the J&K Services Selection Board invited application forms from the eligible candidates for the post of Legal Assistant in pursuance of Advertisement notification no. 04 of 2017 dated 01.12.2017, item no. 149 under PM Package for Kashmiri Migrants with the following breakup:

OM=14, RBA=05, SC= 02, ST=02, OSC=00, ALC=01, Total=24.

Whereas, the prescribed qualification for the aforesaid post is ***“Candidate is required to be holding either LLB degree or integrated Law of five years with minimum two years practice”***.

Whereas, the applicant in terms of aforesaid Advertisement Notice, applied for the post of Legal Assistant under Open Merit category having fourteen posts and on the basis of admit card, the applicant appeared in Computer Based Written Test and her name figured in the provisional select list; and

Whereas, on the receipt of the complaint filed by the candidates alleging the migrant status in question of the applicant on being married to a non migrant, a verification was conducted by the Relief and Rehabilitation Commissioner (M), Jammu & Kashmir regarding the Migrant status of the applicant and the name of the applicant was recommended for deletion from the ration card of her father, after her marriage with Shri Chander Pratap Singh on 25.10.2015 who is a non-migrant; and

Whereas, the claim of the father of the applicant Vishalni Koul for inclusion of name of his son-in-law in his ration card also stands rejected by the Relief and Rehabilitation Commissioner (M), Jammu & Kashmir and in terms of the impugned communication No. RRCM/Legal/18-19/633 dated 21.07.2018 of Relief and Rehabilitation Commissioner (M), Jammu & Kashmir addressed to Chairman, J&K Services Selection Board, Jammu, and on the basis of the verification report dated-21.08.2018, the name of the applicant was removed from the provisional consideration zone on the ground that the applicant had lost her migrant status after getting married to non migrant person; and

Whereas, feeling aggrieved of this the applicant approached the Hon'ble High Court of Jammu & Kashmir by filing SWP no. 1918 of 2018 which was later transferred to the Central Administrative Tribunal, Jammu and renumbered as Transferred Application No. 3608 of 2020; and



Whereas, the case was contested and the Respondent - Relief and Rehabilitation Commissioner (M), Jammu & Kashmir filed objections and has taken a plea that vide Clause (c) of Para 1 of Advertisement Notice a married woman eligible under SRO 412 of 2009 can apply in the permanent District of residence of her husband in Kashmir. It is further submitted that the status of the applicant after marriage with non migrant in the year 2015 got changed as such she cannot be considered as Migrants for appointment to the post of Legal Assistant in terms of Advertisement Notice No. 04/2017/149 dated-01.12.2017; and

Whereas, the private respondent No. 6 & 7 in T.A. No. 61/3608/2020 have also filed objections in which it is submitted that applicant was rightly ousted from the select list after it was found that she has fraudulently filled up her form with wrong information regarding her status of being married to a non migrant and therefore, applicants does not fall in the definition of 'Migrants' as per recruitment rules of 2009 and after the exclusion of the applicant from the zone of consideration, Respondent no. 6 & 7 have to be considered for appointment being next in merit; and

Whereas, the Board after concluding the selection process, issued the Final Selection List vide communication no. SSB/Secy/Sel/86/2019/2936-42 dated 10.05.2019 and one post of Legal Assistant (Divisional cadre Kashmir) was kept reserved and the result of the applicant was kept withheld pending disposal of SWP No. 1918 of 2018 titled Vishalni Koul Vs State and others; and

Whereas the Hon'ble CAT, Jammu disposed of the case on 16.05.2024 with the following operative part, which is reproduced as under:

"In view of the aforesaid facts and circumstances, there is merit in both the petitions filed by the applicants and accordingly, the communication No. RRCM/legal/18-19/663 dated 21.08.2018 of Relief and Rehabilitation Commissioner(M), Jammu & Kashmir whereby the Jammu & Kashmir Service Selection Board had not included the names of the applicants in the final selection list of Legal Assistant, Divisional Cadre, Kashmir in terms of Advertisement Notice No. 04/2017/149 dated 01.12.2017 thereby depriving appointment of applicants to the aforesaid post under open merit category is quashed and set aside. The Secretary, Service Selection Board, Jammu is directed to recommend the names of the applicants to the Director, Department of Disaster Management, Relief, Rehabilitation and Reconstruction, Srinagar for their appointment to the post of Legal Assistant in the Divisional Cadre, Kashmir against the vacant slots, in view of their merit and selection under the open merit category as per Advertisement Notice No. 04/2017/149 dated 01.12.2017. The needful be done within a period of eight weeks from the date of receipt of a copy of this order."

Whereas, the J&K SSB took up the matter with the Indenting department vide communication No. SSB/Legal/2024/606-07 dated- 27.05.2024 for examining the case of the applicant followed by a reminder dated- 05.08.2024 and in the meanwhile

applicant also filed contempt petition for non-compliance of order dated 16.05.2024 passed by the Hon'ble Central Administrative Tribunal, Jammu; and

Whereas, the matter was deliberated in 281st Board Meeting and the decision of the Board is reproduced as under:

"The matter was deliberated and the Board decided that the Additional Secretary, Legal shall examine various aspects of the case and submit the proposal in the next Board Meeting for adopting an appropriate course of action."

Whereas, the matter was examined by the Additional Secretary, legal and accordingly the matter was placed in 282nd Board Meeting and it was decided as follows:

"The Board deliberated the matter and took note of the fact that the Department of Disaster Management, Relief, Rehabilitation and Reconstruction has been accorded sanction by the Department of Law, Justice and Parliamentary Affairs to file writ petition against the order dated 16.05.2024 passed by the Hon'ble CAT, Jammu Bench in TA 61/3608/2020 alongwith TA 61/3535/2020 titled Vishalni Koul Vs State of J&K and others and Seema Koul Vs State of J&K and others before the Hon'ble High Court of J&K and Ladakh at Jammu. As such, any diversionary action at this stage by the Board may not be in consonance with the action taken by the Indenting Department."

In view of above, the legal section shall file a detailed statement of facts before the Hon'ble CAT, Jammu bench indicating the above status/position and seek deferment of the contempt proceedings till the outcome of writ petition."

Whereas, the Indenting Department(DMRRR) filed writ petition bearing WP© 2631/2024 titled UT of J&K and others Vs Seema Koul and anr. challenging the common order dated 16.05.2024 passed by the Hon'ble Tribunal in T.A No. 3608/2020 titled Vishalni Koul Vs State of J&K and Ors. And T.A No. 3535/2020 titled Seema Koul Vs State of J&K and others which was disposed of by the Hon'ble High Court vide order dated 11.11.2024 with the following operative directions:

"...As regards, the contention put forth by learned counsel for the appellant that there was non-disclosure/concealment of the fact that the respondents were married, is of no consequence. Undisputedly, the Advertisement notice does not provide for cancellation of the candidature on account of non-disclosure or improper disclosure of facts/marital status. Further, the appellants have not been able to show how material injustice has been taken place to those who could not get selected otherwise on account of such non-disclosure. Therefore, this argument is also rejected."

In view of what has been argued and considered and held hereinabove by this court writ petition fails and is, accordingly, dismissed. The appointment orders shall be given by the authority concerned to the respondents herein within a period of four weeks from the date of uploading of this order on the website..."

Whereas, after the passing of the order dated 11.11.2024, the matter was again taken up with the Indenting Department vide communication dated 02.12.2024 for intimating further course of action and in response vide communication dated

26.12.2024, it was submitted that the matter stands referred to the Department of Law, Justice and PA for their expert legal opinion/advice in the matter; and

Whereas, the DMRRR vide communication dated 29.01.2025 submitted that the Law Department vide U.O No. LAW-Serl/86/2024-10 dated 15.01.2025 opined as under:

"The term 'migrant' has been defined in Rule 2(d) of the J&K Migrants (Special Drive) Recruitment Rules, 2009 to mean a person-

- i. who has migrated from Kashmir Valley after 1st November, 1989; and***
- ii. is registered as such with Relief Commissioner or has not been so registered on the ground of being in service of Government in any moving office or having left the valley or any other part of the State in pursue of occupation or vocation or otherwise and is possessed of immovable property at the place from where he has migrated but is unable to ordinarily reside there due to disturbed conditions and includes within "internally displaced person".***

From the above definition of 'migrant', it is clear that the definition of the migrant is self contained and there is no condition provided in the rule for loosing of such status on marriage by a female candidate. A similar matter regarding loosing of status of permanent resident by fame came before Full Bench of High Court of J&K and it has been held that a female does not loose status of being a permanent resident in case she marries to a non-permanent resident.

In the present case, there are concurrent findings of C.A.T and Division Bench of High Court that a migrant lady upon marrying with non-migrant will not loose the status of migrant, as such, there are no chances of getting these judgments reversed before Hon'ble Supreme Court of India, particularly in view of the fact that such a provision which may apply only to females has been held to be discriminatory by various judicial pronouncements.

Department is advised accordingly."


Whereas, in view of the opinion received from Law Department, the matter was again placed in 296th Board Meeting and it was decided as follows:

"The Board deliberated the matter in light of clarification provided by the Department of Law, Justice and Parliamentary Affairs forwarded by the Department of DMRRR and also keeping in view the contempt petition filed by the applicants in the Hon'ble CAT Jammu. The Board decided to recommend the applicants namely Vishalni Koul and Seema Koul for the post of legal Assistant advertised vide notification no. 04 of 2017 dated 01.12.2017, item no. 149 under Hon'ble PM Package for migrants subject to the condition that the Selection Division (Migrant Section) shall verify the status/merit of the applicants to the last selected candidate and appointment of the applicants shall be subject to the outcome of verification of the inquiry, if any, pending before the competent authority/Court of Law."

Now, therefore, in due deference to the directions dated 16.05.2024 of the Hon'ble Tribunal passed in TA 3608/2020 titled Vishalni Koul Vs State of J&K and Ors. and the

decision of the Board taken in 296th Board meeting held on 03.02.2025, the applicant namely **Vishalni Koul D/o Opinder Krishan Koul R/o Nusipora, District Shopian, Jammu & Kashmir- 192302** is recommended to the Indenting Department (DMRRR) for the post of Legal Assistant advertised vide notification no. 04 of 2017 dated 01.12.2017, Item no. 149 under Hon'ble PM Package for Kashmiri Migrants under OM category at S.No. 11(kept reserved) in the Final Selection List and the appointment of the applicant is subject to the outcome of verification of the inquiry/challan/proceedings, if any, pending before any competent authority/Court of Law and production of valid certificates determining the eligibility as per relevant advertisement clause. However, the terms and conditions shall remain same as conveyed vide communication no. SSB/Secy/Sel/86/2019/2936-42 dated 10.05.2019.

By Order.


Secretary
J&K Services Selection Board
Jammu
Dated: 11.03.2025

No.: JKSSB-LEG/J/(E-7366936) /413-19

Copy to the:

1. Principal Secretary to Government, Department of Disaster Management, Relief, Rehabilitation and Reconstruction, J&K Civil Secretariat, Jammu/Srinagar for information and necessary action please
2. Ld. Deputy Advocate General, J&K High Court/CAT, Jammu.
3. Private Secretary to Chairperson, JKSSB, for kind information of the Chairperson.
4. Selection Division(Migrant)/Record File.
5. In-Charge Website.
6. Applicant concerned.