
(2022) 09 CAT CK 0004
In the Central Administrative Tribunal
Case No : Original Application No. 258 Of 2021

Abhiv Koul

APPELLANT

Vs

Union Territory Of J&K & Others

RESPONDENT

Date of Decision : 05-09-2022

Acts Referred:

Jammu & Kashmir Reservation Rules, 2005 — Rule 21

Citation : (2022) 09 CAT CK 0004

Hon'ble Judges : Anand Mathur, Member (A), D. S. Mahra, Member (J)

Bench : Division Bench

Advocate : Shuja Ul Haq, Bikramdeep Singh

Final Decision : Disposed Of

Judgement

D.S. Mahra, Member (J)

1. Mr. Shuja Ul Haq, learned counsel for the applicant and Mr. B.D. Singh, learned counsel for the Respondents were present.

2.1 Mr. Shuja Ul Haq, learned counsel for the applicants submits that the applicants have filed the present OA challenging the order no. 36 SSB of 2021 dated 22.01.2021 issued by respondent no. 4 whereby the selection of the applicants against the post of VLW District Cadre Budgam under RBA category has been cancelled/withdrawn ab-initio.

2.2 He further submits that the applicant along with his brother are permanent residents of the area which was declared as backward area and owing to the migration of Kashmiri Pandits from the valley in 1990, the family of the applicant also migrated to Jammu. The father of the applicant possessed RBA certificate and on the basis of being permanent residents of backward area, it was in the year 2011 that the applicant along with his brother applied for issuance of RBA certificate. When the RBA certificate was not issued in the favour of the applicant despite completing all the formalities, the applicant along with his brother filed a Writ petition OWP No. 316/2015 before the Hon'ble High Court at Jammu. The

Hon'ble High Court passed an Interim order on 20th March 2015 whereby the relief and rehabilitation Commissioner was directed to process the case of Applicant for grant of Resident of Backward Area Certificate with promptitude so that they are not deprived of the benefits for the current academic session.

2.3 Learned Counsel for the Applicants submits that during the pendency of the Writ petition OWP No. 316/2015, an advertisement notice No. 04 of 2017 was issued by J&K SSRB for various posts including four posts of village level workers under Prime Minister's package for Kashmiri Migrants. The applicant and his brother applied for the said posts under RBA category but owing to the Non issuance of RBA certificate, the applicant along with his brother approached the Hon'ble High Court at Jammu and filed a Writ Petition SWP No. 1301/2018. Hon'ble High Court of Jammu passed an Interim order on 07/07/2018 that Respondents will reserve two posts of Village Level Workers till the disposal of the Writ Petition.

2.4 Learned Counsel for the Applicants further submits that during the course of pendency of the Writ Petition, SRO 321 of 2019 dated 27th May 2019 was issued by Social Welfare Department, whereby amendment/substitution in Clause III of Rule 21 of J&K Reservation Rules, 2005 was made and subsequently RBA certificate was issued in favour of the applicant on 8th June 2019.

2.5 In the meantime, Hon'ble High Court at Jammu disposed on 18th October 2019 with the direction to the respondent to recommend the name of applicant for appointment as Village Level Worker under RBA certificate on the basis of Merit secured by him in the selection process, provided he falls within the merit and having regard to RBA certificate issued in his favour by Relief and Rehabilitation Commissioner Jammu. The Hon'ble High Court passed the following order.

".....in the given circumstances and facts of the case I have bestowed my thoughtful consideration and deem it appropriate to dispose off this petition and as such, same is, disposed off, by directing the respondent No. 3 Board to recommend the name of petitioner for appointment as Village Level Worker under RBA category on the basis of merit secured by him in the selection process, provided he falls within the merit and having regard to RBA certificate, issued in his favour by respondent No. 2. Let this exercise be taken by Respondent No. 3 within a period of One Month from today and thereafter Respondent No. 1 and 2 shall process for issuance of the formal appointment order in favour of the petitioner within a period of two weeks".

3. Learned Counsel for the respondents denied the stand of the applicant and contended that the respondents advertised various posts including the post of Village Level Worker, Rural Development Department, District Cadre Budgam vide advertisement Notice No. 04 of 2017 item No. 73 under Prime Minister's package for Kashmiri Migrants with the break up:- 02 posts for Open Merit (OM), 01 post for RBA and 01 post for SC. He further, submits that after completion of

the Selection process, selection list was issued and forwarded the same to the indenting department vide Communication No. SSB/SECY/SEL/ 101/2019/ 2985-91 dated 10th May 2019.

4. The Learned Counsel for the applicants submits that when Hon'ble High Court at Jammu had already reserved two posts as Interim order on 6th July 2018 for the applicants till the disposal of the Writ Petition and disposed the Writ petition on 18th October 2019 by allowing the applicants for the appointment, the Respondents should not have finalized the selection list on 10th May 2019. He further submits that in terms of Judgment dated 18th October 2019, the J&K SSB was directed to complete the process of selection and appointment of the applicants within a period of one month but J&K SSB sat over the matter in March 2020, J&K SSB issued part selection list in respect of RBA category for the post of Village Level Worker vide Notification dated 6th March 2020 and in the said notification, the recommendation in respect of the applicants was shown to have been withheld subject to production of the RBA certificate.

5. Learned Counsel for the Applicants submits that when all the issues regarding the date of issuance of RBA certificate in favour of the Applicant on 8th June 2019 have been clearly dealt with the Hon'ble High Court at Jammu in its Judgment, there was no occasion for the respondents to declare the applicant ineligible on the ground that he had obtained RBA certificate on 8th June 2019 after the cut off date. This stand taken by the respondents is as glaring example of over reaching the orders of the Hon'ble High Court and pushing the candidates to unnecessary litigation.

6. Heard Learned Counsel for both the parties and perceived the pleadings available on record.

7. It has been brought out that in the selection list of candidates for the post of Village Level Workers (Department of Disaster Management Relief, Rehabilitation and Reconstruction) District Cadre Budgam Item No. 73 04 of 2017 dated 28th November 2017 against the left out posts in RBA category it has been mentioned as "Recommendation withheld subject to production of valid within date RBA category certificate in the reference of the applicant".

8. As per the documents submitted by the applicant, we find that two applicants Mr. Jaipal Singh and Mr. Satish Kumar Sharma have produced the RBA certificate on/after 16th August 2019 and 8th June 2019 respectively after the cut off date.

9. In view of above & as per order of the Hon'ble High Court of Jammu dated 18/10/2019, the O.A. is allowed and respondents are directed to consider the RBA certificate submitted by the applicant and are directed to issue the appointment order in favour of the Applicant as Village Level Worker under RBA category on the basis of merit secured by the applicant in the selection process. This exercise shall be completed within two weeks from the date of receipt of a certified copy of this order.

10. O.A. No. 258/2021 is disposed off accordingly.

Parties are directed to bear their own costs.