

Government of Jammu and Kashmir
J&K Services Selection Board
Hema Complex, Sector -3, Channi Himmat, Jammu
(www.jkssb.nic.in)

ORDER NO. 265 -SSB of 2021
DATED: 07 .07.2021

Subject: - SWP No. 2107/2016 titled Surinder Kumar V/s State of J&K and Others;
and SWP No. 1182/2017 titled Surinder Kumar V/s State of J&K and
Others.

Whereas, the J&K Services Selection Board vide Advertisement Notification No. 03 of 2012 dated 28.12.2012 advertised various posts including four posts of Head Weaver (Industries and Commerce Department), Divisional Cadre Jammu under Item No. 190 with the following break up for the post as under:- **OM=03, RBA=01, Total=04**

Whereas, the prescribed qualification for the aforementioned post is:-
“Matric with ITI from any recognized Institute.”

Whereas, the petitioner participated in the selection process but was not allowed to participate in the Interview on the pretext that he was possessing three years Diploma in Handloom Technology and do not have requisite ITI certificate, as such the petitioner filed a Writ petition bearing SWP No. 2107/2016 titled Surinder Kumar Vs State of J&K and Others before the Hon'ble High Court, Jammu wherein the Hon'ble Court vide its order/judgment dated 30.09.2016 passed the following directions -

“...the petitioner shall be interviewed as against the post of Head weavers in case, he has applied for the said post in terms of Advertisement Notification No. 03 of 2012 dated 28.12.2012, which shall be at his own risk and responsibility. The result of the petitioner, however, shall not be declared till further orders.”

Whereas, the J&K Services Selection Board in compliance to directions passed by the Hon'ble High Court conducted the interview of the petitioner on 05.01.2017 vide notification No.SSB/Secy/Sel/2016/21453-60 dated 22.12.2016; and

Whereas, the J&K Services Selection Board in its meeting held on 21.04.2017 decided that the Diploma in Handloom Technology certificates shall be considered for the post in question in view of the fact that no candidate having ITI in Weaving is available. However, the Diploma in textile design was not approved to be considered for the post in question; and

Whereas, the J&K Services Selection Board after completion of the selection process, issued the Selection List and forwarded the same to the Indenting Department vide communication No. SSB/Secy/Sel/2017/4622-28 dated 26.04.2017; wherein one post at serial no. 01 under OM Category kept unfilled for want of certain clarification.

Whereas the petitioner namely Surinder Kumar figured in the waiting List at Serial no. 01 and has filed another Writ petition bearing SWP No. 1182/2017 titled Surinder Kumar Vs State of J&K and Others before the Hon'ble High Court, Jammu and the Hon'ble Court clubbed both the petitions and disposed of vide its order dated 01.06.2018 with the following directions :- **“Accordingly, the writ petition, is**

disposed of with a direction to the respondents to consider and decide the eligibility of the petitioner and if he is found eligible then offer him appointment against the post of Head Weaver issued in terms of notification No. 03 of 2012, dated 28.12.2012 by operating the waiting list. The respondents shall take a decision strictly in terms of rules and regulations admissible and after giving opportunity of being heard to all the effected persons including the respondents in the writ petition SWP No. 1182/2017, within a period of six weeks from the date a certified copy of this order along with complete set of writ petitions is made available to the respondents..”

Whereas, the petitioner namely Surinder Kumar represented in the Industries and Commerce Department on the ground that the qualification possessed by him i.e Diploma in Handloom Technology from Indian Institute of Handloom Technology, Varanasi is the right qualification for the post of Head Weaver whereas Mr. Rahul Sharma whose recommendation has been withheld by the SSB possess Diploma in Textile Technology(Spinning) from Punjab Institute of Textile Technology, Amritsar is not eligible because the syllabus for both the Diploma courses is different and the candidates have to specifically select the choice of Spinning or Weaving in later semesters of the course.

Whereas, the candidate namely Rahul Sharma approached the Hon'ble High Court, Jammu by filing writ petition bearing SWP No. 201/2019 titled Rahul Sharma Vs State of J&K and Others and the Hon'ble Court vide order dated 11.02.2019 passed the following directions:-

“...Meanwhile respondents are directed to consider and decide the representation of the petitioners within a period of four weeks from today and place the order of consideration before the Court on the next date of hearing”

Whereas, Industries and Commerce Department vide Government Order No. 52-IND of 2019 dated 12.03.2019 under endorsement No. IND/Legal-247/2017 dated 12.03.2019, considered the claim of Mr. Rahul Sharma viz-a-viz the representation furnished by Mr. Rahul Sharma and Mr. Surinder Kumar and it was found that on the basis of the clarification provided by the Director Handloom Development Department, J&K and the information furnished by the Public Information Officer of the Punjab State Board of Technical Education and Industrial Training Chandigarh, Mr. Rahul Sharma possessing Diploma in Textile Technology(Spinning) from Punjab Institute of Textile Technology, Amritsar is Not-Eligible for the post of Head weaver as per the requirement of duties attached with the post of Head Weaver and his claim was found devoid of merit; and

Whereas, the aforesaid Government Order was challenged by Mr. Rahul Sharma in TA No. 61/298/2020, SWP No. 578/2019 titled Rahul Sharma Vs State of J&K and others which was disposed of on 12.02.2021 by the Hon'ble Central Administrative Tribunal, Jammu with the following directions:-

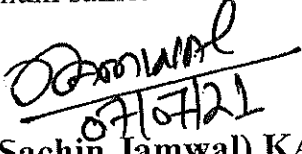
“it is also a settled principle of law that the scope of review of such decision as taken by the respondents in the present case by the Tribunal is limited. Looking to the facts of the case, we are of the opinion that in the present case, the Tribunal cannot sit as an Appellate Authority to examine the decision of the respondents like the Court of appeal. Even

so, looking to the tenor of the impugned order, we find the impugned order is a reasoned and speaking order and not arbitrary or suffer from any illegality or malice.”

Whereas, the matter was examined by the Board in its 182nd meeting held on 23rd April, 2021 and after considering the claim of the petitioner as per the Hon'ble High Court Judgment/Order dated 01.06.2018 and after due deliberations in the Board, it was decided to declare the candidate namely Rahul Sharma Not-Eligible for the post. Further, it was decided to operate the waiting list under which Surinder Kumar shall be considered for selection.

Now, therefore, in deference to the judgment dated 01.06.2018 passed in SWP No. 1182/2017 titled Surinder Kumar V/s State of J&K and Others and as per the recommendation of the Board, the candidate namely Rahul Sharma is hereby declared **Not-Eligible** for the post of Head Weaver pursuant to Advertisement Notification No. 03 of 2012 dated 28.12.2012, Item No. 190 and the post kept unfilled at serial No. 01 in the Selection List is hereby released and accordingly, the Indenting department can operate the Waiting List under rules in light of directions dated 01.06.2018 passed by the Hon'ble High Court of Jammu and Kashmir. However, the terms and conditions as per Selection List forwarded to the Indenting Department vide Communication No. SSB/Secy/Sel/2017/4622-28 dated 26.04.2017, shall remain same.

By Order


07/07/21
(Sachin Jamwal) KAS.
Secretary
J&K Services Selection Board
Jammu

No. SSB/Legal/S-35/15, 881-91
Copy to the:-

Dated: 07-07-2021

1. Principal Secretary to Government, Industries and Commerce Department, Civil Secretariat Jammu/Srinagar for information and necessary action.
2. Commissioner/Secretary to Government, General Administration Department, Civil Secretariat, Jammu.
3. Ld. Counsel for J&K Services Selection Board, Jammu.
4. Pvt. Secretary to Chairman, JKSSB for information to the Chairman.
5. Mr. Surinder Kumar S/o Ram Chand Malhotra, R/o Village Dhengroli, Tehsil Hiranagar, District Kathua.
6. Mr. Rahul Sharma S/o Ashok Kumar Sharma R/o Village Mirpuram, Tehsil and District Kathua.
7. Selection Division/ Record file.
8. In-Charge Website.