HIGH COURT OF JAMMU & KASHMIR AND LADAKH AT JAMMU

Reserved on: 30.09.2025
Pronounced on: 10.10.2025
Uploaded on 10.10.2025
Whether the operative part or
full judgment is pronounced

CaseNo.:- WP(C) No. 2453/2025

Ravneet Kour

.....Appellant

Through: Mr. Amullaya Gupta, Advocate.

Vs

Union of India and ors.

..... Respondent(s)

Through: Mr. Raman Sharma, AAG with
Mr. Kartikay Sharma, Advocate for R-2 & 4.
Mr. Suneel Malhotra, Advocate for R-3.

Coram: HON'BLE MR. JUSTICE SANJAY DHAR, JUDGE

JUDGMENT

1. The petitioner, through the medium of the present petition, has sought a direction upon respondent No. 3-Jammu and Kashmir Board of Professional Entrance Examination (hereinafter to be referred to as **'BOPEE'**) to consider her candidature under Children of Defence Personnel (CDP) quota (Priority-IV) within Scheduled Tribe-2 (ST-2) category in NEET UG-2025 admissions. A further direction, commanding the

respondents to re-draw the counseling/ allotment list for ST-2 (CDP) seats in compliance with Ministry of Defence (MoD) Policy dated 21.05.2018, has also been sought.

2. According to the petitioner, she has appeared in NEET-UG 2025, which has been conducted by the National Testing Agency (NTA)-respondent No. 4 herein on 04.05.2025. The petitioner is stated to be belonging to ST-2 category with further category of CDP (Priority-IV) and she has secured 348 marks with UT rank 3223 as per the result declared on 14.06.2025. It has been submitted that provisional select list for admission to MBBS/BDS courses for NEET-UG 2025 came to be issued by respondent-BOPEE on 20.08.2025 but in the said list, candidates with lower priority under (CDP) quota falling in ST-2 category have been selected but the petitioner, who is having higher priority within CDP category, has been denied the selection.

3. It has been submitted that the petitioner's candidature under CDP horizontal reservation quota (two seats under ST) has not been considered despite her higher priority. It has also been submitted that vide Ministry of Defence (MoD) Circular dated 21.05.2018 inter se priority among CDP candidates has been laid down and the merit applies only within the same priority meaning thereby that a candidate with higher priority within CDP quota has to be selected in spite of his inferior merit as

compared to a candidate falling in the same quota with lower priority. According to the petitioner, the respondent-Board has violated this principle of reservation as a result whereof the petitioner has been denied her rightful claim.

4. Respondent-BOPEE has contested the writ petition by filing its reply. In its reply, it has been submitted that under the horizontal reservation quota of three percent (3%) for female candidates in CDP category, a total of fourteen seats were to be filled up. It has been submitted that during the course of online counseling, three percent (3%) horizontal reservation quota for female candidates under CDP category was already exhausted as twenty one female CDP candidates had been allotted MBBS seats in Govt. Colleges and three candidates were allotted BDS seats on the basis of their merit in the respective category. According to the respondent-BOPEE, because three percent (3%) horizontal reservation quota for female candidates under CDP category was already exhausted, as such, there was no requirement of displacement of the candidates for providing horizontal reservation. Thus, the stand of respondent-BOPEE is that prescribed quota of fourteen female seats under CDP category stood fully covered and exceeded, leaving no shortfall, hence the name of the petitioner could not figure in the list.

5. It has been contended that respondent-BOPEE has not ignored the mandate of S.O 277 dated 13.08.2021 as its application did not arise to maintain the inter se priority due to the fact that three percent (3%) quota of CDP category candidates (female) came into the selection list on their own owing to their merit in MBBS and BDS courses and did not require the displacement of candidates for providing horizontal reservation to this category.

6. I have heard learned counsel for the parties and perused record of the case.

7. As is clear from the averments made in the writ petition, the grievance of the petitioner is that despite her higher priority in CDP quota, respondent-BOPEE has selected candidates with lower priority in the same quota thereby ignoring the reservation policy under CDP category as mandated in terms of communication dated 21.05.2018 issued by Government of India, Ministry of Defence (MoD). In the writ petition, the petitioner has not indicated as to which candidates falling in CDP quota, having lesser priority, have been selected. Those candidates have neither been nominated nor they have been made party to the writ petition. The contents of the writ petition are bereft of any details in this regard. The petition on this ground alone deserves to be dismissed.

8. Apart from the above, the contention of the petitioner, raised in the writ petition, appears to be misconceived. Even if it is assumed that the petitioner has a higher priority in CDP quota than the priority of candidates selected under the said quota, she could not have been selected because of the specific stand of respondent-BOPEE that three percent (3%) horizontal reservation quota for female candidates under CDP category had already been exhausted on the basis of the merit of such candidates in their respective categories. Thus, there was no occasion for the respondent-BOPEE to consider the priority of the candidates selected under the said quota. It has to be noted that horizontal reservation cuts across the vertical reservation and the persons selected against CDP quota are to be placed in appropriate category as reservation of three percent (3%) provided to Children of Defence Personnel under the Jammu and Kashmir Reservation Rules, 2005 is an overall horizontal reservation and not compartmentalized horizontal reservation.

9. A Division Bench of this Court in the case of **"Syed Shaifta Arifeen Balkhi Vs. J&K Public Service Commission & Ors"**, (WP(C) No. 981/2024, decided on 25.10.2024) while dealing with the case relating to reservation provided to physically challenged persons has, after noticing the provisions

contained in Rule 4 of the Jammu and Kashmir Reservation Rules, 2005, observed as under:

> *"Amended Rule 4 of J&K Reservation Rules 2005, provides for horizontal reservation of 6% and 4% to the Ex-servicemen and Physically challenged persons respectively. Explanation-B appended to Rule 4 explicitly provides that horizontal reservation would cut across the vertical reservation and the persons selected against the physically challenged quota would be placed in the appropriate category. The architectural composition of the Explanation-B appended to Rule 4 amplifies Rule 4, to the extent that the reservation provided to the physically handicapped persons is an overall horizontal reservation, when it states that if such a candidate belongs to Scheduled Caste category, he/she will be placed in that category by making the necessary adjustment and similarly, if he/she belongs to the Open Merit category, he/she will be placed in that category. The vertical reservation under Rule 4 (supra) has been provided for the candidates belonging to Scheduled Caste, Scheduled Tribe, Socially and Educationally Backward Classes i.e.Weaker and Under Privileged Classes, Residents of Area adjoining ALC/International Border, Residents of Backward Areas, Pahari Speaking Peoples and Economically Weaker Sections. Further the roster of 100 vacancies to be filled by direct recruitment provided by Rule 5(1) of the Rules (supra) reveals that the points have been distributed amongst the categories under the vertical reservation. There are no separate points for physically challenged persons in this 100 points" roster. Office Memorandum dated 15.01.2018 relied upon by the learned Senior Counsel for the petitioner cannot come to the rescue of the petitioner, as the order dated 05.11.2021 issued by Social Welfare Department, Government of UT of Jammu & Kashmir, has only taken note of the same and thereafter the guidelines have been issued for implementation of the Reservation Rules to the persons with benchmark disabilities and as per the guidelines, the persons selected under physically challenged persons quota have to be placed in appropriate category, meaning thereby that if a candidate selected under*

physically handicapped persons quota belongs to SC category, he/she will be placed in that category and would occupy the SC roster point. Likewise, if a person selected under physically challenged persons quota belongs General Category, he/she will be placed in the said category and would utilise a General Category roster point. Same would be the case where a selected candidate under physically handicapped persons quota belongs to other social caste or scheduled tribe category."

10. From the foregoing analysis of legal position on the issue, it is clear that three percent (3%) reservation provided to Children of Defence Personnel is an overall horizontal reservation and not compartmentalized horizontal reservation. It cuts across the vertical reservation and a person, selected against CDP quota, will have to be placed in the appropriate category i.e., if he/she belongs to Scheduled Caste category, he/she will be placed in that quota by making necessary adjustment and similarly if he/she belongs to Open Competition category, he/she will be placed in that category.

11. In the instant case, the petitioner claims horizontal reservation to the extent of three percent (3%) in the quota of CDP category of female candidate. The quota of the said category comes to fourteen seats. A perusal of the provisional select list reveals that as many as twenty four female candidates, who fall under CDP category, have been selected. These candidates, on the basis of their own merit, had made the grade in their respective categories i.e., Open Merit, Scheduled

Caste, Scheduled Tribe etc. Once the quota under CDP had already exhausted while allocating seats to female candidates on the basis of the merit obtained by them in the entrance examination, there was no need for the respondent-BOPEE to displace any candidate from any of the categories to make way for a candidate having inferior merit and better priority. The said situation would have arisen only if the number of candidates falling in CDP category, who made the grade on their own merit in their respective category, would not have been sufficient to fill up the seats earmarked for the said quota. The course adopted by the respondent-BOPEE, in these circumstances, is perfectly in accordance with the legal position and no fault can be found with the same.

12. For the foregoing reasons, the writ petition lacks merit and is dismissed accordingly.

(SANJAY DHAR)
JUDGE

JAMMU
10.10.2025
Naresh/Secy.

Whether order is speaking: Yes
Whether order is reportable: Yes