

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

Reserved on: 18.04.2025
Pronounced on: 10.07.2025

Case: WP(C) No. 1036/2024
CM No. 2804/2024

Mushtaq Ahmad Najar and others ...Petitioner(s)/Appellant(s)

Through: Mr. Z. A. Shah, Sr. Advocate with
Mr. A. Hanan, Advocate
v/s

J & K Service Selection Board and others. Respondent(s)

Through: Mr A. R. Malik, Sr. AAG
Mr. Hilal Wani, Advocate
Mr. Younis Ahmad, Advocate

CORAM:
HON'BLE MR. JUSTICE RAJNESH OSWAL, JUDGE
HON'BLE MR. JUSTICE MOHAMMAD YOUSUF WANI, JUDGE

JUDGMENT

Per-Oswal, J

1. The petitioners are aggrieved of the order dated 08.05.2024, passed by the learned Central Administrative Tribunal, Srinagar Bench (hereinafter to be referred as “the Tribunal”), whereby application filed by the petitioners bearing O.A No. 1126/2022 for directing the respondent No. 1 to consider the Bachelor’s degree in Library and Information Science of the petitioners as the pre-requisite qualification against the post of ‘Junior Librarian’ in terms of the clarification issued by the indenting department, has been dismissed.

Factual Aspects

2. The Jammu and Kashmir, Service Selection Board-respondent No. 1 issued Advertisement No. 4 of 2020 dated 16.12.2020, in terms whereof

around 1,700 posts were advertised including the posts of ‘Junior Librarian’, mentioned at Sr. Nos. 48 and 49 of the said Advertisement. Twenty four (24) posts each were advertised for Kashmir and Jammu Division. After the Advertisement was issued, the petitioners submitted a representation before the Director, Libraries & Research to the effect that the eligibility criteria for item Nos. 48 and 49 for the post of “Junior Librarian” needs to be changed, pursuant to which, Director, Libraries & Research addressed a communication dated 24.12.2020 to the respondent No. 3, whereby the respondent No. 3 was informed that Bachelors and Masters Degree in Library Science was a higher qualification than the Certificate Course in Library Science and in the draft Jammu and Kashmir Libraries (Non-Gazetted) Recruitment Rules, 2020, the qualification for the said post has been proposed to be “Bachelors degree in Library and Information Science or post-Graduation in Library and Information Science” from a recognized University/Institution. Accordingly, a request made by the Director, Libraries & Research to respondent No. 3 came to be considered by the Standing Committee for equivalence of Degree/qualifications, constituted by the Government earlier vide Government Order No. 1384-GAD of 2018 dated 12.09.2018 for clarification of degree/qualification. The said committee in its meeting held on 01.07.2021 under the Chairmanship of Secretary to Government, Higher Education Department, after due diligence concluded that “superior degree and next higher qualification to course in Library Science (8 to 9) months course, degree be considered as equivalent”.

3. In view of the decision of the committee, the Government through Deputy Secretary to Department of Culture addressed a communication

dated 14.07.2021 to respondent No. 1, instructed Service Selection Board that the applicants possessing the Bachelors degree of Library Science/Bachelor Degree of Library and Information Science may be considered for the post of “Junior Librarian” of the Department of Libraries and Research. Accordingly, the petitioners participated in the selection process, for the posts of Librarian, ‘Junior Librarian’, Cataloguer and Assistant Librarian, as per their choice. One common exam was held. The result of the written test was notified on 20.12.2021 and merit was the sole criteria for appointment. The petitioners were shown to have obtained the following percentage in the said test:

a)	Petitioner No. 1	-	96.85 (percentile)
b)	Petitioner No. 2	-	97.85 (percentile)
c)	Petitioner No. 3	-	95.78 (percentile)
d)	Petitioner No. 4	-	94.7 (percentile)
e)	Petitioner No. 5	-	95.9 (percentile)
f)	Petitioner No. 6	-	95.78 (percentile)
g)	Petitioner No. 7	-	99.36 (percentile)

4. After the declaration of results, respondent No.1 issued document verification notice dated 08.01.2022 and in response thereof, the petitioners submitted their respective documents in the office of respondent No. 1. Thereafter, respondent No. 1 asked the petitioners to indicate their preferences online between 09.02.2022 to 11.02.2022. The petitioners accordingly, submitted their preferences and while they were waiting for issuance of the select list, suddenly on 06.07.2022, the respondent No. 1 issued notice informing the candidates, who had applied for the post of ‘Junior Librarian’ (both Divisions) under item Nos. 48 and 49, to submit

their “Certificate Course in Library Science” within 05 days from the date of issuance of the notice. After issuance of the notice, the petitioners attended the office of respondent No. 1 and were verbally informed that despite their merit in the written examination, they would not be considered for the post of ‘Junior Librarian’ as they did not possess certificate course in Library Science. When the persuasions made by the petitioners with respondent No.1 evoked no response, petitioners submitted representations dated 03.07.2022, 12.07.2022 and 05.09.2022 to the Chief Secretary, and office of the Chief Secretary referred the matter to the Department of Law. After finding that their efforts were yielding no results, petitioners approached the Tribunal through the medium of O.A No. 1126/2022.

5. Objections were filed by the respondent No. 1, stating therein that the qualification for the post of “Junior Librarian”, Division Cadre, Kashmir/Jammu in terms of item Nos. 48 & 49 respectively in the Advertisement Notice No. 04 of 2020 dated 16.12.2020 as per the indent received from the indenting department is BA/B. Sc/B.Com, with certificate Course in Library Science. It is further submitted that in order to remove any misgiving on the issue, the respondent No. 1 vide letter dated 10.10.2022 sought clarification from the respondent No. 2 and the respondent No. 2 vide letter dated 09.11.2022 highlighted the opinion received from the Department of Law, Justice and Parliamentary Affairs that the relevant recruitment rules only provide “BA/B.SC/B.Com with certificate course of Library Science” as a basic eligibility for the post of ‘Junior Librarian’ and it does not provide for any equivalent degree or course as the eligibility in the alternative. It is the further stand of respondent No. 1 that the

clarification of the Committee can, at best, be the justification to amend the recruitment rules suitably to provide an equivalent degree which may also be considered as basic eligibility and once the selection process has begun, it would tend to encourage avoidable litigation. The respondent No.1 relied upon the judgment of the Hon'ble Supreme Court passed in Civil Appeal Nos. 11853-11854 of 2018, titled, **Zahoor Ahmad Rather and others vs. Sheikh Imtiyaz Ahmad and others** for objecting to the claim of the petitioners.

6. The respondent No. 2 also filed the response and besides, admitting the decision of the committee in its meeting held on 01.07.2021 and issuance of communication dated 14.07.2021 by the respondent No. 3, stated that although as per the decision of the standing committee, "Superior degree and next higher qualification to course in library science (8 to 9 months course), degree can be considered as equivalent" however, the recruitment rules governing the field do not provide for any such equivalent degree or course as eligibility in the alternative, as such, only the candidates having the requisite qualification can be considered. Respondent No. 2 also relied upon the opinion of the Law Department for objecting to the claim of the petitioners.

7. Rejoinder affidavit also came to be filed, wherein, it was stated that possessing a higher qualification presupposes possession of lower qualification in a relevant field, until and unless such higher qualification is expressly barred/disqualified by the recruitment rules, candidates with higher qualification can be considered for appointment. It was also pleaded that the certificate course in Library Science (C/lis) was stopped in almost all

the Universities in Jammu and Kashmir way back in the year, 1980 and thereafter the nomenclature of the said course was changed from C/Lis to B. Lib, which is 9 to 12 months course and this course is being offered by the Universities in the Jammu and Kashmir.

8. The learned Tribunal, after hearing the parties, dismissed the application vide order dated 08.05.2024 with the observation that the petitioners were not possessing the essential qualification as prescribed under the recruitment rules for the post of 'Junior Librarian', as such, they were not entitled to be considered for the said post.

9. During pendency of the writ petition, an application was filed by some of the candidates having the qualification of certificate in Library and Information Science for impleading them as respondents. The said application came to be allowed vide order dated 25.10.2024.

10. The official respondents have also filed the response, thereby, reiterating the stand taken by them before the learned Tribunal and as extracted above.

Arguments:

11. Mr. Z. A. Shah, learned Senior counsel for the petitioners, has argued that the recruitment rules provide the minimum qualification of BA/B.Sc/B.Com with certificate course in Library Science and Rules do not bar the candidates having higher qualification, pre-supposing the minimum qualification prescribed in the recruitment rules, to participate and seek appointment for the post of 'Junior Librarian'. He has laid much stress on the decision of the Committee in its meeting held on 01.07.2021. He has also

argued that the judgment relied upon by the learned Tribunal was not at all applicable in the instant case.

12. Mr. Abdul Rashid Malik, learned Sr. AAG, with Mr. Younis Ahmed, GA, has argued that the qualification prescribed in the recruitment rules only can be considered for the purpose of appointment to a particular post. He has furnished the written submissions as well.

13. Mr. Hilal Wani, learned counsel for the private respondents, has submitted that the qualification mentioned in the Recruitment Rules can only be considered for the purpose of any appointment and once, no equivalence to any Degree has been provided in the recruitment rules, there cannot be any question of entertaining any request by the candidates for treating their qualification equivalent to the qualification mentioned in the recruitment rules. He has placed reliance on the judgments of the Supreme Court in **P.M. Latha vs. State of Kerala, (2023) 3 SCC 541, Zahoor Ahmed Rather and others. Sheikh Imtiyaz Ahmad, (2019) 2 SCC 404 and Jomon K. K. vs. Shajimon P. & others, 2025 INSC 425** in support of his arguments.

14. Heard learned counsel for the parties and perused the record.

Analysis:

15. The following two issues arise for consideration of this Court:

- 1) Whether the Jammu and Kashmir Libraries Non-Gazetted Services Recruitment Rules, 1989 bars a candidate having higher qualification than the one prescribed in the recruitment rules, to participate in the selection process for the post of 'Junior Librarian'?

- 2) Whether the qualification of Bachelor's degree in Library Science is a higher qualification than the certificate course in the Library Science?

Issue No. 1.

Whether the Jammu and Kashmir Libraries Non-Gazetted Services Recruitment Rules, 1989 bars a candidate having higher qualification than the one prescribed in the recruitment rules, to participate in the selection process for the post of 'Junior Librarian'?

16. Schedule-II of the J&K Non-Gazetted (Library Wing) Services Rules, 1989 prescribe the minimum qualification for direct recruitment to various posts and the minimum qualification for direct recruitment for the post of "Junior Librarian" is BA/ B.Sc/ B.Com with Certificate Course in Library Science, meaning thereby that the Rules of 1989 only provide the minimum qualification and not the only qualification of BA/ B.Sc/ B.Com with Certificate Course in Library Science. Rules (*ibid*) do not prohibit a person having qualification higher than the one mentioned in the rules, to participate in the selection process for appointment as "Junior Librarian". Also, the qualification is not prefixed or suffixed with "only". to exclude the person having higher qualifications to participate in the selection process for the post of "Junior Librarian". Hon'ble the Supreme Court of India in **Jyoti K K vs. Kerala Public Service Commission (2010) 5 SCC 596**, has though placed reliance upon Rule 10 (a) (ii) of Kerala State Subordinate Service Rules, 1956, but has proceeded to hold that the qualification of

degree in Electrical Engineering presupposes the acquisition of qualification of diploma in that subject.

17. Learned counsel for the respondents as well as the learned Tribunal have placed much reliance upon the judgment of the Hon'ble Supreme Court of India in **Zahoor Ahmad Rather vs. Sheikh Imtiyaz Rather (2019) 2 SCC 404**. In this case, the decision of the Hon'ble Supreme Court of India in **Jyoti K K** (supra) was sought to be distinguished on the ground of existence of Rule 10 (a) of the relevant Recruitment Rules, which presupposed that the acquisition of a lower qualification shall be sufficient for the post. In **Zahoor Ahmad Rather's** case, the subject matter of the post was Technician-III in the Power Development Department for which the qualification prescribed was Matric with ITI in the relevant trade. The Hon'ble Supreme Court of India declined to consider the diploma in Electrical Engineering as a qualification for the post of Technician-III, whereas for the said post, qualification prescribed was ITI certificate in the relevant trade. The Hon'ble Supreme Court of India took into consideration the decision of the Service Selection Board in its meeting that only an ITI certificate in the relevant trade, namely, the Electrical Trade is the prescribed qualification specified in the advertisement.

18. There is no gainsaying that the employer can prescribe the minimum qualification or fixed qualification for the purpose of any post. Where the qualification is fixed or the only qualification prescribed and there is no rule providing for equivalence to the other qualification vis-à-vis a qualification fixed by the appointing authority, a person having a higher qualification may not be competent to participate in the selection process of the said post but

where the qualification prescribed is the ‘minimum qualification’ and not the only or fixed qualification and the higher qualification is not specifically barred, then the candidate having a higher qualification in the same stream cannot be deprived of his right to participate in the selection process for appointment to the said post.

19. In **Ramnik and Anr. Vs. UT of J&K and others**, JKK Online 86477, a Coordinate Bench of this Court, in almost identical situation, was confronted with an issue as to whether degree in Electronic and Communication is a higher qualification in the same line than the diploma in Electronic & Communication and, acquisition of a degree qualification presupposes the acquisition of the diploma qualification in the same line. The Coordinate Bench after taking note of all the case laws relied upon by the respondents, such as, **P.M. Latha vs. State of Kerala and others (2003) 3 SCC 541**, **Zahoor Ahmad Rather vs. Sheikh Imtiyaz Rather (2019) 2 SCC 404**, **State of Punjab and Anr. Vs. Anita and others (2015) 2 SCC 201** in paragraph 20 has observed as under:

“ 20. The Supreme Court has surveyed the entire case law on the issue and the factual context in which the judgment in each case have been rendered by the Supreme Court and has concluded that where State as an employer prescribes a particular minimum qualification for the post, the candidates possessing qualification higher than the prescribed minimum qualification, are eligible, provided the higher qualification is in the same line. In other words, if the higher qualification possessed by a candidate presupposes the acquisition of lower qualification in the same line, such candidate cannot be held ineligible for the post on the ground that it does not possess the minimum prescribed qualification. It would be complete fallacy and contradiction to say that the candidate possesses a higher qualification which presupposes the acquisition of the prescribed minimum qualification, but does not possess the prescribed qualification. In such situation, the Courts may not be required to substitute or read into a qualification other than the one prescribed. However, such finding can be returned by

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a Court only when there is sufficient material on record to indicate that the higher qualification claimed by a candidate to participate in the selection process, is in the same line as is the prescribed minimum qualification. -----."

i)"

20. The aforesaid judgment of the Coordinate Bench was assailed before the Hon'ble Supreme Court of India in Special Leave Petition (Civil) Diary No(s). 20991/2024, but after condoning the delay, SLP was dismissed vide order dated 11.07.2024.

21. The judgment relied upon by the respondents in **Chief Manager, Punjab National Bank and Anr. vs. Anil Kumar Das, 2020 SCC Online SC 897** is not applicable in the facts and circumstances of the present case because in the said case, in the advertisement notice for appointment of peon, it was specifically provided that the candidate should not be Graduate. In those peculiar facts and circumstances, the Hon'ble Supreme Court quashed the order of the High Court by permitting the appellant therein to discharge his duties as Peon.

22. In such view of the matter, this court is of the considered view that the Recruitment Rules of 1989 (supra) provided the minimum qualification and not the fixed or exclusive qualification for the post of "Junior Librarian". A candidate having a higher qualification would have every right to participate in the selection process for appointment to the post of 'Junior Librarian'. The issue No. 1 is decided accordingly.

Issue No. 2

Whether the qualification of Bachelor's degree in Library Science is a higher qualification than the certificate course in the Library Science?

23. It was the stand of the respondent No. 3 that various representations submitted by the candidates possessing MLIS and Bachelors/Masters degree in Library and Information Science were received and the matter was taken up with the Higher Education Department vide office memorandum dated 11.01.2021 to seek clarification as to whether the Bachelor's degree in Library and Information Science and Masters degree in Library and Information Science is equivalent to the prescribed minimum qualification for the post of 'Librarian' and 'Junior Librarian' as per the Recruitment Rules 1989. As per the decision of the Standing Committee the Bachelor's degree in Library Science and Bachelor's degree in Library and Information Science is a superior degree vis-a-vis the course in Library Science (8 to 9 months course) and can be considered for employment. It was only after this decision of the Standing Committee, constituted by the Government that the petitioners having higher qualification were permitted to participate in the selection process.

24. The respondents have relied upon the opinion of the Department of Law, Justice and Parliamentary Affairs that in absence of equivalence granted to the degree/course in the recruitment rules, the candidate having higher qualification cannot be considered. It needs to be reiterated that the Standing Committee has opined that Bachelor's degree in Library Science and Bachelor's degree in Library and Information Science are superior degrees and next higher qualification to course in Library Science. As such, this Court is of the considered view that the qualification possessed by the petitioners is a higher qualification in the same stream and in absence of exclusion of such higher qualification in the Rules of 1989, the petitioners

cannot be deprived of their right to participate in the selection process. The Department of Law has not taken into consideration that the certificate in library science was not the only qualification but was the minimum qualification. The issue No. 2 is decided accordingly.

25. It is worthwhile to mention here that before the Jammu Bench of the Central Administrative Tribunal, an identical issue was raised and adjudicated by the learned Tribunal in an application filed by the applicants therein, who had applied for the similar post and possessed the similar qualification, as that of the petitioners herein. The learned Tribunal took note of judgment dated 08.05.2024, passed by the learned Central Administrative Tribunal, Srinagar Bench, which is impugned in the present petition before this Court and directed the Department of Culture to appoint the applicants therein to the post of 'Junior Librarian' pursuant to the Advertisement No. 04 of 2020 dated 16.12.2020, which is the subject matter of this writ petition as well. In that judgment, the learned Tribunal has observed that pursuant to the Advertisement Notice No. 09 of 2010 dated 30.12.2010 prescribing the similar qualification as in the notification, which is subject matter of present selection, the candidates selected were graduate with B. Lib. The learned Tribunal has also recorded that counsel for the respondents therein was asked to explain as to why exceptions in the year 2010 and 2013 were made as the Recruitment Rules continued to remain the same, but there was no explanation from the respondents with regard to that deviation.

26. Be that as it may, this court without being prejudiced by the order passed by the Jammu Bench of CAT, has examined the order impugned in

this petition passed by the Srinagar Bench of the learned tribunal and find that the learned Tribunal solely has decided the application preferred by the petitioners on the ground that the scope of judicial review is very limited and it was for the employer to decide the qualification for a particular post. While we do not dispute the observations made by the learned Tribunal, but at the same time, the learned Tribunal has not at all adverted to the grounds urged by the applicants and proceeded to decide the case solely on the basis of judgments of the Hon'ble Supreme Court of India in **Zahoor Ahmad Rather (supra) and P.M Latha's case (supra)**, whereas the fact remains that both the judgments are distinguishable on facts and are not applicable in the facts and circumstance of the present case.

27. For all what has been discussed, considered and analysed hereinabove, we are of the considered view that the order dated 08.05.2024, passed by the learned Central Administrative Tribunal, Srinagar Bench in O.A No. 1126/2022 is not sustainable in the eyes of law and the same is quashed. The official respondents are directed to re-frame the select list for the posts of "Junior Librarian" by considering the petitioners and in the event they are found to be figuring in the select list, appointment orders be issued in their favour. The entire exercise be completed within the period of two months.

28. Before parting, we would like to observe that there are two contradictory decisions of the two different wings of Central Administrative Tribunal in respect of same selection process. This situation could have been avoided either by placing both the matters before one Bench or the matter which was decided subsequently, could have been referred to larger Bench of the Tribunal. In 'Renuka Versus State of Karnataka and Anr.', 2025

INSC 596, the Hon’ble Supreme Court of India has observed that *Consistency in judicial outcomes is the hallmark of a responsible judiciary. Inconsistent decisions coming out from different benches shake public trust and reduce litigation to a punter’s game. It gives rise to various insidious sharp practices like forum shopping spoiling the clear stream of justice.* This court hopes that an appropriate mechanism shall be put in place to ensure that such an avoidable situation does not re-occur in future.

29. **Disposed of.**

(MOHAMMAD YOUSUF WANI)
JUDGE

(RAJNESH OSWAL)
JUDGE

SRINAGAR
10.07.2025
Karam Chand/Secy.

Whether the order is speaking: Yes/No
Whether the order is reportable: Yes/No