

IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

WP(C) 443/2023

Ishfaq Ahmad

...Petitioner (s)

S/o Ghulam Rasool Dar

R/o H. No. 24, Arigam Pulwama;

Through: Mr. Bhat Fayaz, Advocate with
Ms. Nighat Amin, Advocate

Vs.

1. Union Territory of Jammu & Kashmir

...Respondent(s)

Through Principal Secretary to Govt. Health &
Medical Education Department, Civil
Secretariat, Srinagar/Jammu;

2. Commissioner/Secretary to Govt. General
Administration Department Civil Secretariat,
Srinagar/Jammu;

3. Additional Chief Secretary, Health & Medical
Education Department, Civil Secretariat,
Srinagar/Jammu;

4. Secretary, J&K service Selection Board, J&K
Srinagar/Jammu;

5. Registrar, J&K Paramedical Council, GMC
Jammu;

Through: Mr. Ab. Rashid Malik, Sr. AAG with
Mr. M. Younis, Assisting Counsel
Mr. Hakim Aman Ali, Dy. AG

CORAM:

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

JUDGMENT

24.07.2025

Per Sanjeev Kumar-J (Oral):-

1. This is a petition by Mr. Ishfaq Ahmad filed under Article 226 of the
Constitution of India, challenging an order and judgment dated 20th
February, 2023, passed by the Central Administrative Tribunal,

Srinagar Bench [“the Tribunal”], in OA No. 114/2022, whereby the Tribunal has dismissed the OA filed by the petitioner on the ground that no case was made out for quashing of the Office Memo dated 03.02.2022.

2. Briefly stated, the facts leading to the filing of this petition, as are gatherable from the impugned judgment and other material on record, are that in response to Advertisement Notifications No. 01 of 2019 and 02 of 2019 issued on 1st February, 2019 by the J&K Service Selection Board [“SSB”], the petitioner herein applied for the post of Audiometry Technician. The qualification prescribed for the post was as under:

“10+2 with Science or above qualification with Degree/Diploma in Audiometry or Speech Therapy Course from any recognized Institute/SMF”.

3. The selection process initiated in terms of aforesaid Advertisement Notifications culminated into issuance of a provisional select list by the SSB vide Notification dated 5th October, 2019, in which the name of the petitioner figured at S. No. 2 of both the select lists. It appears that during verification of documents, the SSB entertained a doubt with regard to the eligibility qualification of the petitioner. The prescribed qualification was a Degree/Diploma in Audiometry or Speech Therapy Course from any recognized Institute/SMF, whereas the qualification possessed by the petitioner was Bachelor of Science in Speech Language Pathology and Audiology, obtained from Bangalore University.
4. Apparently, the degree certificate submitted by the petitioner and the qualification prescribed varied in nomenclature, and, therefore, the matter was referred by the SSB to the State Medical Faculty as well

as to an expert i.e. Head of the Department of ENT, Government Medical College, Jammu. The verification process took time, and before the SSB could take an informed decision on the basis of inputs received from the aforesaid Authorities, the Government of Jammu & Kashmir issued a circular dated 3rd February, 2022, whereby all posts referred to the JKPSC/JKSSB prior to 31.10.2019, where the selection had not been finalized, were withdrawn.

5. Feeling aggrieved, the petitioner filed OA No. 114/2022 before the Tribunal and prayed, inter-alia, for a writ of Certiorari for quashing the circular dated 3rd February, 2022, and a writ of Mandamus directing the respondents to finalize the selection to the post of Audiometry Technician and recommend his name for appointment. The OA was contested by the respondents on the ground that the posts subject matter of Advertisement notifications stood referred to SSB before 31st October, 2019, and, therefore, were consequently withdrawn in terms of circular dated 3rd February, 2022. The Tribunal, having considered the rival contentions and the material on record, came to the conclusion that the petitioner had failed to make out a case to throw challenge to the Office Memo dated 3rd February, 2022, and, therefore, there was no illegality committed by the respondents in withdrawing the posts against which the petitioner was provisionally selected.

6. 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 and the view taken therein is legally perfect and does not call for any interference by this Court in the present petition. Unless the petitioner pleads and demonstrates, by reference to

evidence whether documentary or otherwise, that the circular dated 3rd February, 2022, issued by the Government was either malafide, arbitrarily, or in violations of Articles 14 & 16 of the Constitution, the circular dated 3rd February, 2022 is required to be given full effect.

7. Much emphasis was laid by Mr. Bhat Fayaz, learned counsel for the petitioner, on the willful delay caused by the SSB in taking decision with regard to petitioner's qualification. It is thus submitted that had the SSB acted with promptitude, the petitioner would have been finally selected much prior to issuance of circular dated 3rd February, 2022. We gave our thoughtful consideration to this aspect of the matter, but could not find from material on record that there was any willful delay on the part of the SSB, to finalize the selection. The provisional selection of the petitioner was subject to verification of his documents on production of originals. Admittedly, the qualification possessed by the petitioner was not exactly the same as prescribed in the Advertisement notifications and, therefore, the SSB genuinely entertained a doubt with regard to a qualification certificate produced by the petitioner.

8. With a view to taking an informed decision, the matter was taken up by the SSB with the State Medical Faculty as well as the Head of Department of ENT, Government Medical College, Jammu. Both the Authorities responded with regard to the qualification possessed by the petitioner, but before a decision could be made, a policy decision was taken by the Government to withdraw all the posts referred to JKPS/JKSSB prior to 31st October, 2019, where the selections had not been finalized upto 3rd February, 2022. Indisputably, in the instant

case, the selection was provisional as on 3rd February, 2022, and also the posts in question stood referred prior to 31st October, 2022. It is because of this reason and due to operation of the circular dated 3rd February, 2022, no decision with regard to the eligibility of the petitioner or finalization of his selection could be taken. As is rightly held by the Tribunal and is also writ large from the material on record that, no foundation was laid by the petitioner to challenge the circular dated 3rd February, 2022, which probably could have been challenged only on the grounds that it was malafide, arbitrary and violative of Articles 14 & 16 of the Constitution, or issued by an Authority not competent to do so. Mere placement of a candidate in provisional select list does not vest any right to appointment and that being the settled law, no grievance could be made by the petitioner against the circular dated 3rd, February, 2022.

9. For the foregoing reasons, we found no merit in this petition. Accordingly, the same is **dismissed**.

(SANJAY PARIHAR)
JUDGE

(SANJEEV KUMAR)
JUDGE

SRINAGAR:
24.07.2025
"ARIF

Whether the order is reportable? Yes/No