

**Government of Jammu and Kashmir
Revenue Department
Civil Secretariat, Jammu/Srinagar**

Subject: TA No.7288/2021, titled Zeeshan Nisar Qureshi and others V/s UT of J&K & others .

**Government Order No: 145 -JK(Rev) of 2022
Dated: 29 .07.2022**

Whereas, the Government in the years 2002, 2005 and 2008 referred **111 posts** of Naib Tehsildars to the Service Selection Board and the Service Selection Board vide advertisement Notices dated **26.02.2002**, **14.12.2005** and **26.05.2008**, advertised all the posts. The written tests for the said posts were conducted by the Service Selection Board on **22.02.2009**, and result of the written test was declared vide Notification published on **21.07.2009**. Candidates who qualified the written test were called for interview. The merit of the last selected candidates notification-wise was determined by the Service Selection Board as under:-

a. Notification No.01 of 2002

OM	83.42
RBA	92.41
SC	94.27
ST	93.60
OSC	101.47
ALC	88.93
HC	89.21

b. Notification No.09 of 2005

OM	97.32
RBA	94.93
SC	95.60
ST	92.75
ALC	99.61

c. Notification No.04 of 2008

OM	90.86
RBA	95.82
SC	93.08
ST	92.79
ALC	99.89

Whereas, against the selection of the candidates, two types of Writ Petitions were filed before the Hon'ble High Court at Jammu and Srinagar Wing. In 1st batch of writ petitions, the question paper set by the Service Selection Board was challenged and the Hon'ble Court vide Judgment dated **31.12.2014**, returned its findings in SWP



No.487/2009 and the 2nd batch of writ petitions were filed against the candidates who were lacking the qualification of "URDU" at matric level but were selected and appointed in relaxation of rules; and

Whereas, both the Judgments stand considered by the Government, vide Government Order No.84-Rev of 2016 dated 30.06.2016 (titled *Inam-ul-Haq Hajam & Ors V/s State of J&K & Ors*) and Government Order No.164-Rev of 2016 dated 10.11.2016 (titled *Hamid-Ullah Dar & Ors V/s State of J&K & Ors*); and

Whereas, IN SWP No. 487/2009, the Hon'ble Court vide Judgment dated **31.12.2014**, directed as under:-

"i) the respondent Board shall delete 23 questions i.e. question nos.3, 9, 31, 32, 35, 42, 47, 52, 64, 70, 71, 80, 83, 84, 95, 105, 106, 107, 109, 111, 113 and 115 from the question paper and thereafter assess and evaluate performance of petitioners in SWP No. 487/2009 and the selected (now appointed) candidates respondents 4 to 110, as if the question paper comprised of 97 questions only. The respondent Board thereafter shall prepare category wise merit list, redraw the select list and recommend the candidates on the bases of merit for appointment as Naib-Tehsildar accordingly. The exercise shall be completed within four weeks from the date of receipt of copy of this judgment.

ii). The respondent No.1 and 2 acting on the recommendations so received shall consider appointment of candidates recommended, thereafter, in accordance with rules within four weeks.

iii). The Selection list date September 8th, 2009 and the appointment order(s) issued on the basis of the selection list to the extent of such of the selectee/appointees who do not find place in the redrawn select list shall stand quashed.

iv). The seniority of such of selectees/appointees (respondents 4 to 110) who find place in the redrawn selection list shall remain unaffected by the exercise to be undertaken by the respondents 1 to 3 in compliance of this judgment".

Whereas, in the said Judgment dated **31.12.2014**, Para 25 reads as under:-

"The Board can be asked to delete 23 questions from the Test Booklet, identified in the writ petition and declared as wrong/vague, with more than one correct answers or the correct answers not tallying with the Answer Key, evaluate merit of the selected candidates and petitioners in the present petition or such of the petitioners who questioned the written test without participating any further in the selection process and before the provisional selection list was issued on 08.09.2009, on the basis of their performance, taking the written test to comprise of 97 questions i.e. 120 questions less by 23 questions, held by the Experts Committee to be wrong/ vague with more than one correct answers or correct answer not tallying with the answer key. Such of the candidates who participated in the selection process after the written test was conducted on 22.02.2009 and questioned the written test thereafter or did not question the written examination,



are to be ignored as they after their failure to question the written examination before participating any further in the selection process or waiting for selection process to get finalized, cannot be allowed to turn around and question the written examination or selection process. This would in tune with law laid down in Romes Chandra Shah and Ors. V/s Anil Joshi and ors. reported in Civil Appeal Nos. 2802-2804 of 2013 decided on 03.04.2013".

Whereas, in SWP No. 1941/2009, the Hon'ble High Court vide judgment dated **19.08.2015**, directed as under:-

"..... for the above stated reasons this writ petition alongwith connected CMP (s) is disposed of in the following manner:-

The official respondents are directed to consider and appoint the petitioners on the posts of Naib Tehsildars against the vacancies which stand already reserved in terms of the Court Orders in these writ petitions. The appointment orders in this behalf be issued within four weeks from the date of copy of this order is served. In case of those of the petitioners who might have crossed the upper age limit for entering into Government Services, it shall be deemed that relaxation is granted in the upper age limit. The petition in his fact situation shall be given all the service benefits including the seniority from the date the private respondents have been appointed in the posts of Naib Tehsildars. The petitioners, however, will not be entitled to any monitory benefits for the period between appointment of private respondents and till the date of their appointments. Besides, this the petitioner in SWP No. 1941/2009, 1820/2009 and 1709/2009 shall also be extended the benefit of Judgment dated 31st December, 2014 passed in SWP No. 487/2009".

Whereas, the Hon'ble Tribunal vide order dated 13.06.2022 has been pleased to direct the respondents to consider the claim of the applicants in light of the writ Petitions and judgment orders thereon and if they are found to be identical then the same benefit may be extended by the respondents to the applicants also provided the case of the applicants is squarely covered by the judgments quoted therein.

Whereas, in pursuance of the above order, the case of the applicants was examined and it was found that in Inam ul Haq's case (SWP No. 1941/2009), the Hon'ble Court vide judgement dated 19.08.2015 directed the respondents to consider and appoint the petitioners on the posts of Naib Tehsildars against the vacancies which stand already reserved in terms of the Court Orders in these writ petitions .

Whereas, the said judgement is judgement *in personam* which explicitly grants relief to only the petitioners therein. The Hon'ble Division bench, vide judgment dated 28.01.2022 in LPASW No. 199/2017 titled Zahid Snobar and another vs State of J&K & Others has observed as follows:-

"From the foregoing enunciation of law on the subject, it is clear that if a judgement does not touch upon the policy matters, it is a judgement in personam. The intention as to whether a judgement is in personam, can be gathered from its language. The judgement in Hamidullah Dar's case is clear example, of a judgement in personam as it does not touch upon



any policy matter. This is clear from the fact that in para(32) of the aforesaid judgement, the direction for appointment is confined to the petitioners and selected candidates only. It does not extend to whole of the merit list. Same is the nature of the judgement passed in Inamul Haq Hajjam's case which explicitly grants relief to only the petitioners therein. Thus, the principles of delay and laches would be applicable with full force to the case of the aforesaid petitioner/appellants."

Whereas, the applicants were not the petitioners in the SWP No. 1941/2009 and other connected cases, therefore, they are not similarly situated as per the petitioners of aforesaid case and are not covered by the judgement/order dated 19.08.2015.

Now, therefore, the case of the applicants in terms of the Hon'ble CAT order dated 13.06.2022, has been considered and it has been found that they are not similarly circumstanced with the case of the petitioners of the batch of writ petitions lead case No. 1941/2009. As such, the claim of the applicants is devoid of any merit and accordingly rejected.

By order of the Government of Jammu and Kashmir.

Sd/-

(Vijay Kumar Bidhuri) IAS

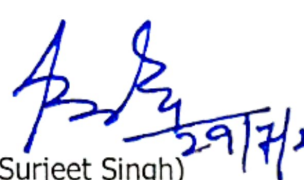
Commissioner/Secretary to the Government

Dated: **29**.07.2022

No.REV-LIT/416/2022- (216769)

Copy to the:

1. Financial Commissioner (Revenue), J&K.
2. Additional Secretary (JKL), Ministry of Home Affairs, GOI, New Delhi.
3. Principal Secretary to Hon'ble Lieutenant Governor, J&K.
4. Principal Secretary to Govt., General Administration Department
5. Divisional Commissioner, Kashmir
6. Director Information, J&K
7. Director, Achieves, Archaeology and Museum, J&K.
8. Secretary, J&K Services Selection Board, J&K.
9. Shri Waseem Gul, Government Advocate , Central Administrative Tribunal, Srinagar Bench.
10. OSD with Advisor (B) to the Hon'ble Lieutenant Governor, J&K.
11. Private Secretary to the Chief Secretary
12. Pvt Secretary to the Commr/Secretary to the Govt., Revenue Department
13. All concerned.
14. I/C Website
15. Government Order file.


(Surjeet Singh)

Under Secretary to the Government