

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

WP (C) No. 2410/2025

J & K Public Service Commission
Through its Secretary,
Presently Sh. Bashir Ahmed Dar Age: 58
years, Resham Garh Colony,
Jammu

.....Applicant(s)/Petitioner(s)

Through :- Mr. M.Y. Akhoon, Advocate vice
Mr. F.A. Natnoo, Advocate

v/s

1. Shikha Sharma, Age 32 years
D/o Sh. Rajinder Kumar Sharma
R/o H.No. 228-D, Sector-3 Channi Himmat,
Jammu-180015

.....Respondent(s)

2. Commissioner-Cum-Secretary to
Government Animal and Sheep Husbandry
Department Govt. Deptt. Civil Secretariat,
Jammu
3. Suhail Ahmad Bhat S/o Ghulam Hassan Bhat
R/o 105 Lurgam Partly Loragam Tral,
Kashmir
4. Mohd. Mansoor Bhat
S/o Mohd. Ramzan Bhat
R/o 163/Ompora Budgam, Kashmir
5. Aarif Muhammad Khan S/o Muhammad
Shahbaz Khan R/o 1-5 Nadihal Bandipora,
Kashmir
6. Sandeep Kour S/o Jaswant Kour R/o H.No.
47, Sector-2, Guru Nanak Nagar, Jammu
7. Mazar Ali Shah S/o Zabir Hussain Shah R/o
Plot No. 68, Opposite J & K Bank, New Plot
Jammu

8. Rayees Ahmad Rather S/o Mohd. Ahsan
Rather R/o Mahind Srigufwara Kashmir
9. Kawaljeet Kour S/o Jaspal Singh R/o 23-A
Small Plots, Gandhi Nagar, Jammu
10. Mohd. Iqbal Rather S/o Gh. Ahmad Rather
R/o Khaldarpura Lalgam Tral Kashmir.
11. Anupama Sharma S/o Sh. Om Parkash
Raina R/o 179-C, Uttam Nagar, Kunjwani
Bye-pass, Jammu
12. Faroze Ahmed Rather S/o Habib Ullah
Rather R/o 114 Haripora Harran Budgam
Kashmir
13. Imityaz Ahmad Reshi S/o Gh. Mohd. Reshi
R/o 55 Kunzer, Kashmir
14. Heena Sharma S/o Sh. Lalit Kumar Sharma
R/o 189, Sector-1 Channi Himmat, Jammu

.....Proforma-Respondent(s)

Through :- Mr. Abhinav Sharma, Sr. Advocate with
Mr. Abhirash Sharma, Advocate
Mr. Suneel Malhotra, GA

CORAM: HON'BLE MR. JUSTICE SANJEEV KUMAR, JUDGE
HON'BLE MR. JUSTICE SANJAY PARIHAR, JUDGE

JUDGMENT (ORAL)

29.09.2025

Sanjeev Kumar 'J'

1. Vide Advertisement Notification no. 15-PSC (DR-P) of 2016 dated 18.06.2016, the Jammu and Kashmir Public Service Commission ["PSC"] invited applications from the candidates possessing eligibility for the post of Veterinary Assistant Surgeons in Animal

and Sheep Husbandry Department. Breakup of the posts notified was as under: -

- i. Veterinary Assistant Surgeons (Animal Husbandry): -
OM-13, RBA-03, SC-02, ST-02, ALC-00, SLC-00
total-20
- ii. Veterinary Assistant Surgeons (Sheep Husbandry):-
OM-04, RBA-00, SC-00, ST-00, ALC-00, SLC-00
total-04.

2. The last date for submission of application form, as indicated in the advertisement notification, was 23.07.2016, which was later on extended to 05.12.2016. Respondent no. 1, who, at the relevant point of time was B.V.Sc, M.V.Sc and PhD submitted her application form for seeking consideration against the notified vacancies of Veterinary Assistant Surgeons under open merit. In the application form that was submitted by the respondent, she had specifically disclosed her qualifications as B.V.Sc and M.V.Sc and had only indicated the date of acquiring PhD qualification without any specific mention of the aforesaid qualification. The respondent participated in the selection process, but could not make grade because of her inferior merit viz-a-viz the candidate last selected under the open merit category.
3. Feeling aggrieved of her exclusion from the zone of selection, the respondent challenged the selection of the candidates in the open merit by way of SWP No. 1085/2017 before this Court, which,

after promulgation of J & K Reorganisation Act of 2019 and constitution of the J & K Special Tribunal [“the Tribunal”] for the newly formed UT of J & K, was transferred to the Tribunal and re-numbered as TA No. 4159/2021. Before the Tribunal, it was pleaded by the respondent that despite the fact that she was entitled to four additional points for having possessed higher qualification of PhD in Parasitology, the PSC ignored the said qualification and did not confer her the benefit of aforesaid four additional points. She, therefore, pleaded that had she been given four additional points, her tally of points would have taken her to the zone of selection. This petition was contested by the petitioners and the benefit of four additional points, claimed by the respondent, was resisted on the ground that the respondent had not claimed such benefit in her application form.

4. After considering the matter in the light of rival stands of the parties, the Tribunal came to the conclusion that the respondent had indicated the date of acquiring the PhD qualification against the column “Higher Qualification” in the application form and could not have specifically mentioned her qualification, i.e., PhD in the absence of any such option provided in the application form.
5. The Tribunal was of the opinion that since the respondent was entitled to the benefit of PhD degree, which she had acquired before the cut-off date fixed for submission of application forms, as such,

benefit of additional four points could not have been denied to her on the technical plea taken by the petitioners.

6. Be that as it may, having held the respondent entitled to four additional points for her PhD qualification, the Tribunal allowed the TA and directed the petitioner herein to issue appointment letter by taking into consideration the weightage of PhD degree provided, she would fall in merit. It is this judgment of the Tribunal passed in TA No. 4159 of 2021, which is called in question by the petitioner-PSC before us in this petition filed under Article 226 of the Constitution of India.
7. Having heard learned counsel for the parties and perused the material on record, we are of the considered opinion that the judgment passed by the Tribunal is correct both on law and facts and, therefore, does not call for interference by us in these proceedings under Article 226 of the Constitution of India.
8. There is no dispute with regard to the fact that at the time of submission of application form, the respondent was possessing the qualifications of B.V.Sc, M.V.Sc and PhD in the relevant subject. With a view to find out whether there was any failure on the part of the respondent to claim the benefit of PhD qualification, we called upon the PSC to produce before this Court the application form of the respondent, which Mr. F.A. Natnoo, learned counsel for the petitioner produced in sealed cover on the last date of hearing. From the perusal of the application form, it clearly transpires that, though,

there is specific column for the qualification like B.V.Sc and M.V.Sc, but there is no specific qualification for higher qualification of PhD, instead against higher qualification, the application form indicates “Any Other”. The candidate filling up the form could not have introduced the qualification in the said column and was only liable to give the date of result of such qualification. The respondent specifically mentioned 26.08.2016 as the date of acquiring the qualification higher than the qualification of M.V.Sc.

9. The plea of the petitioner-PSC that respondent had not specifically claimed the benefit of PhD degree flies on the face of the deficiency as afore-mentioned existing in the application form itself.
10. We are at a loss to appreciate that to understand as to why a candidate who is possessing a higher qualification on the cut-off date and is entitled to additional weightage, would not claim the benefit or would not produce the same before the selection body. We have seen the checklist which was filled up by the respondent at the time of interview and it does not make mention of the PhD Degree.
11. We tried to probe into the reasons as to why there was omission on the part of the respondent to indicate her qualification as PhD at the time of filling up of checklist.
12. In the given facts and circumstances, we tend to believe the explanation rendered by the respondent, that the authorities of the

Public Service Commission did not allow her to indicate her qualification as PhD on the ground that she had not mentioned such qualification specifically in the application form. We can also understand the predicament, which the respondent may have faced at the time of interview. She could not have dared to take cudgel with the PSC and agitate the matter before appearing in the interview. It is for these reasons she kept quiet and appeared before the interview panel without raising much controversy on the issue.

13. Be that as it may, the fact remains that by dint of her merit, respondent came to be placed at serial no. 2 in the waitlist of open merit category with merit points 61.25, whereas the cut-off in the open merit was 62.75 for Animal Husbandry Department and 62.25 for Sheep Husbandry Department. Had the PSC considered her PhD qualification, and awarded her four additional points, she would have been in the select list of both the Animal Husbandry and the Sheep Husbandry Departments. In the select list of open merit category, in both Animal and Sheep Husbandry Departments, the consideration of PhD was denied by the petitioner on a ground which was not available to them. The deficiency in the application format was the reason as to why respondent could not specifically indicate her PhD qualification, though she indicated the date of acquisition of such qualification. The PSC cannot claim the benefit of its own wrong.

14. The Tribunal has, thus, taken a very pragmatic view in the matter and allowed the TA of the respondent in the manner we have indicated above. It has been brought to our notice that while supplying the post of Veterinary Assistant Surgeons in the Department of Animal Husbandry and Sheep Husbandry, in terms of the selection made pursuant to advertisement notification dated 18.06.2016, the Government in the Department of Animal/Sheep Husbandry has kept one post of Veterinary Assistant Surgeon in the Sheep Husbandry Department reserved in terms of the interim direction dated 04.05.2017 passed in SWP No. 1085/2017 (TA No. 4159/2021). That being the position, one post of Veterinary Assistant Surgeon in the Sheep Husbandry Department is still lying vacant and, therefore, can be utilized for selection and appointment of the respondent.
15. For the foregoing reasons, we are of the opinion that the view taken by the Tribunal is unexceptionable and, therefore, the judgment impugned calls for no interference. The writ petition is, therefore, found devoid of merit and is, accordingly, dismissed.
16. With a view to introduce clarity, we modify the directions issued by the Tribunal in the following manner.
- i. The PSC shall declare the respondent selected against the post of Veterinary Assistant Surgeon in Animal Husbandry Department reserved vide Govt. Order No. 70-ASH of 2017 dated

13.05.2017 and recommend her candidature for appointment within a period of four weeks from the date copy of this order is served upon PSC.

- ii. The Government in the Animal Husbandry/Sheep Husbandry Department shall ensure that the recommendations made by the PSC are implemented and formal order of appointment subject to fulfillment of usual formalities in favour of the respondent is issued within four weeks from the date of receipt of the recommendations.

17. The application form and the check list produced before this Court is returned to Mr. M.Y. Akhoon in the open Court.

(Sanjay Parihar)
Judge

(Sanjeev Kumar)
Judge

JAMMU
29.09.2025
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