

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

WP(C) No.2256/2021

Mohd. Hafiz

....Petitioner(s)/Appellant(s)

Through :- Mr. Aditya Gupta, Advocate.

V/s

Union Territory of J&K and others

....Respondent(s)

Through :- Mr. Amit Gupta, AAG.

**Coram: HON'BLE MR. JUSTICE TASHI RABSTAN, JUDGE
HON'BLE MR. JUSTICE WASIM SADIQ NARGAL, JUDGE**

ORDER

14.07.2023

1. Mr. Amit Gupta, learned AAG submits that he does not want to file response as the matter can be considered in absence of it.
2. With consent of the parties, the matter is taken up for final disposal.
3. The present petition has been filed by the petitioner being aggrieved of the Government Order No.167-GAD of 2019 dated 04.02.2019 and the same has been registered as WP(C) No. 1783/2019 and subsequently same has been transferred to the Central Administrative Tribunal, Jammu which has been renumbered there as TA No. 605/2020. However, vide order dated 28.07.2021, the learned Tribunal has dismissed the aforesaid TA observing that as the applicant is an ex-CAPF person, therefore, he cannot claim the benefit for getting selected to the post of Teacher under the category of Ex-serviceman. Para 4 and 5 of the order dated 28.07.2021, for the facility of reference, are reproduced hereinbelow:

'4. This is the 3rd round of litigation by the applicant in his effort to get selected to the post of Teacher under the category of ex-serviceman. It is fairly well known that Ex-serviceman is a category, which includes the persons, retired

from Indian Army, Air Force and Navy. The CRPF occurs in the Paramilitary Forces or Central Armed Police Forces (CAPF). It may be true that the Government of India has also taken a decision to provide reservation in favour of Ex-CAPF persons also. That, however, is yet to take a shape. At any rate, unless the advertisement or Recruitment Rules provide for such reservation, one cannot claim the benefit under it. Once the applicant is an Ex-CAPF person, he cannot claim the benefit under the category of Ex-serviceman.

5. We do not find any merit in the T.A. It is accordingly dismissed. There shall be no order as to costs.”

4. Aggrieved of the order passed by the learned Tribunal, the petitioner has filed the instant petition before this court, inter alia, praying for the following reliefs:

“So as to quash and set aside the impugned order dated 28.07.2021 passed by the Ld. Central Administrative Tribunal, Jammu Bench in TA No.605/2020 titled “Mohd. Hafiq v/s State of J&K & Ors.” being unsustainable under law, passed with haste and mechanical manners and to grant the relief as prayed for in TA No.605/2020 in WP(C) No. 1783/2019 in the interest of justice.”

5. Objections stand filed on behalf of respondents 3 and 4, wherein it is averred that case of the petitioner was examined in the General Administration Department in consultation with Social Welfare Department. The Social Welfare department vide OM No. SW/Lit/261/2018 dated 31.12.2018 conveyed that as per the Jammu and Kashmir Reservation Rules, 2005, Ex-serviceman is defined as under:-

"Ex-servicemen means a permanent resident of the state who has served in Army, Navy or Air Force and has been honorably discharged and has not come to notice for any criminal or anti- national activity;

6. It is further averred in the objections that CRPF personnel do not come within the meaning and definition of Ex-serviceman and as such not entitled for reservation. In case, Act/Rules are modified to the extent of inclusion of CRPF or Police etc, the same shall be prospective and present case is not as such covered within the ambit of reservation, as on date.

7. The General Administration Department while considering the case of the petitioner in compliance of the judgment dated 07.05.2018 has rejected the claim of the petitioner.

8. As the case of the petitioner is not covered in terms of J&K Reservation Rules, 2005 under the definition of Ex-serviceman, therefore, we are not inclined to interfere into the order passed by the Tribunal and this writ petition is accordingly dismissed.

9. No order as to costs.

(Wasim Sadiq Nargal)
Judge

(Tashi Rabstan)
Judge

Jammu:
14.07.2023
Raj Kumar

Whether the order is speaking? Yes/No.

Whether the order is reportable? Yes/No.