

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

Subject:- SWP No.1130/2009 titled Rameez Ahmad Kawoosa & Ors Vs State of J&K Ors.

Government Order No: 177 JK(Rev) of 2022
Dated: 10.10.2022

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

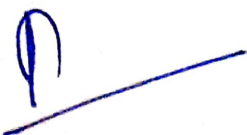
b. Notification No.09 of 2005

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 of Jammu and Kashmir at Srinagar Wing. In the 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 Hon'ble Court vide judgment dated 19.08.2015 returned its finding in SWP No. 1941/2009; 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, the Hon'ble High Court of J&K vide order dated September 28, 2015 in CMP No. 01/2015 c/w SWP No. 1918/2009 has been pleased to observe that the writ petition No.1130/2009 will not be governed by the Judgment of this Court passed in batch of the writ petitions with lead case SWP No. 1941/2009 dated 19th August, 2015, but the petitioners in SWP No. 1130/2009 shall be extended the benefit of judgment dated 31st December, 2014 passed in SWP No.487/2009.

Whereas, the Hon'ble Court in para 25 of the judgment dated 31.12.2014 in SWP No.487/2009, held as under:-

"25. 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 terms of the categorical finding of the Hon'ble Court vide Judgment dated 31.12.2014, that 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; and

Whereas, the Hon'ble Division Bench, J&K High Court vide judgment dated 28.01.2022 in LPASW No. 199/2017 titled *Zahid Snobar and another vs State of J&K & Others*, in para 20 has observed as follows:-



'From the foregoing enunciation of law on the subject, it is clear that if a judgment does not touch upon the policy matters, it is a judgment in personam. The intention as to whether a judgment is in personam, can be gathered from its language. The judgment in Hamidullah Dar's case is clear example, of a judgment in personam as it does not touch upon any policy matter. This is clear from the fact that in para (32) of the aforesaid judgment, the direction for appointment is confined to the petitioners and selected candidates only. It does not extend to whole of the merit list".

Whereas, from the above position, it is clear that the petitioners case is not similarly circumstanced with the case of the petitioners in SWP No. 487/2009 as the petitioners filed SWP No. 1130/2009 on 10.08.2009 much after the declaration of result notification on 21.07.2009 by the Service Selection Board, thus, were not covered in terms of Para 25 of the Judgment dated 31.12.2014.

Now, therefore, in terms of order dated 28th September 2015, the case of the petitioners have been considered and it has been found that they are not similarly circumstanced with the case of the petitioners in SWP No. 487/2009 decided vide judgment dated 31.12.2014, and as such, the claim of the petitioners 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: 10.10.2022

No.REV-LIT/1/2022- (22355)

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. Divisional Commissioner, Kashmir
5. Chairman Service Selection Board, J&K.
6. Shri Alla-Ud-Din Ganai, Additional Advocate General, High Court of J&K and Ladakh Srinagar.
7. Director Information, J&K
8. Director, Achieves, Archaeology and Museum, J&K.
9. Secretary, J&K Services Selection Board, J&K.
10. OSD with Advisor (B) to the Hon'ble Lieutenant Governor, J&K.
11. Private Secretary to the Chief Secretary
12. Private Secretary to the Commissioner/Secretary to the Govt., Revenue Deptt.
13. All concerned.
14. I/C Website
15. Government Order file.


(Surjeet Singh)

Under Secretary to the Government