

GOVERNMENT OF JAMMU AND KASHMIR
J&K SERVICES SELECTION BOARD,
CPO CHOWK, PANJTIRTHI, JAMMU ZAM ZAM COMPLEX RAMBAGH
SRINAGAR
(www.jkssb.nic.in)

Order No : 142 -SSB of 2025

Dated: 07.05.2025

Sub: TA 6712/2020 in SWP 2616/2016 titled Sameer Hussain Vs State of J&K and Ors-consideration thereof.

Whereas, the J&K Services Selection Board advertised various posts including the posts of Technician-III in the Power Development Department, District Cadre Doda in pursuance to advertisement no. 03 of 2012 dated 28.12.2012 under item no. 365 with the following breakup (**OM=01, Total=01**) and 04 of 2013 dated 23.02.2013 under item no. 328 with the following breakup (**OM=20, RBA=07, ST=03, CT=03, ALC=01, Total =34**); and

Whereas, the prescribed qualification for the above said post is ***"Matric with ITI in the relevant trade"*** and the criteria adopted by the Board is ***"Marks obtained in the written test out of 150 marks to be proportionately converted into points (=80 points) and viva voce = 20 points."***

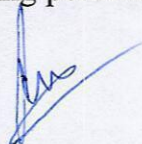
Whereas, the applicant competed in the selection process and scored **41.0667** marks in the written examination and was called for interview/viva-voce but remained **"Absent"** on the scheduled date for interview; and

Whereas, feeling aggrieved, the applicant approached the Hon'ble High Court by filing SWP 847/2015 which was disposed of by the Hon'ble High Court vide order dated 20.03.2015 with the following operative directions:

"...To respondent-Service Selection Board to hold viva voce of the petitioner on any convenient date during interview process..."

Whereas, in compliance to the order passed by the Hon'ble High Court, the petitioner was allowed to participate in the interview process and scored **47.7333** but the petitioner was declared **"Not Eligible"** as he possesses ***"Diploma in Electrical Engineering"*** but the requisite qualification for the aforesaid post as per Indent/Advertisement notice is ***Matric with ITI in the relevant trade***; and

Whereas, the petitioner again filed SWP 1816/2016 seeking directions for treating petitioner eligible for the post of Technician-III, District Cadre Doda and to



select and appoint the petitioner in accordance with the merit obtained by him in the selection process; and

Whereas, the Hon'ble High Court vide its interim order dated 02.09.2016 passed the following operative directions:

"...The respondents shall consider the representation filed by the petitioner in light of the judgments on which the petitioner has placed reliance by passing a speaking order..."

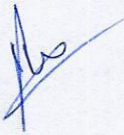
Whereas, the petitioner again filed SWP 2616/2016 titled Sameer Hussain Vs State and Ors, wherein the Hon'ble High Court vide interim order dated 09.12.2016 directed as under:

"... One vacancy in open merit against which no selection is said to have been made due to non-availability of a suitable candidate, be not put to further selection process..."

Whereas, the J&K Services Selection Board after completion of the selection process issued the Selection list and forwarded the select list to the Indenting Department vide communication no. SSB/Secy/Sel/2016/20624-630 dated 02.12.2016; and

Whereas, the SWP 2616/2016 was transferred to the Hon'ble CAT, Jammu bench as TA 6712/2020 and was disposed of by the Hon'ble Tribunal vide order dated 03.10.2024 with the following operative directions:

"...Accordingly, the Transferred Application is disposed of with a direction to Respondents No. 2 and 3 to treat this T.A. as representation of the applicant and decide the case of the applicant in the light of Judgment dated 13.03.2002 (Annexure-L) passed by the Hon'ble Apex Court in the case of "Jyoti K.K. Vs. Kerala Public Service Commission", which has subsequently been followed by judgment dated 13.12.2007 passed by the Hon'ble High Court of J&K in case Titled "S. Gurmeet Singh and others Vs. State of J&K and others" and also in the case of Ajay Kumar Uttam Vs. State of J&K and others. Before passing any order, Respondents shall also take note of the communication dated 05.10.2016 of Directorate of Technical Education, J&K Srinagar (Annexure-K) written in response to an application filed by the applicant under RTI Act and decide the case of the applicant by passing a reasoned and speaking order and if the applicant is covered under these judgments, the same relief must be granted to the applicant..."



Whereas, in view of order dated 03.10.2024 passed by the Hon'ble Tribunal, the matter was placed in 294th Board Meeting and the decision of the Board is reproduced as under:

"The Board deliberated the matter in light of judgment passed by the Hon'ble CAT Jammu and decided that the Additional Secretary JKSSB in consultation with Legal Section shall re-examine the case and place the matter in the next Board meeting for final decision in the case."

Whereas, the matter was examined by Additional Secretary in consultation with the Legal Section and the opinion is reproduced as under:

"It is pertinent to mention that the Hon'ble Supreme Court vide its judgment dated 5th of December, 2018 passed in Civil Appeal Nos 11853-11854 of 2018 titled 'Zahoor Ahmad Rather & others v/s Sheikh Imtiyaz Ahmad & others' while upholding the decision of the J&K Services Selection Board held that in absence of prescribed qualification, appellants cannot be held eligible. The Hon'ble Apex Court in aforesaid judgment has also ruled that possession of higher qualification does not pre-suppose acquisition of lower qualification. It was further held that the prescription of qualifications for a post is a matter of recruitment policy."

That in view of the Judgment of the Hon'ble Supreme Court the issue stands addressed and a candidate possessing higher qualification does not ipso facto mean occupation of the lower qualification. The candidate must possess the qualification as prescribed under the recruitment rules/indent and in the present case the applicant did not possess the requisite qualification."

We may, if agreed, pass a detailed speaking order. The matter may kindly be placed before the next Board meeting discussion/deliberations."

Whereas, the matter was again placed in 300th Board Meeting and the decision of the Board is reproduced as under:

"The matter was discussed in the Board and after due deliberation, the Board unanimously accepted the recommendation of Additional Secretary JKSSB, that the case of the applicant shall be considered in light of directions passed by the Hon'ble CAT Jammu and also the latest judgment/law laid down by the Hon'ble Supreme Court of India in Civil Appeal Nos 11853-11854 of 2018 titled 'Zahoor Ahmad Rather and others Vs Sheikh Imtiyaz Ahmad and others' by passing a detailed speaking order."

Whereas, the relevant judgments(K.K Jyoti Vs kerala PSC , S. Gurmeet Singh Vs State and Ajay Kumar uttam Vs State) has been considered wherein the Hon'ble Supreme Court in KK Jyoti had observed that, "It is no doubt true, as stated by the



High Court that when a qualification has been set out under the relevant Rules, the same cannot be in any manner whittled down and a different qualification cannot be adopted. The High Court is also justified in stating that the higher qualification must clearly indicate or presuppose the acquisition of the lower qualification prescribed for that post in order to attract that part of the Rule to the effect that such of those higher qualifications which presuppose the acquisition of the lower qualifications prescribed for the post shall also be sufficient for the post. If a person has acquired higher qualifications in the same faculty, such qualification can certainly be stated to presuppose the acquisition of the lower qualifications prescribed for the post.In this case we are not concerned with the question whether all those who possess such qualifications could have applied or not. When statutory Rules have been published and those Rules are applicable, it presupposes that everyone concerned with such appointments will be aware of such Rules or make himself aware of the Rules before making appropriate applications. The High Court, therefore, is not justified in holding that recruitment of appellants would amount to fraud on the public. However, we must notice one aspect of the matter. The Diploma holders who had been selected by the Public Service Commission have already been appointed and, therefore, it would not be appropriate for us to disturb those appointments. They shall continue in such appointments. Such of those eligible Degree holders who fulfil the qualifications referred to above and found suitable to be appointed shall be appointed taking note of the vacancies which are available within a period of three months from the date of receipt of this order.

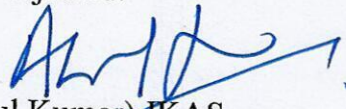
Whereas the case of the present applicant cannot be equated and is totally different with the aforesaid judgment, as the applicant was declared NOT ELIGIBLE by the selection committee during the selection process and was never selected by the recruiting agency; and

Whereas, the Hon'ble Supreme Court vide its judgment dated 5 of December, 2018 passed in Civil Appeal Nos 11853-11854 of 2018 titled 'Zahoor Ahmad Rather & others v/s Sheikh Imtiyaz Ahmad & others' while upholding the decision of the J&K Services Selection Board held that in absence of prescribed qualification, appellants cannot be held eligible. The Hon'ble Apex Court in aforesaid judgment has also ruled that possession of higher qualification does not pre-suppose acquisition of lower qualification. It was further held that the prescription of qualifications for a post is a matter of recruitment policy. That in view of the Judgment of the Hon'ble Supreme Court the issue stands addressed and a candidate possessing higher qualification does not ipso facto mean occupation of the lower qualification. The candidate must possess the qualification as prescribed under the recruitment rules/indent and in the present case the applicant did not possess the requisite qualification.



Now, therefore, in view of above stated facts of the case and in compliance to the Order dated- 03.10.2024 passed by the Hon'ble Tribunal Jammu, the case of the applicant has been considered and found devoid of any merit, hence rejected.

By Order.


(Atul Kumar) JKAS

Secretary

J&K Services Selection Board

No.: JKSSB-LEG/(E-7334495) / 770-02

 Dated: 07.05.2025

Copy to the:

1. Principal Secretary to the Government, Power Development Department, Civil Secretariat, J&K, Jammu for kind information.
2. Ld. Counsel, J&K Services Selection Board.
3. Private Secretary to Chairperson, JKSSB, for the information of the Chairperson.
4. Applicant concerned.
5. Order File.