

Serial No. 17
Regular Causelist

**IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH AT
SRINAGAR**

WP(C) 1934/2023

**SAJAD AHMAD BHAT
S/O: GHULAM AHMAD BHAT
R/O: AJAS, BANDIPORA.**

...PETITIONER(S)

Through: - Mr. M. Ashraf Wani, Advocate

Vs.

- 1. UNION TERRITORY THROUGH PRINCIPAL
SECRETARY/COMMISSIONER TO THE GOVERNMENT,
INDUSTRIES AND COMMERCE (HANDICRAFTS) DEPARTMENT,
CIVIL SECRETARIAT, SRINAGAR.**
- 2. SECRETARY, SERVICE SELECTION BOARD, RAMBAGH, ZUM
ZUM HOTEL SRINAGAR.**
- 3. DIRECTOR, INDUSTRIES AND COMMERCE DEPARTMENT,
KASHMIR SRINAGAR.**
- 4. ASSISTANT DIRECTOR HANDICRAFTS, BANDIPORA, KASHMIR.**
- 5. MEHRAJ AHMAD DAR
S/O: GH. MOHAMMAD DAR
R/O: GADKHUD, BANDIPORA.**

...RESPONDENT(S)

Through:- Mr. Mohd Younis Hafiz, Assisting Counsel vice
Mr. Abdul Rashid Malik, Sr. AAG
Mr. Waseem Gul, GA
Mr. Tasaduq H. Khawja, Advocate with
Mr. Iman Abdul Muizz, Advocate for R-5.

CORAM:

**HON'BLE MR. JUSTICE SANJEEV KUMAR, JUDGE
HON'BLE MR. JUSTICE SANJAY PARIHAR, JUDGE**

**ORDER
04.06.2025**

Per: Sanjeev Kumar-J:

1. This petition, filed by the petitioner under Article 226 of the Constitution of India, seeks to assail an order dated 27th June, 2023, passed by the Central Administrative Tribunal, Srinagar, Bench [“the Tribunal”] in TA No. 4723/2021 (SWP No. 279/2018) and TA No. 3201/2020 (SWP No. 2345/2018), both titled **“Sajad Ahmad Bhat Vs. State of J&K and Others”**,

whereby the Tribunal has dismissed both TAs being devoid of merit.

2. Briefly stated, the facts leading to the filing of this petition, as are gatherable from the impugned judgment, are that the Jammu and Kashmir Service Selection Board [for short “SSB”] vide its Advertisement Notification No. 03 of 2012 dated 28th December, 2012, invited applications for the position of Junior Instructor Craft in Carpet Weaving, District Bandipora. The petitioner and respondent No. 5-Mehraj Ahmad Dar, participated in the selection process. As per the advertisement, the qualification prescribed for the post was “**Matric with 10 years’ experience in respective Craft, subject to practical test.**” Both the petitioner and respondent No. 5, were found eligible and permitted to participate in the selection process.

3. The SSB issued a selection list for the lone post of Junior Craft Instructor (Open Merit) in Carpet Weaving and showed one Mr. Abid Hussain Malla as the selected candidate. The respondent No. 5 was, however, shown as the only candidate in the wait list of Open Merit. The respondent No. 5-Mehraj Ahmad Dar was awarded 39.0667 points, whereas the petitioner-Sajad Ahmad Bhat secured 25.2000 points in the selection process. On the recommendations made by the SSB and the subsequent approval awarded by the Administrative Department, the Director Handicrafts, Vide order No. 145-HD of 2018 dated 27th February, 2018, accorded sanction for the

temporary appointment of Mr. Abid Hussain Malla, against the post of Junior Instructor in Carpet Weaving, District Bandipora, the candidate figuring in the select list of Open Merit. It seems that Mr. Abid Hussain Malla, had simultaneously participated in the selection process for the post of Senior Craft Instructor in Carpet Weaving and on his selection was also appointed as Senior Craft Instructor in Carpet Weaving, Divisional Cadre, Kashmir, vide order No. 381-HD of 2018 dated 26th April, 2018, issued by the Director of Handicrafts, Jammu and Kashmir.

4. As was expected, Mr. Abid Hussain Malla opted for the post of Senior Craft Instructor in Carpet Weaving, Divisional Cadre, Kashmir, and did not join as Junior Instructor (Carpet Weaving), District Cadre, Bandipora. The post of Junior Craft Instructor in Carpet Weaving, District Bandipora, which fell vacant due to non-joining of Mr. Abid Hussain Malla, was filled up from the waiting list. Consequently, respondent No. 5 who was next in order of merit and placed in the waiting list, came to be appointed as Junior Instructor in Carpet Weaving, District Bandipora, in terms of Order No. 552-HD of 2018 dated 28th June, 2018, issued by the Director, Handicrafts, Jammu & Kashmir.

5. Initially, the petitioner approached this Court by way of SWP No. 279/2018, which upon transfer to the Tribunal came to be registered as TA No. 4723/2021. This petition was filed by the petitioner when the select list was issued by the Board and

the name of respondent No. 5 was placed in the waiting list. It seems that during the pendency of the aforesaid petition the respondent No. 5 came to be appointed by operation of the waiting list against the post left vacant due to non-joining of selected candidate in the Open Category namely Mr. Abid Hussain Malla. This made the petitioner to approach this Court again by way of SWP No. 2345/2018, which too on transfer to the Tribunal came to be registered as TA No. 2301/2020. In both these petitions, the entire attack of the petitioner against the selection and appointment of respondent No. 5 was that he did not possess the requisite minimum experience as prescribed for the post in the Advertisement Notification.

6. The writ petition was contested by the official respondents as well as respondent No. 5. The Tribunal having considered the rival contentions and the material on record, came to the conclusion that there was nothing on record to demonstrate that the respondent No. 5 lacked the minimum experience of ten years in the Craft of Carpet Weaving. The Tribunal took note of the fact that respondent No. 5 having performed better than the petitioner and having secured higher points in the selection, was rightly placed in the wait list. Accordingly, vide impugned order and judgment, the Tribunal dismissed both the TAs filed by the petitioner.

7. The petitioner is aggrieved of the impugned judgment and has assailed the same on the ground that the Tribunal has not

appreciated the controversy raised in the TAs in proper perspective. The Tribunal has failed to appreciate that the respondent No.5-Mehraj Ahmad Dar, who qualified his matriculation examination in the year 2006, could not have legitimately claimed ten years' experience in Carpet Weaving in the year 2012 when the notification dated 28th December, 2012 was issued by the SSB. The impugned judgment is also called in question on the ground that the Tribunal failed to appreciate that accepting the certificate of 10 years' experience submitted by the respondent No. 5 was tantamount to accepting the experience for the period when the respondent No. 5 was only a child.

8. Having heard learned counsel for the parties and perused the material on record, we are of the considered opinion that the judgment passed by the Tribunal is perfectly legal and does not call for any interference in these proceedings filed under Article 226 of the Constitution of India. The placement of respondent No. 5 in the wait list and his subsequent appointment as Junior Craft Instructor in Craft Weaving was challenged by the petitioner before the Tribunal primarily on the ground that respondent No. 5 lacked the minimum experience of ten years' in Carpet Weaving and, therefore, was ineligible to participate in the selection process.

9. The petitioner does not dispute the fact that the respondent No. 5 was found more meritorious than him in the

selection process and also that the respondent No. 5 performed much better than the petitioner even in the practical test conducted by the SSB with the assistance of experts in the line. The petitioner, however, makes reckless allegations about the manner in which the selection process was conducted, but the same are not substantiated by any material particulars or documentary evidence. So far as the legitimacy of respondent No. 5 to be appointed as Junior Craft Instructor, in Carpet Weaving is concerned, suffice it to say that respondent No. 5 who was matriculate and had placed on record ten years' experience in Carpet Weaving was fully eligible in the selection process. As noted above, the qualification prescribed for the post of Junior Craft Instructor in Carpet Weaving is matriculate with ten years' experience subject to practical test. The experience in Carpet Weaving to be acquired by a person has no nexus or relation with the educational qualification prescribed for the post and, therefore, to say that a candidate to be eligible for the post must acquire ten years' experience after doing matriculation is not the correct understanding and interpretation of the eligibility criteria.

10. It is well settled that in cases where the experience required has direct nexus with the educational/professional qualification prescribed and in such a situation it is trite that such experience must be gained after acquiring the said qualification. However, where the experience prescribed is

capable of being acquired even without a particular educational qualification, in such a situation the experience acquired prior to acquiring the educational/professional qualification can hold good. This depends on the facts and circumstances of each case. In the instant case the learned counsel appearing on both sides fairly conceded that the experience in Carpet Weaving has no nexus much less a direct nexus or connection with the educational qualification of matriculation prescribed for the post. That being the position the ten years' experience required in Carpet Weaving could be the one acquired prior to matriculation or after matriculation or partly acquired before matriculation and partly after matriculation.

11. The plea of the learned counsel for the petitioner that respondent No. 5 could not have acquired any experience in Craft Weaving while he was pursuing his school education is equally without any substance and has been rightly rejected by the Tribunal. The Craft Weaving is a household trade in certain communities in Kashmir valley. The grown up children learn the art of Craft of Weaving simultaneously when attending the school. It is because of the nature of experience prescribed, the practical test has been made *sine qua non* for selection to the post of Junior Craft Instructor in Craft Weaving. The stipulation in the advertisement notification that ten years' experience in the respective trade i.e., Craft Weaving etc., is subject to practical test speaks for itself. Mere possession of experience is

not enough unless it is tested by the experts in a practical test. It is not disputed before us that even in the practical test the respondent No. 5-Mehraj Ahmad Dar had outperformed the petitioner.

11. Viewed from any angle, we find no legal infirmity or error in the judgment impugned passed by the Tribunal. For all these reasons, we find no merit in this petition and the same is, accordingly, **dismissed**.

(SANJAY PARIHAR)
JUDGE

Srinagar,
04.06.2025
"Mir Arif"

(SANJEEV KUMAR)
JUDGE

Whether the order is approved for reporting? Yes.

