

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: 288-SSB of 2024
Dated: 07.08.2024

Subject: OA No. 704/2023 titled Sameer Ahmad Ahanger vs Union Territory of Jammu & Kashmir & Ors. – Consideration order thereof.

Whereas, the applicant filed an Original Application (OA), bearing No. 704/2023 before the Hon'ble Central Administrative Tribunal (CAT), Srinagar Bench, and the Hon'ble CAT upon consideration of the matter on 06.09.2023, was pleased to pass an order, the operative portion whereof, is reproduced as under:

"In the meantime, respondents are directed to consider the grievance of the applicant in accordance with rules governing the subject by passing a speaking order and in the process, the applicant shall be given the opportunity of hearing to project his case."

Whereas, with due deference to the order dated 06.09.2023 passed by the Hon'ble CAT, Srinagar Bench the case of the applicant has been examined and the factual position which has emerged is noted as under:

- a) The Jammu and Kashmir Services Selection Board (JKSSB), vide Notification No. 02 of 2021 dated 23.06.2021, advertised various posts including the 1 post of **CSSD Assistant**, Health and Medical Education Department under Item No. 224, GMC Srinagar, Divisional Cadre Kashmir.
- b) That the prescribed qualification for the post of C.S.S.D Assistant advertised under Item No. 224, Division Cadre Kashmir as per advertisement notification was laid down as under:

"10+2 or above with diploma in Medical Assistant and one year training course in CSSD from recognized institute."

- c) That the applicant among others also applied for the said post and appeared in the Computer Based Test (CBT) examination held for the same by the JKSSB.
- d) That the JKSSB vide Notification No. JKSSB/Sel/Secy/2023/731-40 dated 19.06.2023 issued the Provisional Selection List for the said post, wherein

the name of the applicant was not figuring, and the following remark was shown against the post:

"Post remained unfilled for want of suitable candidate"

- e) That the candidate, aggrieved of his exclusion from the Provisional Selection List, represented before the Board seeking his inclusion in the Selection List.
- f) Vide Notification No. SSB/SEL/SECY/2023/797-806 dated 14.08.2023 Final Selection List was issued by the Board, whereunder against the name of the applicant following was indicated:

"The candidate namely Mr. Sameer Ahmad Ahanger under OM/RBA category for item No. 224 has submitted two-year diploma in CSSD. As the course pursued by him is of 2 years, instead of one year as prescribed in the indent (10+2 or above with diploma in Medical Assistant and one year training course in CSSD from recognized institute), the Board decided that that the aforementioned candidate does not possess the requisite qualification as per indent and cannot be considered for selection."

- g) That in compliance to the order dated 06.09.2023 passed by the Hon'ble CAT, the candidate vide Notice No. JKSSB-LEG/300/2023-03 (E7293629) dated 11.10.2023 was afforded an opportunity of being heard.
- h) That in response to the same, Mr. Sameer Ahmad Ahanger has submitted as under:
 - i) *That he has been treated arbitrarily by the Board and has used two yard sticks while not considering the undersigned for the post of CSSD Assistant and has selected candidates, having degree in Pharmacy from Universities whereas the notification was for diploma holders in medical assistant, whereas diploma was restricted to state of Jammu and Kashmir only and was being done here only till applicability of central laws and the fact of the matter is that Medical Assistant course was being done in Jammu and Kashmir State only and candidates have been selected showing that they have done course outside State of Jammu and Kashmir which itself raise questions on selection process done by board itself. And when it comes to genuine candidature of undersigned it has been rejected arbitrarily reasons unknown.*
 - ii) *The board has also behaved arbitrarily when they have selected candidates as Theatre Assistants when the indent as per notification*



was 10th with medical assistant which itself was impossible because for the course of Medical Assistant a candidate must have been 10+2 for doing the course despite that board with unknown reasons preferred injustice to undersigned and didn't select him for the relevant post of CSSD when the undersigned was genuinely having diploma in medical assistant + 2 Years Certificate Course in CSSD than one year certificate course which is more effective and undersigned was already qualifying the basic criteria of one year in same field in CSSD having same syllabus.

- iii) That he is having CSSD 02 Years Diploma which is equivalent and qualifying 01 Year Certificate Course in CSSD syllabus more effective manner as the syllabus for one year certificate course as per indent of notification is already covered in CSSD 02 Years Diploma Course. It is worthwhile to mention here that the regulatory authority governing the subject themselves doesn't differentiate between 01 Year CSSD Course and 02 Years Diploma Certificate Course in the same field for the same subject and has been left for the institutions to complete the courses for whatever time duration, they like to complete the courses. Some institutions complete the CSSD courses within one year and some in two years and some three or four years. Thus applicant deserves appointment against the post of CSSD for item no. 226 where no other person is eligible and aren't having certificate course regarding the subject except him.*
- iv) That he has annexed syllabus for 02 Years Diploma Course in CSSD & 01 Year Certificate Course in CSSD which clearly shows that the syllabus for both of them is same and candidate deserves selection and is one and only suitable candidate for the interests of the Government and the department as both the courses are equivalent to each other and there is a norm already adopted before in health and medical education department that when questions or cases like above arises the same have to be dealt with the preposition that candidate having course must be having relevance and equivalent of syllabus up to 60 percent but when it comes to undersigned the subject on which certificate course is in need is having 100 percent relevance and equivalent of syllabus.*
- v) That the undersigned being aggrieved of the selection list went to CAT, Srinagar for the redressal of his grievances and injustice being done to undersigned, the Hon'ble CAT was pleased enough to pass an order in which speaking order was directed to pass and grievances of the undersigned be heard, copy of order annexed with this reply and have been provided already to board.*

Whereas, the issue of eligibility of Degree and Diploma has already been clarified by the Department. The applicant's assertion that degrees acquired by the



candidates from outside the erstwhile State of Jammu and Kashmir (J&K) would otherwise not had been eligible, for the reason, the said course was being done only here in J&K is misplaced and far from reality; while as the applicant himself acquired his Diploma in CSSD Assistant from outside the J&K from Sunrise University Haryana; and

Whereas, the eligibility criteria laid down for the post of CSSD assistant, apart from diploma in medical assistant was one year training course in CSSD assistant, instead of 02 years training course which the candidate is in possession of. In other words, the candidate is not in possession of prescribed qualification. It has been time and again emphasized that higher qualification does not presuppose the acquisition of the prescribed qualification as is the case in the instant matter; and

Whereas, JKSSB is a creation of statute, a subsidiary organization working under the administrative control of General Administrative Department (GAD), as such is under legal obligation to observe the terms and conditions laid down in the indent. JKSSB on its own cannot modify, relax, or add to the qualifications already prescribed; and

Whereas, the syllabi of 2 years training and 1 year training in CSSD assistant, as submitted, being similar is again immaterial for consideration as the same is beyond the scope and jurisdiction of JKSSB; and

Whereas, in the interests of justice and fair play in action, the matter was taken up with the Health and Medical Education Department for clarification; and

Whereas, in response to above, the Health and Medical Education Department forwarded a clarification received from J&K Paramedical/Nursing Council and the same is reproduced as under:

"The JK Para Medical Council is not running the CSSD training course. Hence the clarification cannot be given at this juncture. However, the two years diploma if offered by recognized Institute/University can be taken as higher qualification of one year training course in CSSD. It is pertinent to mention here that the Diploma in CSSD should be verified from the concerned issuing authority/competent authority and other relevant authorities in the first instance before proceeding further in the matter."

Whereas, in light of the clarification received, the matter was again placed before the Board in its 275th Meeting wherein, it was decided as under:

"The Board deliberated the matter and reiterated its decision to reject the candidature of the candidate namely Sameer Ahmad Ahanger for these posts of CSSD Assistant, H&ME Department



as he is in possession of a Two Year Diploma instead of the required One Year Training Course in CSSD.

The Board noted that the Courts in numerous cases have held that the candidates seeking selection for a post must be in possession of the requisite qualification as notified for such posts. Pertinently, in OA No. 1136/2022 titled Mushtaq Ahmad Najar vs UT of J&K & Ors., the Hon'ble CAT, Srinagar, vide its Order dated 08.05.2024, held as under:

'In view of above, since the applicants are not in possession of the essential qualification as prescribed under the Recruitment Rules for the post of Junior Librarian, they are not entitled for the said post though they are in possession of higher qualification and holding Bachelors Degree in Library Science. The essential qualification for the post of Junior Librarian is Certificate Course in Library Science. As such, the applicants are not entitled for any relief...'

It was, accordingly, decided that the case of the candidate shall be rejected by way of a speaking order in compliance to the Order of the Hon'ble CAT, Srinagar passed in Sameer Ahmad Ahanger Vs UT of J&K and Ors."

Now therefore, in view of above, and with due deference to the order dated 01.05.2024 passed by the Hon'ble Central Administrative Tribunal, Srinagar Bench, the case of the applicant upon examination is thoughtfully considered and the same is found devoid of any merit, hence rejected.

By Order


Secretary
J&K Services Selection Board

No: JKSSB-LEG/300/2023-03 (E-7293629) /1014-1017 Dated: 07.08.2024

Copy to the:

1. Secretary to the Government, Health & Medical Education Department, Civil Secretariat, J&K, Jammu/Srinagar.
2. Mr. Rais U Din Ganai, Ld. Deputy Advocate General, JKSSB, for information.
3. In-charge website, JKSSB.
5. Order file.