

GOVERNMENT OF JAMMU AND KASHMIR  
**JAMMU AND KASHMIR SERVICES SELECTION BOARD**  
CPO Chowk, Panjtirthi, Jammu / Zamzam Complex, Rambagh, Srinagar  
(www.jkssb.nic.in)

Order No: 249 - SSB of 2024  
Dated: 02.07.2024

**Subject: CCP(S) No. 396/2020 in SWP No. 124/2013 titled  
*Haseena Akhter vs UT of Jammu and Kashmir and Ors.***

Whereas, the Jammu and Kashmir Services Selection Board (JKSSB), vide Advertisement Notification No. 07 of 2010, advertised 139 posts of Teacher in School Education Department for District Cadre, Pulwama, under Item No. 382; and

Whereas, out of these 139 advertised posts, 02 posts were earmarked for Other Social Caste (OSC) category; and

Whereas, the JKSSB issued the Provisional Selection List of candidates, wherein one candidate namely **Bilal Ahmad Kumar** was selected under OM/OSC category at Serial No. 28, with **59.01 points**, including the additional weightage of 02 points in respect of his M. Phil Degree obtained from Singhania University, with the remarks that the selection is subject to the production of Bonafide Certificate of M.Phil from Singhania University as per the proforma devised by the JKSSB; and

Whereas, the JKSSB issued a Final Selection List and forwarded the same to the indenting Department vide letter No. SSB/Sel/Secy/012/2137-39 dated 08.08.2012, in which **Bilal Ahmad Kumar** was shown to have been selected at Serial No. 01 under OSC category with **57.01 points**, subtracting the weightage awarded to him for his M. Phil Degree as was previously shown in Merit List; and

Whereas, on the other hand, the petitioner namely **Haseena Akhter** was positioned at Serial No. 01 in the Waiting List under OSC category with total of **55.26 points**; and

Whereas, aggrieved of deduction of additional weightage of 02 points allotted to him against his M. Phil. Degree, Bilal Ahmad Kumar represented before the Board on 15.10.2012, with the request that two points of his M. Phil Degree may be awarded to him and consequently be placed under Open Merit; and

Whereas, the representation submitted by **Mr. Bilal Ahmad Kumar** was placed before the Board in its **90<sup>th</sup> Meeting** for deliberations, which decided to accord consideration to the said representation submitted by Mr. Bilal Ahmad Kumar; and





Whereas, accordingly, the Convener of the Selection Committee was directed to place the candidate at his appropriate place, subsequent to the addition of 02 points of M. Phil degree in his favour, in case degree acquired by the candidate was through regular mode; and

Whereas, two points of M. Phil Degree, however, were not awarded to the candidate namely Mr. Bilal Ahmad Kumar, as a result he continued to figure in the OSC Category; and

Whereas, the petitioner in the instant petition has challenged the Selection List before the Hon'ble High Court of Jammu & Kashmir in SWP No. 1224/2013 and upon consideration of the matter on 18.09.2019, the Hon'ble Court was pleased to pass the following orders:

***"...In view of foregoing, the petition succeeds. The selection and appointment of respondent no.6 as Teacher in District Cadre Pulwama under Open Merit Category, is held to be bad in law and accordingly, quashed. Respondent no.5 shall be deemed to have been selected at Serial no.26 of the Open Merit Category in the Final Select List of Teachers for District Cadre Pulwama, and petitioner at Serial No.02 in the OSC Category. Let respondent no.2 revise the Select List and recommend the candidature of petitioner for appointment under OSC Category within a period of four weeks from the date certified copy of this judgement is served upon respondent No.2. Respondent No.1 on receipt of recommendation from respondent No.2 shall forthwith issue appointment order in favour of petitioner as a Teacher in District Cadre Pulwama preferably within a period of four weeks from the date of receipt of recommendations. Needless to say that the appointment of petitioner shall be made retrospectively – from the date the other candidates in OSC Category were selected/ appointed. It is made clear here that the appointment of petitioner retrospectively shall be notional. The monetary benefit, however, shall be available to the petitioner prospectively, with effect from the issuance of appointment order.***

***It may, however, be further clarified that if respondents are in a position to accommodate the petitioner against some available vacancy, quashment of selection and appointment of respondent no.6 may not be given effect to.***

***Before parting with the judgement, I would also like to direct the Commissioner/Secretary to Government, General Administration Department, J&K, to initiate appropriate departmental action against the then Secretary of the J&K Services Selection Board, who is prima facie found to have***

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***manipulated the selection of respondent No.6 and deprived the petitioner of his due right to be selected under OSC Category."***

Whereas, JKSSB, vide letter No. SSB/H-3/13/2205/19 dated 09.12.2019, followed by letter dated 16.03.2020, requested the General Administration Department to take up the matter with Department of Law, Justice & Parliamentary Affairs for the purpose of obtaining sanction in order to file an appeal against the Judgment dated 18.09.2019, passed by the Hon'ble High Court of Jammu and Kashmir at Srinagar; and

Whereas, the General Administration Department vide letter No. GAD(Legal) F-371/2019/428 dated 17.09.2020, conveyed the advice tendered by the Department of Law, Justice & Parliamentary Affairs reproduced as under:

***"Returned. The Department is advised to satisfy the grounds for assailing the writ court judgment dated 18.09.2019 in LPA."***

Whereas, the issue was again placed before the Board in its 179<sup>th</sup> meeting held on 03.02.2021, where-under it was observed that no cogent grounds are forthcoming for assailing the judgment dated 18.09.2019, of the Hon'ble High Court of Jammu and Kashmir before the next higher forum; and

Whereas, in the meantime, the petitioner also filed Contempt Petition before the Hon'ble High Court and the Board decided to implement the judgment dated 18.09.2019, after seeking the approval of General Administration Department. The said decision of the Board was communicated to GAD vide letter No. SSB/Legal/H3/2013/539/21 dated 06.04.2021; and

Whereas, the GAD, vide letter No. GAD-LEG/80/2021-09GAD dated 28.07.2021, advised the Board to furnish its clear view on the possible impact on the similarly situated cases in case the instant judgment is implemented; and

Whereas, in reply to communication dated 28.07.2021, the JKSSB furnished its views vide communication dated 13.09.2021 and in response to the same, the GAD vide communication No. GADLEG/50/2021-09-GAD dated 27.10.2021, conveyed the opinion of the Department of Law Justice and Parliamentary affairs as under:

***"Lest the judgment of Hon'ble Court is challenged, it is required to be implemented in letter and Spirit. In the present case, the Board in its meeting dated 06.04.2021 has decided to implement the judgment and have informed that it will not have any bearing on any other case. As such, there is no legal impediment in case judgment is implemented in view of Board decision."***

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Whereas, matter was again placed before the Board in its meeting held on 26.05.2022 for consideration, where-under it was decided that the School Education Department may be requested to intimate whether any post under Open Merit is available in District Cadre, Pulwama, so that Respondent No. 06 namely Waseem Bari does not get excluded in case the petitioner is selected at Serial No. 02 in OSC category, in terms of Judgement of the Hon'ble High Court, and in case the same is not available, one post may be identified in order to implement the judgment; and However, School Education Department has cautioned that post cannot be utilized; and

Whereas, pursuant to the decision of the Board on 26.05.2022, the matter was taken up with the School Education Department vide letter dated 20.07.2022, which, vide letter dated 15.05.2023, has forwarded a communication received from the Directorate of School Education Kashmir which may inter-alia read as under:

***"As reported by Chief Education Officer Pulwama, the post of teacher in OM category under Item No.382 Advertisement No.07 of 2010 dated 12.11.2010 is not available. However, a post of teacher is vacant at UPS Dalipora due to retirement of Manzoor Ahmad Bhat Teacher. Furthermore, the fact of the matter is that the teacher vacancies are being utilized for drawl of salaries of Teacher Grade-II."***

Whereas, the School Education Department expressed its inability in sparing a post for the petitioner; and

Whereas, the matter was again placed before the Board in its 229<sup>th</sup> meeting held on 16.06.2023, which noted that the judgement in the instant case has attained finality and, accordingly, decided as under:

***"The matter was deliberated in the Board and it was observed that it would not be advisable to sit over the judicial determination, and the Board shall implement the judgment dated 18.09.2019 passed in SWP No. 1224/2013 by recommending the petitioner to the indenting department."***

Whereas, in view of Administrative Council (AC) Decision regarding withdrawal of posts, it was found appropriate to discuss the matter further in the Board, as such the matter was again discussed in the Board in its 268<sup>th</sup> meeting held on 02.05.2024, and accordingly, it was decided as under:

***"The Board noted that the matter was earlier deliberated in 229th meeting held on 16.06.2023."***

***However, in view of the Administrative Council Decision No. 1/1/2022 dated 29.01.2022, regarding the withdrawal of posts, the issue was again deliberated for further consideration. The Board was of the unanimous view that the instant case is not***

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**covered by the said Administrative Council Decision. Besides, in light of the status report filed by the Board, before the Hon'ble Court, whereunder reference of 179th Board Meeting was invited in which a decision was taken to implement the Order of the Hon'ble Court, of-course subsequent to the approval by the General Administration Department. The GAD has conveyed the opinion/ advice tendered by the Department of Law, Justice and Parliamentary Affairs vide communication dated 27.10.2021 indicating therein that there is no legal impediment in case judgement is implemented in view of the Board Decision.**

**In view of impending contempt proceedings before the Hon'ble High Court of Jammu and Kashmir & Ladakh in CCP(S) 396/2020 titled Haseena Akhter vs Asgar Samoon and Ors., the decision taken by the Board in its 229th meeting held on 16.06.2023 was reiterated and it was decided that the judgement dated 18.09.2019 passed in SWP No. 1224/2013 titled Haseena Akhter vs State of Jammu and Kashmir & Others shall be implemented forthwith and without any further delay."**

Now, therefore, in view of above & having regard to the Order dated 18.09.2019, passed by the Hon'ble High Court of Jammu & Kashmir and Ladakh at Srinagar, impending contempt proceedings and decision taken by the Board, two points are awarded to the Respondent No. 05 (Bilal Ahmad Kumar) and he is deemed to have been selected at Serial No. 26 in Open Merit (OM) below Bilal Ahmad Dar, figuring at Serial No. 25 and above Yasmeena Yaqoob, who shall now figure at Serial No. 27 so on and so forth in the Selection List notified vide No. SSB/Sel/Secy/012/2137-39 dated 08.08.2012, and the petitioner namely Haseena Akhter is hereby recommended for appointment for the post of Teacher, District Cadre, Pulwama at Serial No. 02 under OSC category, below Wahid Ud Din Ahanger, against Item No. 382, Advertisement No. 07 of 2010 dated 12.11.2010 .

**By Order**

  
**Secretary**  
**J&K Services Selection Board**  
Dated: 02.07.2024

No: JKSSB/1/2022-05 (E-137537) | 804-807



Copy to the:

1. Principal Secretary to the Government, School Education Department.
2. Director, School Education, Kashmir.
3. Private Secretary to the Chairman, J&K Services Selection Board.
4. Office Order file.