



**CENTRAL ADMINISTRATIVE TRIBUNAL
JAMMU BENCH**

Pronounced on: 20.04.2023

(Reserved On: 24.02.2023)

**CORAM: HON'BLE MR. SURESH KUMAR BATRA, MEMBER (J)
HON'BLE MR. ANINDO MAJUMDAR, MEMBER (A)**

I. Original Application No. 61/12/2020

1. Randeep Pal Singh, aged 27 years son of S. Arunpal Singh, R/o H. No. 3, Sector 7, Model Town, Gangyal, Bali Pagri House, Jammu-180010.
2. Abhishek Dhar, aged 27 years son of Ashok Dhar R/o H. No. 28, Lane No. 7, Anand Nagar, Bohri, Near J&K Bank, Jammu-180002.
3. Jitender Pal Singh, aged 28 years, Son of S. Iqbal Singh, R/o H. No. 152, Digiana, Model Town, Gangyal, Jammu -180010.
4. Tandeep Singh, aged 28 years son of S. Prith Pal Singh, R/o Gole Gujral Camp, Near Govt. Higher Secondary School, Jammu-180002.
5. Abhinav Handoo, aged 28 years son of Sh. Subash Chander Handoo, R/o 198/B Lane No. 5, Opp. Post office Koushalya Niwas, New Plots, Jammu-180001.
6. Anmol, aged 24 years son of Maharaj Krishan, R/o H. No. 182, Near Lictchi Bagh, Anand Nagar, near Santra Morh, Peer Baba Wali Gali, Akalpur, Jammu - 180002.
7. Posha Akhtar aged 29 years D/o Hamid Ullah Bhat, R/o Warpora Rohama, Baramulla J&K-193301.
8. Neha Raina, aged 24 years D/o Bholay Nath Raina, R/o 77, Sector 1 Roop Nagar Sarika Vihar, Jammu-180013.
9. Purvi Roshan Kou, aged 26 years D/o Roshan Lal Koul, R/o 43/A, Roop Nagar Durga Nagar, Bantalab, Jammu-180013.
10. Mohit aged 26 years, son of Chuni Lal Pandita, R/o H. No. 4 Lane No. 4, Udheywala Road, Bohri, Hero Showroom Jammu -180018.

.....Applicants

(By. Advocate: Ms. Lawanya Sharma)

Versus



1. Union Territory of Jammu & Kashmir through its Secretary to Government Disaster Management, Relief & Rehabilitation Department, Civil Secretariat, Jammu/Srinagar.
2. Commissioner/Secretary to Govt. Public Works (R&B) Department Civil Secretariat, Jammu/Srinagar.
3. Commissioner/Secretary to Govt. PHE/I&FC Department, Civil Secretariat, Jammu/Srinagar.
4. J&K Service Selection Board, Sehkari Bhawan, Jammu through its Secretary.
5. Chairman, J&K Service Selection Board, Sehkari Bhawan, Jammu.

(By Advocate: Mr. Sudesh Magotra, Addl AG
Mr. Hunar Gupta, DAG)

II. O.A. No. 061/1107/2020

Surabhi Malla, aged 26 years, D/o Surinder Malla, R/o H. No. F- 121 Janki Vihar Lane, Patoli Morh, Janipur, Jammu-180007.

(By. Advocate: Ms. Lawanya Sharma)

.....Applicant

Versus

1. Union Territory of Jammu & Kashmir through its Secretary to Government Disaster Management, Relief & Rehabilitation Department, Civil Secretariat, Jammu/Srinagar.
2. Commissioner/Secretary to Govt. Public Works (R&B) Department Civil Secretariat, Jammu/Srinagar.
3. Commissioner/Secretary to Govt. PHE/I&FC Department, Civil Secretariat, Jammu/Srinagar.
4. J&K Service Selection Board, Sehkari Bhawan, Jammu through its Secretary.
5. Chairman, J&K Service Selection Board, Sehkari Bhawan, Jammu

..... Respondents

(By Advocate: Mr. Sudesh Magotra, Addl AG
Mr. Hunar Gupta, DAG)

III. T.A. No. 437/2020

1. Rohit Raina, age 27 years, S/o M.K. Raina, R/o H. No. 15, Lane No. 4A Laxmi Vihar Tomal, Bohri, Jammu.
2. Rahul Bhat, age 29 years, S/o A.K. Bhat, R/o H. No. 204, Naseem Nagar, Janipur, Jammu.
3. Gurdeep Singh, age 27 years, S/o Jarnail Singh, R/o H. No. 322, Preet Nagar Digiana, Jammu.
4. Muntazir Rehman, age 28 years, S/o Abdul Rehman Zarger, R/o Jamia Qadeem Handwara, Distt. Kupwara, Srinagar.
5. Vishal Kaul, age 35 years, S/o Avtar Krishan Koul, R/o H. No. 89, Lane No. 3, Anand Vihar Bohri Chungi, Jammu.
6. Sumit Tickoo, age 29 years, S/o Mohan Lal Tickoo, R/o Flat No. 19, Block 45, Jagti Colony.



7. Vimarsh Pandita, age 27 years, S/o Pradiman Krishan Pandita, R/o New Uttam Garden Colony, Manwal Pathankot, Punjab.
8. Anku Pandita, age 27 years, S/o Moti Lal Panita R/o Lane No. 25, Block No.166. Flat No. 21, Jagri Nagrota.

.....**Applicants**

(By Advocate: Mr. Ankush Manhas)

Versus

1. Union Territory of Jammu & Kashmir through Commissioner/Secretary to Government, Relief and Rehabilitation Department, Jammu/Srinagar.
2. Chairman Service Selection Board Jammu.
3. Relief Commissioner Migrants, Jammu.
4. Deputy Secretary Legal, Relief & Rehabilitation Department, Civil Secretariat, Srinagar.

.....**Respondents**

(By Advocate: Mr. Sudesh Magotra, Addl AG
Mr. Hunar Gupta, DAG)

Per: SURESH KUMAR BATRA MEMBER (J):-

1. The above captioned Original/Transfer Applications have been filed by the applicants seeking issuance of a direction to Respondents nos. 4 and 5 to reframe the select list to the posts of Junior Engineer (Civil), Divisional Cadre Kashmir in reference to advertisement notice no. 04/2017/28 dated 28.11.2017 showing therein the applicants as having been selected under open merit category and to recommend their names to the Government in PHE/I&FC Department for their appointment to the said posts. Further direction is sought to the respondent no. 3 PHE/I&FC Department to issue appointment orders in favour of the applicants immediately after necessary recommendations are made in favour of the applicants by the J&K Service Selection Board and restrain them from taking any step in the direction of re-referring



the vacant post of Junior Engineer (Civil) to the J&K Service Selection Board.

2. Since the facts, grounds, relief claimed and the question of law involved are same, therefore, these OAs and T.A. are being disposed of by a common order. For the sake of convenience the facts are being taken from O.A. No. 12/2020 titled Randeep Pal Singh & Others.

3. The factual matrix of the case is that with the implementation of the Prime Minister Special Package for Return and Rehabilitation of Kashmiri Migrants and pursuant to the decision taken by the State Cabinet, the J&K Kashmiri Migrants (Special Drive) Recruitment Rules, 2009 came to be promulgated vide notification SRO No. 412 of 2009 dated 30.12.2009 (Annexure A-1) for making the selection of unemployed migrants in different departments. The respondent no. 4/J&K SSB issued notification no. SSB/Sel/Secy/2017/12620-30 dated 28.11.2017 advertising the supernumerary posts under the Hon'ble Prime Minister Package for Kashmiri Migrants. With the issuance of aforesaid notification, an advertisement notice no. 04/2017/01 dated 28.11.2017(Annexure A-3) was issued by respondent no. 4, whereby 100 posts of Junior Engineer (Civil) in PWD (R&B) under PM Package for Kashmiri Migrants were advertised. Simultaneously another advertisement notice no. 04/2017/28 dated 28.11.2017 (Annexure A-4) came to be issued whereby 50 posts of Junior Engineer (Civil) in PHE/I&FC under PM Package for Kashmiri Migrants were advertised by the respondent no. 4 pursuant to requisition received from the Relief & Rehabilitation Department's indent No. DMRRR/MR/140/2017 dated 23.10.2017. The applicants having the requisite qualification and



eligibility applied for the post of Junior Engineer (Civil) under open merit category in reference to aforesaid two advertisement notices separately. They appeared in combined Computer Based Test (CBT) held for both the posts on 08.04.2018. Thereafter, two separate provisional select lists were issued on 06.05.2018 and total 118 candidates including the applicants (except applicant no. 7, who did not apply to advertisement notice no. 04/2017/01) figured in both the lists. However, before proceeding further to finalize the selection process by issuing final select lists, the Respondent No. 4 did not take recourse to seek option/preference from the candidates, with respect to their preference as to the one department out of two for which such candidates have been provisionally selected. The respondent no. 4 issued two final lists on 28.02.2019, whereby 57 candidates were selected under open merit category to the posts of Junior Engineer (Civil) Divisional Cadre, Kashmir PW(R&B) in reference to advertisement notice no. 04/2017/01 and 28 candidates were selected for the said post in PHE/I&FC department in reference to notice no. 04/217/28. However, as many as 28 same candidates were figuring in both the select lists meaning thereby these 28 candidates were selected against same posts/vacancies in two different departments and because of this the names of the applicants did not figure in the final select lists. With reference to aforesaid two advertisement nos. 04/2017/01 and 04/2017/28 the two waiting lists of open merit category of 29 candidates and 14 candidates respectively were also issued on 28.11.2017. The reserved category posts could not be filled up due to non availability of candidates, therefore, with the approval of the State Administrative Council, the unfilled reserved category posts under SC,



ST, OSC and ALC were de-reserved except RBA vide order dated 06.03.2019 (Annexure A-10). Resultantly, the total numbers of posts of Junior Engineer (Civil) under open category in PW(R&B) Department were increased from 57 to 78 and similarly in PHE/I&FC department the posts enhanced from 28 to 38. Consequently, two more select lists dated 12.04.2019 for both the departments were issued whereby 21 more candidates were selected under open merit category for PW(R&B) Department and 10 more candidates were selected for PHE/I&FC Department. With both the part select lists dated 12.04.2019, the two separate new waiting lists were issued in continuation of the previously issued final lists dated 28.02.2019 containing 08 and 04 candidates respectively. After issuance of part-select lists and waiting lists on 12.04.2019, the respondent no. 4 issued two more waiting lists on 17.07.2019 (Annexures A-13 and A-14) whereby 31 more candidates were added in the waiting list of PW(R&B) department and the applicants (except applicant no.7) figured in this waiting list at serial no. 9, 10, 15, 19, 21, 25 and 34 respectively. Similarly 11 more candidates were added in the waiting list pertaining to PHE/I&FC Department. Consequent upon the issuance of select list as well as part select list, the respondent no. 2 appointed 78 candidates as Junior Engineer (Civil) in P.W.(R&D) department on the basis of recommendations of respondent No. 4 vide 06 separate orders. Similarly, the Respondent No. 3 appointed total 44 candidates as Junior Engineer (Civil) in respondent no.3's department vide 04 separate orders.

4. It has further been submitted that since all the candidates i.e. 44 candidates appointed in the PHE Department pursuant to the orders



issued by the Chief Engineer, PHE Department Kashmir, failed to join the service despite repeated opportunities, therefore, the Chief Engineer PHE Kashmir, vide orders dated 26.09.2019, 22.10.2019, 23.12.2019 and 21.01.2020 cancelled the appointment of these 44 candidates. It has been contended that the cancellation of appointment of these 44 candidates occasioned due to the reason that these candidates have already joined the service as Junior Engineer (Civil) in PW (R&B) Department. The grievance of the applicants is that by not seeking preference from those candidates, who figured in both the select lists, the respondents have committed a grave and serious illegality as they have been deprived of their right of consideration available to them. It has also been submitted that the applicants are apprehensive that the respondents are in the process of re-advertising the remaining posts again and in case the respondents succeed in doing so, grave and serious prejudice and jeopardy will be caused to the rights of the applicants.

5. Learned counsel for the applicants challenged the action of the respondents on the ground that the respondent no. 4 has committed a serious illegality and irregularity in selecting one candidate against two posts in two different departments, when admittedly such candidate is required to man post only after his/her appointment and by this highly illegal and arbitrary approach, the number of posts in PHE/I&FC fell vacant inasmuch as the same candidates, who were selected for both the departments chose to join PW(R&B) department pursuant to the appointment order issued in their favour. Consequent upon their joining the PW (R&B) Department, the posts in PHE/I&FC department against



which the applicants could have been declared selected have remained vacant. All this has occasioned only due to the reason that the respondent no. 4 did not take recourse to "option/preference procedure" from those candidates, who were selected against two departments in the same very selection process. Reliance has been placed upon a similar Writ Petition SWP No. 353/2015 titled **Danish Shah and Others Vs. State of J&K and Others**, wherein selection of Junior Engineer (Civil) Grade-II was challenged before the Hon'ble High Court of Jammu and Kashmir and the controversy projected in the said petition was that the J&K SSB had committed an error in law by making recommendations to the Government for appointing the selected candidates on the post of Junior Engineers Grade-II in all three select lists. Likewise the applicants herein, the grievance of the petitioners therein was that had the respondent Board after publication of all the select lists obtained options from the selected candidates as to in which list they would like to figure, the candidates figuring in the statutory waiting list would have no difficulty to find place in the merit list and others who were not selected would have found place at least in the waiting list. The Hon'ble High Court vide order dated 04.03.2015 (Annexure A-27) disposed of the writ petition with direction to the respondents to update/reframe the merit list and also the waiting list and make fresh recommendations.

6. The respondents no. 4 and 5 have filed written statement contesting the claim of the applicants. The facts have not been disputed by the respondents. It has been stated that the selection process was completed strictly in accordance with the recruitment rules in vogue and



as per indents received from the Indenting Departments and Selection Lists were issued and the same were forwarded to the Indenting Department. There is no precedent in the J&K SSB for taking preferences from the candidates/applicants and also the Board is not bound for the same. It has been further submitted that the selection to the aforesaid posts were finalized in the year 2019 and now there is no cause of action accruing to the applicants to seek indulgence of this Tribunal for grant of relief in their favour. Reference has been made to clause (7) of Rule 14 of the Jammu and Kashmir, Civil Services Decentralization and Recruitment Rules, 2010, which provides that "the Selection Committee shall not maintain or recommend any Select List or Waiting List for any future vacancy caused on account of resignation by any selectee after appointment".

7. The applicants have filed the rejoinder reiterating the pleas raised in the Original Application.

8. We have gone through the pleadings and considered the arguments of learned counsel for both the parties.

9. The background of the instant O.A. is that in the year 2009, the Union Government after taking stock of overall scenario and miserable plight of Kashmiri migrants took a decision for conferring certain benefits upon the Migrants by providing a Special Package under the **'Prime Minister's Special Package for Return and Rehabilitation of Kashmiri Migrants to Kashmir Valley** (hereinafter referred to as Special Package). Subsequent to the said policy decision taken by the Government of India, the State Government vide Government order No. REV/MR/16 of 2010 dated 29.01.2010 constituted an Apex Level



Advisory Committee under the Chairmanship of Hon'ble Minister for Revenue, Relief and Rehabilitation to oversee the effective implementation of Special Package. The Government for implementation of Special Package, declared nine components to be given to the Kashmir migrants. Out of these nine components, one was pertaining to creation of supernumerary posts in different Government Departments for Kashmiri migrants. The State Cabinet thereafter considered the issue of implementation of the aforesaid Special Package and pursuant to the decision taken by the State Cabinet, the J&K Kashmiri Migrants (Special Drive) Recruitment Rules, 2009 came to be promulgated vide notification SRO 412 of 2009 dated 30.12.2009 for making the selection of unemployed migrants in different departments. In the said scheme of Special Package, the J & K Service Selection Board has advertised vide notification dated 28.11.2017, various supernumerary posts for the department of Disaster Management, Relief, Rehabilitation and Reconstruction including 100 posts of Junior Engineer (Civil) in PW(R&B) Department and 50 posts of Junior Engineer (Civil) in PHE/I&FC Department in Division cadre Kashmir. The applicants herein having requisite qualification and eligibility applied for the post of Junior Engineer (Civil) under Open Merit Category in reference to the advertisement dated 28.11.2017 for both the posts. The Respondent No. 1 after receipt of online applications from various candidates including the applicants conducted the Computer Based Written Test (CBT in short) on 08.04.2018 for 150 posts (100 posts in PW(R&B) Department and 50 posts in PHE/I&FC Department). After holding CBT, two separate provisional select lists were issued on 05.06.2018, wherein the names of all the applicants herein figured in the select list for PW



(R&B) Department except applicant no. 7 as she did not apply for the same. The candidates figuring in the annexure 'A' to the notice dated 05.06.2018 issued by Respondent No. 4 were provisionally short listed for document verification on the basis of merit acquired by them in the CBT. It is to be mentioned here as many as 118 candidates including the applicants figured in both the provisional select lists issued on 05.06.2018 except applicant no. 7 for the reason mentioned hereinabove. Despite the fact that 118 candidates were figuring in both the select lists for PW(R&B) Department and PHE/I&FC Department, the Respondent No. 4 did not take recourse to seek option or preference for one out of two departments from such candidates. The respondent no. 4 issued two final select lists on 28.02.2019 vide which 57 candidates were selected under OM category to the post of Junior Engineer (Civil) in PW(R&B) department and 28 candidates were selected to the post of Junior Engineer (Civil) in the PHE/I&FC department. However, the said 28 candidates were figuring in both the select lists. Meaning thereby, these 28 candidates were selected by common test against the same post or vacancy in two different departments due to which names of the applicants did not figure in any of the final select lists issued by respondent no. 4 on 28.02.2019. The respondent no. 4, below the final select lists, also appended the waiting list as per which 29 candidates were kept in the waiting list of open merit category in reference in PW(R&B) department and 14 candidates were kept in the waiting list under OM category to the PHE/I&FC department. As the posts under reserved category could not be filled up due to non availability of candidates belonging to reserved category, therefore, the State Administrative Council vide decision no. 73/7/2019 dated 28.02.2019



accorded its approval for de-reservation of reserved posts. Accordingly, vide Government Order dated 06.03.2019, the total number of posts of Junior Engineer (Civil) in PW(R&B) Department Kashmir Division under open merit were increased from 57 to 78 and similarly the total 28 posts of Junior Engineer (Civil) in PHE/I&FC department were increased to 38. Consequently, the respondent no. 4 issued two more select lists on 12.04.2019 for both the departments in continuation of first final select list dated 28.02.2019 thereby selecting 21 more candidates for PW(R&D) department and 10 candidates for PHE/I&FC department from the waiting list dated 28.02.2019. Both these part select lists dated 12.04.2019 had separate new waiting lists of PW(R&B) and PHE/I&FC containing 08 and 04 candidates respectively. After the issuance of part-select lists and waiting lists on 12.04.2019, the respondent no. 4 issued two more waiting lists on 17.07.2019 whereby 31 candidates were added in the waiting list of PW(R&B) Department and the names of the applicants figured in this waiting list issued on 17.07.2019 at Sr. No. 9, 10, 15, 19, 21, 25 and 34 respectively besides applicant no. 7 as she did not apply to the PW(R&B) department.

10. The PW (R&B) department acting on the recommendation of Respondent No. 4 appointed 78 candidates as Junior Engineer (Civil) for PW (R&B) Department vide six orders issued by the Government of J&K. Similarly the PHE(I&FC) acting on the recommendations of Respondent No. 4 issued appointment letter to the 44 candidates for the post of Junior Engineer (Civil) in PHE/I&FC department vide order dated 19.07.2019. Since all the 44 candidates appointed by the Chief Engineer for the post of Junior Engineer (Civil) in PHE department failed to join the service despite repeated opportunities, the Chief Engineer,



PHE Kashmir cancelled the appointment of these 44 candidates. The reason for non-joining of these 44 candidates to the post of Junior Engineer (Civil) PHE Department was that they have already joined the service as Junior Engineer (Civil) in PW (R&B) department. It is the case of the applicants that all the 44 posts in PHE Department are still lying vacant and the applicants being the meritorious candidates having qualified the CBT figure in provisional list are required to be considered for the selection as well as appointment against the vacant posts in PHE department. The contention of the applicant is that the Respondents No. 4 and 5 are required to re-draw the seniority list and recommend the names of the applicants for appointment to the post of Junior Engineer (Civil) in PHE department.

11. It is apt to mention here that the identical controversy came up for consideration before the Srinagar Wing of the Hon'ble High Court in Writ Petition SWP No. 353/2015 titled **Danish Shah** (supra) wherein the Hon'ble Court has held as under:-

"In order to facilitate the job of the Appointing Authority, it is suggested at bar by learned counsel for the petitioners that the Appointing Authority be asked to give option to the candidates, who figure in more than one selection list were they would like to be further facilitate the job of the Service Selection Board in updating the merit list as also the waiting list.

It is admitted fact that some candidates on the basis of their merit have been selected in respect of more than one post notified in terms of advertisement notices. The selected candidate, on his appointment, shall have to join within period prescribed in the appointment order. The Appointing Authority would thereafter be



under obligation to inform the Service Selection Board about the number of available posts, to enable the said Authority to reframe and update the merit list/waiting list. By adopting this approach, the candidates, on the basis of their merit, will be selected and appointed on the notified posts, thus, vindicating their rights guaranteed under Article 16 of the Constitution.

In view of the aforesaid circumstances, the controversy would require to be settled by providing as under:-

- a. The respondent no. 1 to issue public notice within four days from the date copy of this order is received by him, informing the selected candidates, who figure in more than one list to exercise their option for being appointed on the basis of the merit list, in which he/she figures. After receipt of the options, the respondent no. 1 to issue appointment orders, in favour of the selected candidates. Wherever appointment orders have already been issued and the selected candidates have joined, but they figure in more than one selection list, they can also exercise their option in the aforesaid manner.*
- b. The respondent no.1 thereafter to work out the vacancy position which will become available in the aforesaid exercise and thereafter request the Service Selection Board to update/reframe the merit list as also the waiting list and make fresh recommendations accordingly. The entire exercise shall be concluded within eight weeks from the date copy of this order is served.*

Disposed of in the above terms along with connected OAs. "



12. Learned counsel for the applicants argued that the J&K SSB was already aware about the directions given by the Hon'ble High Court in the similar case to seek options from the selected candidates which were implemented also, but in the instant case, the respondents acted contrary and no option/preference procedure was resorted to while finalizing the process. Instead of adopting the rational approach of seeking options from the candidates in both the lists, the respondents 4 and 5 have resorted to such exercise which is prima facie aimed at causing grave and serious prejudice to the rights of the applicants resulting in ousting them from zone of consideration for employment. The contention of respondents no. 4 and 5 that there is no precedent in the J&K Service Selection Board for taking preferences from the candidates/applicants and the Board is not bound for the same is factually wrong as pursuant to the direction given by the Hon'ble High Court in **Danish Shah's** case (supra) and in SWP 345/2015 titled as **Naziya Aslam & Ors Vs. State**, the respondent no. 4 vide letter dated 26.08.2015 had called upon the candidates to submit their preferences for the post of Junior Engineer (Civil) in PHE/PWD departments. Therefore, the stand of the respondents no. 4 and 5 in their reply is totally contradictory to their stand to letter dated 26.08.2015.

13. The case of the applicants is at higher pedestal as total 44 posts of Junior Engineer (Civil) in PHE Department are still lying vacant and Respondent No. 1 has pleaded that no instructions in respect of preferences from the candidates has been issued by the department of Disaster Management, Relief, Rehabilitation and Re-construction to the



respondents no. 4 and 5 for not seeking preferences from the selected candidates. Moreover, the respondent no. 1 has submitted that if any recommendation regarding candidature of applicants is received from Respondent No. 4, the department shall have no hesitation in accepting the same. Meaning thereby, 44 posts are still lying vacant and no process for re-advertisement of the said posts has been initiated and the department is ready to accept the candidature of the applicants. Therefore, the applicants are entitled to get the appointment.

14. In another matter titled **Amit Pandita and Others Vs. UT of J & K and Others**, WP(C) No. 4416/2019, the Hon'ble High Court of J & K at Jammu vide order dated 23.12.2019 has disposed of the petition by observing as under:-

“Having regard to the nature of the issue raised in the writ petition, the writ petition is taken up for final disposal at its threshold and is disposed of by providing that the petitioners shall file their objections to the provisional list prepared for the posts in question which shall be considered by the respondents. In case the objections/representation is already made by the petitioners, the respondent-Board shall consider the same and take a decision thereon within a period of one month from the date copy of the order is made available to them and finalize the selection thereafter.”

15. In order to buttress his arguments, learned counsel for the applicants has also placed on record copies of various Notices issued by Respondent No. 4 dated 09.03.2021, 18.05.2021, 07.08.2021 and 24.09.2021. From the perusal of the aforesaid Notices, it is evident that in the appointment of various posts through CBT examination, respondent no. 4 in its external Board meeting held on 25.08.2015 decided to implement the judgment of the Hon'ble High Court dated 24.08.2015 and thereafter candidates were called upon to submit their preferences within two days for the post of Junior Engineer in respect of



PHE/I&FC Department. The same analogy could have been adopted by Respondent no. 4 to avoid the instant controversy. The judgment dated 17.05.2010 relied upon by respondent no. 4 and 5 in the case of **Liyakat Hussain** (supra) is distinguishable to the facts of the instant O.A. Therefore, the same does not come to the aid of the respondents. The respondent can't afford two different yard sticks in selection process on the same issue without any reasonable justification.

16. In view of the ratio of the aforesaid judgment passed by the Hon'ble High Court, the respondents no. 4 and 5 are directed to re-frame the select lists to the post of Junior Engineer (Civil) in PHE Department under OM category considering the candidature of the applicants and recommend the names of the applicants to the Government PHE/I&FC department J& K. This exercise shall be carried out by the respondents no. 4 and 5 within eight weeks from the date of receipt of a certified copy of this order. The Original/Transfer Applications are allowed. Pending MAs stand disposed of accordingly.

(ANINDO MAJUMDAR)
MEMBER (A)

(SURESH KUMAR BATRA)
MEMBER (J)

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