

By Speed Post



Government of India
National Commission for Scheduled Tribes

6th floor, 'B' Wing, Loknayak Bhawan
Khan Market, New Delhi-110 003.

File No. SA/1/2016/STGJK/SEOTH/RU-I

Date: 21/11/2017

To

1. The Chief Secretary,
Govt. of Jammu & Kashmir,
Civil Secretariat,
Jammu – 180005 (J&K).

2. The Financial Commissioner,
Agriculture Production Department,
Govt. of Jammu & Kashmir,
Civil Secretariat,
Jammu – 180005 (J&K).

3. The Secretary,
Jammu & Kashmir Public Service Commission,
Reshamghat, Jammu
Jammu – 180005 (J&K).


Sub: Representation dated 04/04/2016 received from Shri Shakoor Ahmed, S/o Qais-ud-Din, R/o Challas, Post Office Chakli Bagala, District Rajouri, Jammu & Kashmir - 185151 regarding violation of JK Reservation Act 2004 by JKPSA for recruitment of reserved category Backlog posts.

Sir,

I am directed to enclose a copy of the minutes of Sitting held in the Commission under the Chairmanship of Ms. Anusuiya Uikey, Hon'ble Vice-Chairperson, NCST on 17/11/2017 on the above mentioned subject for necessary action. Action Taken Report in this regard may be furnished to the Commission at the earliest.

Encl: As above.

Yours faithfully,


(P.T. Jameskutty)
Deputy Secretary

Copy to:

Shri Shakoor Ahmed,
S/o Qais-ud-Din, R/o Challas,
Post Office Chakli Bagala,
District Rajouri,
Jammu & Kashmir – 185151.

Copy for information to:

SSA NIC (for hosting on Commission's website)

Minutes of sitting held in the Commission on 17/11/2017 at 02:00 P.M. under the Chairmanship of Ms. Anusuiya Uikey, Hon'ble Vice-Chairperson, NCST in the case of Shri Shakoor Ahmed, S/o Qais-ud-Din, R/o Challas, Post Office Chakli Bagala, District Rajouri, Jammu & Kashmir - 185151 regarding request for cancellation of de-reserved post of Agricultural Engineering (Soil Conservation Assistant-Engg / Biogas Engg and Technical assistant) – by Jammu and Kashmir Agriculture Production Department / JKPSC under ST category.

List of Participants at Annexure-A.

Representation dated 04/04/2016 received from Shri Shakoor Ahmed, S/o Qais-ud-Din, R/o Challas, Post Office Chakli Bagala, District Rajouri, Jammu & Kashmir - 185151 regarding request for cancellation of de-reserved post of Agricultural Engineering (Soil Conservation Assistant-Engg / Biogas Engg and Technical assistant) – by Jammu and Kashmir Agriculture Production Department / JKPSC under ST category.

The matter was taken up with the Chief Secretary, Govt. of Jammu & Kashmir, Secretary, Agricultural Production Department Govt. of Jammu & Kashmir and the Chairman, Jammu & Kashmir Public Service Commission vide this Commission's letter dated 06/04/2016.

The JKPSC replied vide their letter dated 30/05/2016 that the backlog posts of Soil Conservation Assistant / Bio Gas Engineer and Technical Assistant were de-reserved by the Agriculture Production Department by invoking section – 5 of reservation Act, 2004 as these posts remain unfilled during the first and second special drive of recruitment due to non-availability of the eligible candidates for the period more than 5 years. The copy of above reply was sent to the petitioner for information. In response to JKPSC reply the petitioner (Shri Shakoor Ahmad) has submitted a rejoinder dated 18/07/2016 to the Commission and stated that reply is not satisfactory. They have raised some quarries in the rejoinder. A reply dated 01/08/2016 also received from the Agriculture Production Department, Govt. of J&K. Copy of above reply also sent to the petitioner for information.

Shri Shakoor Ahmad, petitioner has furnished a rejoinder / subsequent representation dated 25/11/2016 to the Commission in which he has asked the reply on some points from the JKPSC / Agriculture Production Department, Govt. of J&K. The copy of rejoinder dated 25/11/2016 of the petitioner has been sent to the Agriculture Production Department, Govt. of J&K and JKPSC vide this Commission's letter 22/12/2016. In this connection a detail reminder dated 08/02/2017 has been sent to the above authorities from the Commission.

In response to the Commission's letter dated 08/02/2017 the JKPSC has furnished a reply / report dated 23/02/2017. Reply has been examined and found unsatisfactory. A copy of above reply has been sent to petitioner for information and comments.


सुश्री अनुसुईया उइके/Miss Anusuiya Uikey
उपाध्यक्ष/Vice Chairperson
राष्ट्रीय अनुसूचित जनजाति आयोग
National Commission for Scheduled Tribes
भारत सरकार/Govt. of India
नई दिल्ली/New Delhi

The petitioner has submitted a rejoinder dated 25/04/2017 to the Hon'ble Vice Chairperson, NCST. Ms. Anusuiya Uikey, Hon'ble Vice-Chairperson, NCST has fixed a sitting to discuss the matter with the Commissioner / Secretary, Agriculture Production Department, Govt. of J&K, the Secretary, JKPSK and the General Administration Department, Govt. of J&K on 18/05/2017 at 3:00 P.M. Accordingly, minutes of sitting has been sent to the concerned authority for necessary action.

In response to minutes of sitting, no reply / Action Taken Report has been received in the Commission from the concerned authorities. Therefore, the Hon'ble Vice-Chairperson has fixed a further sitting with the Jammu & Kashmir Govt. Officials for discussion in the matter on 17/11/2017 at 2:00 P.M. Accordingly, a sitting notice has been issued.

Discussion:

The Hon'ble Vice-Chairperson, NCST asked to the Shri Shakoor Ahmed, petitioner about his grievances. The petitioner intimated to the Commission that J&K PSC has advertised two attempts whereas it should be three as per the J&K reservation Act, 2004 (Section-5 of the Act). Moreover, the de-reservation proposal submitted by JKPSK to the Commissioner / Secretary to APD, Govt. of J&K vide letter No. PSC/DR/CA(Engg.)/2010 dated 08/12/2011 and letter dated 23/07/2015 contents the wrong information about notification No. 01 and 02. (04 PSC of 2006 dated 26/05/2006 and 05 PSC of 2009 dated 02/02/2009). If the proposal of de-reservation itself is questionable then how they can proceed for the de-reservation of posts.

The petitioner, Shri Shakoor Ahmed shared that J&K PSC advertise 3 terms of advertisement including fresh advertisement and there is no as such practice of advertising under backlog post. Whereas according to the J&K Reservation Act, 2004 [chapter I, section 2(e)] itself explains (backlog vacancies” means those reserved vacancies which remain unfilled for want of suitable candidates after two attempts in the recruitment year to fill up those vacancies) and chapter II - section 5 (3) explain that “in subsequent year, when recruitment is made for reserved vacancies, the backlog vacancies shall also be notified provided that the total number of reserved vacancies including backlog vacancies shall not exceed the percentage reserved for such categories”.

The petitioner intimated that candidates were available before de-reservation of post which was done in December, 2015 and they have approached to the Department, J&K PSC and other related Department and state Govt. for advertisement of these posts under reserved category but the Department de-reserved the post overlooking the availability of eligible candidates at that time.

The petitioner also stated that the J&K PSC and J&K APD have sent fake information to the Commission about notifications of PSC in 2006, 2009. All three agencies stated different dates of notification as follows:

As per advertisement published in Delhi Local News Paper Kashmir Times / Greater Kashmir	In De-reservation Proposal by J&K Public Service Commission	As per facts provided by J&K Agriculture Production Department
9 PSC of 2006 Dated: 28-12-2006	4 PSC of 2006 Dated: 26-05-2006	9 PSC of 2006 Dated 26-05-2006
2 PSC of 2010 Dated: 19/04/2010	05 PSC of 2009 Dated: 02/02/2009	05 PSC of 2006 Dated 02/02/2009

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Anusuiya
सुश्री अनुसुईया उइके/Miss Anusuiya Uikey
उपाध्यक्ष/Vice Chairperson
राष्ट्रीय अनुसूचित जनजाति आयोग
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The Vice-Chairperson of the Commission viewed seriously on such incorrect information provided by the Agriculture Production Department and Jammu & Kashmir Public Service Commission.

Commission invited the attention of Officer of Jammu & Kashmir Public Service Commission to the DoPT Office Memorandum No. 36012/6/88-Estt.(SCT) dated 25 April, 1989 has not been taken into consideration and observed that when the J&K PSC de-reserved the ST vacancies in December, 2015, there were the eligible candidates available including Shri Shakoor Ahmed. Shri Shakoor Ahmed was eligible in the month of June, 2015. It was also observed that 11 vacancies have been notified out of which not a single vacancy reserved for Scheduled Tribe community when candidates from ST community were available.

On the above observation, the Commission advised to the J&K PSC and J&K APD that they may re-consider their decision to de-reserve the ST vacancies and reserve at least 4 vacancies as was done in the year 2006 for STs, in the 11 vacancies for which advertisement was made under notification No. 6 PSC (DR-P) of 2016 dated 14/03/2016. In that way, the candidature of Shri Shakoor Ahmed can also be considered by the J&K PSC under ST category. Action Taken in the matter may be apprised to the Commission at the earliest.


सुश्री अनुसुईया उइके/Miss Anusuiya Uikey
उपाध्यक्ष/Vice Chairperson
राष्ट्रीय अनुसूचित जनजाति आयोग
National Commission for Scheduled Tribes
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नई दिल्ली/New Delhi

List of Participants

Sr. No.	Name and Designation
I	<u>National Commission for Scheduled Tribes</u>
1.	Ms. Anusuiya Uikey, Hon'ble Vice-Chairperson
2.	Shri P.T. Jameskutty, Deputy Secretary
3.	Shri Rajeshwar Kumar, Assistant Director
4.	Shri Gaurav Kumar, PS to Hon'ble Vice-Chairperson
5.	Shri H. R. Meena Senior Investigator
II	<u>Chief Secretary, Govt. of Jammu & Kashmir</u>
1.	Shri Pankaj Magotra, Additional Secretary General Administration Department.
III	<u>Govt. of Jammu & Kashmir, Agriculture Production Department</u>
1.	Ms. Leena Padha, Special Secretary
VI	<u>Petitioner</u>
1.	Shri Shakoor Ahmed