

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

Reserved on: 13.10.2025

Pronounced on: 30.10.2025

Uploaded on: 30.10.2025

*Whether the operative part or full
judgment is pronounced: **Full Judgment***

CJ Court

WP(C) No.2431/2025

Government of J&K & Ors.

...(S)/Appellant(s)

Through: - Mr. Waseem Gul, Advocate.

Vs.

Irshad Ahmad Najar.

...RESPONDENT(S)

Through: - Mr. Nisar Ahmad Bhat, Advocate.

**CORAM: HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE RAJNESH OSWAL, JUDGE**

JUDGMENT

OSWAL 'J'

- 1)** Heard learned counsel for the parties.
- 2)** Pursuant to Advertisement Notice dated 11.11.2022, the respondent applied for the post of Junior Engineer (Civil) in Public Works Department under Other Social Caste Category (OSC). Admittedly, he applied before the cutoff date i.e. 20.12.2022 and along with his application, in order to support his candidature under OSC category, the respondent had annexed the OSC category certificate dated 09.03.2017

issued by Tehsildar, Lolab, Sogam. Provisional Select List was issued and name of the respondent figured at serial No.7, but he was not recommended for appointment by petitioner No.2 due to absence of valid OSC certificate issued by the competent authority.

3) Aggrieved of the withholding of his recommendation by the petitioner No.2, the respondent filed O.A. No.1031/2023 before the Central Administrative Tribunal, Srinagar (for short “the Tribunal”) and the learned Tribunal vide order dated 22.12.2023, directed the petitioners to consider the claim of the respondent in accordance with law. In compliance thereof, the petitioners issued an order dated 16.07.2024, thereby rejecting the claim of the respondent on the premise that the OSC certificate submitted by him had expired on 08.02.2022 and that he failed to submit a valid OSC certificate before the cutoff date as mentioned above.

4) Dissatisfied with the aforesaid order dated 16.07.2024, the respondent filed yet another O.A. bearing No.506/2024 on the ground that the OSC certificate dated 09.03.2017 issued in his favour by Tehsildar concerned did not mention any expiry date and the caste, which, admittedly, falls in OSC category, was acquired by him by birth and not by any action/effort on his part subsequent to his birth. The

respondent also submitted a fresh OSC certificate dated 15.12.2023 with the petitioners.

5) The claim of the respondent was objected to by the petitioners on the grounds that he did not submit a valid OSC certificate before the cutoff date and, as such, his candidature was rightly rejected. In fact, the petitioners made the order dated 16.07.2024 as a base to object the claim of the respondent.

6) The objections raised by the petitioners to reject the candidature of the respondent did not find favour with the learned Tribunal, as vide order 22.05.2025, the learned Tribunal allowed the O.A. Nos.506/2024 and 1031/2023, thereby setting aside order dated 16.07.2024 and directed the petitioner No.2 and 3 to accept the OSC certificate submitted by the respondent and proceed to recommend his name to the intending department for appointment under the OSC category.

7) Aggrieved of the order dated 22.05.2025 passed by the learned Tribunal, the petitioners have come up with the instant writ petition for quashing the same on the similar grounds as were urged before the learned Tribunal. In addition, it has been submitted by the petitioners that the judgment of this Court in the case of **Saima Ashraf vs. UT of**

J&K and others” pertains to domicile certificates whereas in the instant case, issue of Social Caste (OSC) certificate is involved, wherein annual income is required to be considered before issuance of any such certificate, and as such, the judgment in **Saima Ashraf’s** case cannot form the basis for accepting the OSC certificate submitted by the respondent.

8) A perusal of the record reveals that the certificate dated 09.03.2017 issued in favour of the respondent by Tehsildar concerned does not mention that the same was valid for five years, however, the format of the certificate i.e. Form-X appended to Reservation rules, 2005 lays down the validity of certificate as five years. It is equally true that the benefit of reservation is available to the candidates belonging to OSC category provided their income falls below the limit prescribed under the Act. However, it goes without saying that the caste is a trait of an individual which he has acquired by birth and not by any of his actions/efforts. As a matter of fact, the petitioners have not at all disputed the status of the respondent as a member of OSC category. Their only basis for rejection of candidature of respondent is that the certificate issued in his favour had expired earlier. This is also admitted by the petitioners that the respondent had furnished the certificate dated 15.12.2023 and they have also contended that income was also one of the criteria for issuing/declining

OSC certificate in favour of a candidate claiming the benefit of reservation.

9) Rule 22 of the Reservation Rules, 2005, provides that the annual income of a person claiming benefit under these Rules shall be assessed by taking into account the average of the gross income of last three consecutive years excluding the agricultural income.

10) The certificate dated 15.12.2023 has been issued in favour of the respondent on the basis of mechanism for calculation of income as mentioned above. In this context, it would be apposite to take note of the judgment of the Hon'ble Supreme Court in the case titled **Ram Kumar Gijroya vs. Delhi Subordinate Services Selection Board and Ors.** (2016) 4 SCC 754, wherein it has been observed as under:

(15) "Reservation is one of the measures adopted by the Constitution to remedy the continuing evil effects of prior inequities stemming from discriminatory practices against various classes of people which have resulted in their social, educational and economic backwardness. Reservation is meant to be addressed to the present social, educational and economic backwardness caused by purposeful societal discrimination. To attack the continuing ill effects and perpetuation of such injustice, the Constitution permits and empowers the State to adopt corrective devices everwhen they have discriminatory and exclusionary effects. Any such measure, insofar as one group is preferred to the exclusion of another, must necessarily be narrowly tailored to the achievement of the fundamental constitutional goal."

Thus in order to be considered for the post reserved for SC category, the requirement is that a

person should belong to SC category. If a person is SC, he is so by birth and not by acquisition of this category because of any other event happening at a later stage. A certificate issued by competent authority to this effect is only an affirmation of fact which is already in existence. The purpose of such certificate is to enable the authorities to believe in the assertion of the candidate that he belongs to SC category and act thereon by giving the benefit to such candidate for his belonging to SC category. It is not that petitioners did not belong to SC category prior to 30-6-1998 or that they acquired the status of being SC only on the date of issuance of the certificate. In view of this position, necessitating upon a certificate dated prior to 30-6-1998 would be clearly arbitrary and it has no rational objective sought to be achieved.

(16) While taking a particular view in such matters one has to keep in mind the objectives behind the post of SC and ST categories as per constitutional mandate prescribed in Articles 15(4) and 16(4), which are enabling provisions authorising the Government to make special provisions for the persons of SC and ST categories. Articles 15(4) and 16(4), therefore, intend to remove social and economic inequality to make equal opportunities available in reality. Social and economic justice is a right enshrined for protection of society. The right in social and economic justice envisaged in the Preamble and elongated in the fundamental rights and directive principles of the Constitution, in particular Articles 14, 15, 16, 21, 38, 39 and 46, are to make the quality of the life of the poor, disadvantaged and disabled citizens of the society meaningful.

(17) This Court, after interpretation of Articles 14, 15, 16 and 39-A of the directive principles of State policy, held that **the object of providing reservation to the SCs/STs and educationally and socially backward classes of the society is to remove inequality in public employment, as candidates belonging to these categories are unable to compete with the candidates belonging to the general category as a result of facing centuries of oppression and deprivation of opportunity. The constitutional concept of reservation envisaged in the Preamble of the Constitution as well as Articles 14, 15, 16 and 39-A of the directive principles of State policy is to achieve the concept of giving equal opportunity to all sections of the society.**

(emphasis added)

11) The learned Tribunal, after taking note of the judgment (supra) of the Hon'ble supreme Court and other judgments passed by this Court, has passed the impugned order. The respondent belongs to OSC category and though the OSC category certificate annexed by the respondent at the time of submission of his application form had expired but certificate dated 15.12.2023 is only a recognition of the fact that the respondent belongs to OSC category having the annual income as prescribed under rules. The petitioners have not disputed the genuineness of both the certificates submitted by the respondent and, as such, the view taken by the learned Tribunal is unexceptionable.

12) The learned Tribunal has passed the order impugned in accordance with law and there is hardly any reason for us to interfere with the same. The writ petition is found to be misconceived and is dismissed accordingly along with connected CM(s).

(RAJNESH OSWAL)
JUDGE

(ARUN PALLI)
CHIEF JUSTICE

Srinagar
30.10.2025
"Bhat Altaf"

<i>Whether the Judgment is speaking:</i>	Yes
<i>Whether the judgment is reportable:</i>	Yes