



JAMMU AND KASHMIR PUBLIC SERVICE COMMISSION
RESHAMGHAR COLONY, BAKSHI NAGAR, JAMMU

(www.jkpsc.org)

Subject: Disposal of 1st appeal under J&K RTI Act, 2009 restored by State Chief Information Commissioner on the application of Dr. Amit Sharma S/o Rajesh Sharma R/o Nai Basti Kanachak, Akhnoor.

Ref: SIC-J-1st Aug/2011 Dated: 06.02.2012

Order No. 79 PSC of 2012

Dated: 01.03.2012

1- This appeal was restored by State Chief Information Commissioner vide decision No. 30-SIC of 2012 dated: 06.02.2012. in the case titled Dr. Amit Sharma S/O Rajesh Sharma R/o Nai Basti Kanachak, Akhnoor. The operative part of the decision is reproduced as under:-

"The Chairman not being the 1st appellate authority i.e. why it seems that the 1st appeal remained unattended. As there was no order on 1st appeal, therefore, treating appellant's application dated 02.08.2011 as complaint, it is thought proper to restore the matter to the 1st appellate authority i.e. Secretary, J&K Public Service Commission with the direction to adjudicate the complainant's points raised in the 1st appeal. He may also examine the applicability of Section 11 of the Act. The Commission does not want to go into the merits of this case at this point of time, because the matter is already restored to 1st appellate authority. The 1st appellate authority is further informing this Commission that the entire record of 60 candidates alongwith this candidate has been requisitioned by the Hon'ble High Court in connection with some other issue related to this matter. The complainant has contested. He is also at liberty to disprove this contention and lead evidence to 1st appellate authority that the record was lying with J&K Public Service Commission. The complainant has to be given an opportunity by the 1st appellate authority while deciding the issue. A proper order may be passed within 20 days from the date of receipt of this order."

2- In pursuance of the above decision of the State Chief Information Commissioner received by the Commission on 21.02.2012, the applicant was advised to appear before the undersigned on 28.02.2012 at 11:30 AM through a communication dated: 22.02.2012. The applicant appeared accordingly on the scheduled date and was given a detailed hearing. The 1st appeal dated: 02.08.2011 is infact a communication addressed by the applicant to State Chief Information Commissioner. The 1st appeal was filed by him before the Hon'ble Chairman, J&K Public Service Commission on 07.04.2011 in which he had requested the Hon'ble Chairman to direct the PIO to furnish information sought as per his two applications filed under RTI, Act dated: 21.05.2010 and another dated: 21.02.2011 respectively. The information under application dated: 21.02.2011 is not the same as sought under application dated: 21.05.2010 though part of the information is somewhat similar.

3- Now reverting to application dated: 21.05.2010 received in the Commission on 28.05.2010 and again addressed to Hon'ble Chairman, J&K Public Service Commission and not to the PIO, the candidate had sought following information:

1. Detailed information regarding the marks obtained by each of the candidate in the interview on the basis of which each has been selected (under various sub-heading like basic qualification, merit, higher qualification, publication, other achievements, experience, special attributes, NCC, sports, interview etc.) that have been considered by the J&K Public Service Commission in awarding marks out of 100 out of said post during the selection process. In response to notification No. 12-PSC of 2005 dated: 20.09.2005 where under 60 candidates were selected by the J&K Public Service Commission for the posts of AE (Civil) vide letter No. PSC/DR/Civil/Engg/2005-6 dated: 31.12.2007 under OM Category.
2. Detailed information regarding the marks awarded to the applicant by the J&K Public Service Commission out of 100 on the basis of which selection was to be made for the post.

4- It is not in dispute that the candidate was initially provided information by the PIO vide communication No. PSC/RTI/2010/132 dated: 24.06.2010 where under breakup of the marks secured and the cut of merit in the OM Category was provided to the applicant. It is also not in dispute that the said communication did not indicate the notification against which the position was conveyed to the candidate as the commission had also conducted interviews for the posts of AE (Civil) against one more Notification No. 09-PSC of 2008 dated: 11.11.2008 for which selections were made in 2010. The Commission repeated the information to the applicant vide a communication dated: 27.08.2010. It is also not disputed that through one more communication dated: 22.03.2011 the Commission conveyed him the cut of merit and the marks secured by him against Notification No. 06 PSC of 2005 dated: 31.05.2005 read with Notification No. 12 PSC of 2005 dated: 20.09.2005.

5- The applicant had appeared in the interview under various notifications. The breakup conveyed vide communication dated: 24.06.2010 pertains to his position under advertisement Notification No. 09-PSC of 2008 dated: 11.11.2008. It appears that there was a confusion/communication gap in conveying the merit position to the applicant and the merit against Notification No. 09-PSC of 2008 which was not asked by the candidate was conveyed to him on 24.06.2010. However, subsequently vide communication dated: 22.03.2011 the merit position as asked for by the applicant against the relevant Notification was provided to him.

6- For purposes of removal of any doubts the merit position of the applicant and the cut of merit in the two notifications as recorded in the file is as under:-

Notification No. & Date	Cut of marks	Marks obtained by the candidate	Remarks
12-PSC of 2005 dated: 20.09.2005	60.53	60.21	Not selected as not falling under cut of merit.
09-PSC of 2008 Dated: 11.11.2008	56.57	71.21	Selected.

7- However, the information with regard to providing details of 60 candidates was not provided to the applicant as conveyed to him vide communication dated: 31.03.2011 by the PIO wherein it was stated that the information sought by him could not be provided, the matter being sub-judice in the Hon'ble High Court. It is this communication on which the applicant is aggrieved and has to be dealt with accordingly.

8- The applicant Sh. Amit Sharma had appeared in the interview against Notification No. 12-PSC of 2005 dated: 20.09.2005 where he could not find place in the select list on the basis of his relative assessment. However, against another Notification No. 9-PSC of 2008 dated: 11.11.2008 for which interviews were conducted on 25th, 27th & 28th January, 2010 the candidate figured in the select list at Serial No. 1. The candidate had challenged his non inclusion in the select list of 2005 before the Hon'ble High Court. He had also filed application before the Hon'ble High Court pointing out the information provided to him under the RTI Act as detailed above. The Hon'ble High Court had called for the records of both the selections and as per the records available, the selection records have been sent to the Advocate on 31.12.2010 to be produced before the Hon'ble High Court. A status report on the court cases was obtained from the Advocate earlier who had conveyed the following on 29.01.2012:

"With reference to the subject cited above and in response to the telephonic conversation held with your goodself, it is to intimate you that as per the direction passed by the Hon'ble Court, the record of both the selection viz. of the year 2008 and 2010 for the post of AE (Civil) was called by the undersigned to be produced before the Hon'ble High Court with a view to clarify the position in respect of a mistake committed by the official of the Commission in communicating the merit position of the petitioner (Amit Sharma) under RTI Act. The matter had come up before the Hon'ble Court on 1.8.2011 and 31.10.2011 wherein the Hon'ble Court while granting another opportunity to other respondents to file their response to the amended writ petition has granted liberty to the Commission to response Annexure-G of the amended writ petition (i.e. Commission's communication dated: 24.06.2010) with reference to the original record of selection. The matter is expected to be listed in near future for its consideration as and when the same is listed and considered, the original record of both the selection received by the undersigned shall be returned to the Commission."

9- The factual position with regard to the records was conveyed to the applicant also during the course of the personal hearing given to him.

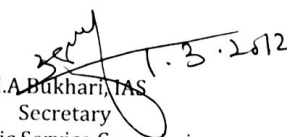
10- Once the Hon'ble High Court has asked for the records which have been submitted to the Hon'ble High Court through the advocate in a sealed cover, which cannot be unilaterally called back by the Commission as it may not be appropriate to do so.

11- However, in order to remove the doubts from the minds of the applicant the undersigned apart being 1st appellant authority, being also the Secretary of the Commission have taken up the matter with the Counsel of the Commission again to provide a legal advice if the records in the sealed cover pertaining to the selections are to be produced before the Hon'ble High Court on the directions of the Hon'ble High Court can be opened without seeking permission of the Hon'ble High Court so as to provide relevant information to the applicant. He has also been requested that in case the permission of Hon'ble High Court is required the same may be done so that doubts, if any, in the mind of the applicant are cleared. The applicant shall have, therefore, to wait for the response from the advocate of the Commission.

12- It would be appropriate to record here that the application dated: 21.02.2011 filed by the applicant is different from the application dated: 21.05.2010 although part of the information sought is common. In para 1 of the application dated: 21.02.2011 the applicant seeks information including year of passing, B.E/B.Tech and M.E/M.Tech by 60 candidates who have been selected under Notification No. 12-PSC of 2005 dated: 20.09.2005 under OM Category and also the Roll No.'s in the screening test alongwith names and addresses of the candidates. Part 2 of the information sought is same as asked for in the application dated: 21.05.2010. As the part 2 cannot be dealt with at the moment in view of the reasons given hereinabove, however, the available information from other records of the Commission like bio-data sheets as is available is being provided to the candidate as was agreed to also during the personal hearing. The same information is annexed herewith. The issue of pending information out of this application can be considered once the application dated: 21.05.2010 is disposed of after receipt of the response from the advocate.

13- The case was also been examined under Section 11 of the Act. The applicant is seeking information in respect of 60 candidates who are 3rd party and their consent for sharing details would be required. Once the communication/clarification/advice as sought above is received from the advocate, the issue of 3rd party shall be taken up that time only.

14- It may be noted here that the applicant during hearing did not produce any evidence that the record was lying in the J&K Public Service Commission. However, it needs to be reiterated that the records of the matter are with the advocate of the Commission in a sealed cover to be produced before Hon'ble High Court in pursuance of the orders of the Hon'ble High Court in the writ petition No. 179/2008 titled Dr. Amit Sharma Vs state and ors. The appeal is accordingly disposed of.


M.A. Bukhari, IAS
Secretary

J&K Public Service Commission
Dated: 01.03.2012

No.PSC/RTI/2010/132

Copy to the:

1. Registrar, J&K State Information Commission for favour of information. This is with reference to the Decision No. 30-SIC of 2012 dated: 06.02.2012.
2. Sh. F.A. Natnoo, Advocate, J&K Public Service Commission for necessary action. This has reference to letter No.PSC/RTI/2010/132 Dated: 29.02.2012.
3. Dr. Amit Sharma S/o Rajesh Sharma R/o Nai Basti Kanachak, Akhnoor for favour of information.
4. Incharge website for uploading the same on the website.

Annexure to Order No:79-PSC of 2012 dated 01.03.2012

S.No.	Name of the Candidate selected	Address	Roll No. in Screening Test	%age of marks in minimum qualification (MQ) considered by J&K PSC *	Year of passing BE/B.Tech (MQ) *	%age of marks in Higher Qualification (HQ) considered by J&K PSC	Year of passing M.E/M.Tech. (HQ)
1	2	3	4	5	6	7	8
1	Ishfaq Mohd. Beg S/o Abdul Ahad Beg	R/o Beigh Colony Baba Raza Opp. Receiving Stn. Sopore (Baramulla)	1000859		2002		M.Tech.2004
2	YASIR Faiz Jan S/O Faiz Ahmed Jan	R/o Majeed Bagh, Sanat Nagar Srinagar.	1000709		1999		
3	Aijaz Ahmad Shah S/O Abdul Salam Shah	R/O Qayoom Brothers, Kotwal Gali, Lal Chowk, Anantnag.	1000770		2002		M.Tech. 2004
4	Imtiyaz Ahmad Mir S/O Ghulam Mohd.Dar.	R/O Qureshi Lane,Molvi Stop Lalbazar, Srinagar.	1001031		1994		
5	Ashok Kumar S/O. Tej Ram Sharma	AKS Niwas Opposite Govt. Quarters Block -M C/O.New Chenab Traders Janipur Colony, Jammu.	1000583		1990		
6	Khalid Bashir S/O Prof.B.A.Dar	C/O. G.A.Bhat Stores, Gagribal, Boulevard, Srinagar.	1000750		1993		
7	Tariq Ahmad Shah S/O. Ghulam Mohi-Ud- Din Shah	R/O. Professor Colony, Naseem Bagh, Srinagar.	1000790		1994		
8	Ashfaq Ahmad Dar S/O. Ghulam Ali Dar.	R/O.H.No. 142, Rawalpura Colony, Srinagar-5.	1000636		1998		

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9	Gulami Gousu Saqlain S/O. Mohd.Ahsan Shah	R/O. Nabalabal, Pampore (Pulwama)	1000681		1999		
10	Farooq Ahmad Shah S/O. Mohd.Kamal Shah	R/O. Vodhpura Tehsil, Handwara, Kupwara.	1001100		1994		
11	Arun Gupta S/O. Krishan Lal Gupta	R/O.Ward No.06 H.No.214 Karan Nagar, Udhampur	1000062		1989		
12	Samiullah Beigh S/O. Ghulam Mohd.Beigh	R/O. Bohlochi Pora, Soura, Srinagar.	1000804		2005		
13	Imran Lone, D/O. Gulam Qadir Lone	R/O. H.NO.60, Alnoor Colony (West) Hyderpora, Srinagar.	1000943		2003		
14	Manoj Kumar S/O. Lal Chand Gupta	C/O.Jaswant Raj Gupta, Sham Tara Niwas, 16-C, Bharat Nagar, Rehari Colony, Jammu.	1000036		1994		
15	Anbreena Anjum D/O.Habib-Ullah Fafoo	R/O.Manzil Mandir Bagh, Gowkadal, Srinagar.	1000787		2005		
16	Tatheer Manzoor S/O. Manzoor Ahmad Khan	C/O.Manzoor Ahmad Khananzimar, Khanyar, Srinagar.	1000824		2002		
17	Shazia Majid D/O.Abdul Majid Kishtwari.	R/O.Gulposh Colony, Chanpora, By-Pass, Near State INN Sales Corp. Budgam.	1000654		2003		

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18	Aruj Allaqband S/O.Mohd.Maqbool Allaqband	R/O.Zainadar Mohalla Bahh Kadal, Srinagar.	1000732		2004		
19	Reyaz Ahmad Bhat S/O.Bashir Ahmad Bhat	R/O.Saimooh Tral, Pulwama.	1000933		2004		
20	Sajad Ali Bhat S/O.Ali Mohd.Bhat	R/O.69,Sonawar Bazar, Srinagar	1000719		1993		M.E. 1997
21	Shwetanki Sharma S/O.C.U.Sharma	R/O.Samriddhi Niwas, 14-B/C, Gandhi Nagar, Jammu.	1000413		2002		
22	Faisal Abdullah Dar S/O Mohd.Abdullah Dar	C/O Faisal Abdullah Dar CO.Kewakdrishan,Bali,385 Timber Road, Laked Mandi,Janipur,Jammu.	1000038		2005		
23	Ajaz Masood Bhat S/O Mohd.Maqsood Bhat	R/O Bagh Nand Singh,New Colony,Karan Nagar, Srinagar.	1000663		2000		M.Tech.2002
24	Shabir Ahmad Kumar S/O Haji Abdul Razak	C/O Lecturer, Mech.Engg.Govt.Polytecnic Srinagar.	1000685		1996		
25	Bharat Gupta S/O Bansilal Gupta	R/O W.No. 10,H.No.81, Kathua.	1000023		1998		
26	Sunil Seth S/O Jagpal Seth	R/O 132-near Andheri Gali,Mubarak Mandi,Panjthirthi,Jammu.	1000258		1992		

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27	Nawaz Ahmad Bhat S/O Gh.Nabi Bhat	R/O Sadiwara Verinag, Anantnag.	1000684		2004		
28	Pooja Wazir D/O A.S.Wazir	R/O H.No.313, Sec-Chani Himmat Jammu.	1000287		2004		
29	Najmun Sahar D/O Ali Mohd.Bhat	R/O Sheikh Hamza Colony, Lane No.1, H.No.18, Lal Bazar Srinagar.	1000752		2003		
30	Amit Abrol S/O Radhe Sham Abrol	R/O 97-Bunglow, Link Road, Bridge, Prani Mandi Jammu.	1000173		2002		
31	Mushtaq Ahmad Wani S/O Gh.Qadir Wani	R/O H.No.09, Ajas, Bandipora Wani Mohalla, District Baramullah, Kashmir.	1000834		2004		
32	Fayaz Ahmad Kumar S/O Abdul Gani Kumar	R/O Hargam, near teeni Masjid, Shopian.	1000596		1994		
33	Sheema Lone D/O Gh.Qadir Lone	R/O H.No.60, alnoor Colony, Bypass, (West) Hyderpora Srinagar.	1000634		2005		
34	Abhishek Gupta S/o Darshan Kumar Gupta	R/o 323, Shastri Nagar Jammu.	1000213		1999		
35	Sunil Kumar S/o Makhn Lal	C/o 35-B, Bank Colony, Govind Nagar, Gole Gujral, Camp Road, Talab Tillo Jammu.	1000008		1996		

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36	Masood-ur-Rafiq S/o Farooq Ahmad Mintoo	R/o Padder, Kishtwar.	1000651		2002		
37	Yasir Bashir S/o Bashir Ahmad Kichloo	C/o 257 E.P. Mohalla, Dalpatian, Wazrat Road, Jammu	1000573		1993		
38	Rais Aslam Makhdoomi S/o Mohd. Aslam Makhdoomi	R/o Govt. Housing Colony, H.No:346, Sector-1/C Lane-2, Opp.Post Office Bemina, Srinagar	1000730		2004		
39	Irfan Ahmed Banday S/o Abdul Ahad Banday	R/o 116-Sherwani Colony, Khawaja Bagh Baramulla.	1000994		2003		
40	Shuja Ahmed S/o Malik Hafizullah	R/o Alamgari Bazar, Srinagar	1000747		1997		
41	Khursheed Jahan S/o Mohd. Ramzan Kuchay	R/o Wanpoh, Anantnag.	1000884		1994		
42	Fayaz Ahmed Kar S/o Abdul Khaliq Kar	C/o Civil Lines Area, Nai Basti Road, Tral	1000687		1996		
43	Nuzhat Shanoo D/o M.S. Salmani	R/o 63-C, Indira Nagar BB Cantt, Srinagar	1000670		2004		
44	Fayaz Ahmad Sofi S/o Mohd. Ramzan Sofi	C/o Post Box No. 514, GPO Srinagar	1000691		2003		
45	Firdous Ahmad Ganai S/o Mohd. Ramzan Ganai	R/o Garoora Bandipora, Bala.	1000999		2005		

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46	Beiza Rafiq D/o Mohammad Rafiq	R/o1/261- Dilsoz Colony, Natipora	1000700		2003		
47	Shivangi Gupta S/o Jagdish Chander Gupta	R/o1/129, Indira Vihar, Old Janipora Jammu.	1000135		2002		
48	Varinder Paul Singh S/oAjid Singh	R/o H.NO. 164, Sector-4, Sanjay Nagar, p/o Gangyal Jammu.	1000415		2001		
49	Nazia Nazir Zahid D/o Nazir Ahmad Zahid	R/o Pvt. Colony, Baghi Mehtab, Srinagar.	1000669		2004		
50	Rohit Puri S/o Madan Lal Puri	R/o 59-Sector-4, Nanak Nagar Jammu.	1000034		1993		
51	Hamid Iqbal Mir S/O. Nissar Ahmad Mir	C/O. Patron Arts, Dalgate, Srinagar.	1000800		2005		
52	Miftah Alam Buchh S/O. Zahoor Ahmad Buchh	C/O. Govt.College for Engg. Old University Campus, Canal Road, Jammu.	1000145		1997		M.Tech.1999
53	Arit Gupta S/O. Prem Nath Gupta	R/O. H.No. 69, Sector-1, Chani Himmat, Jammu.	1000416		1993		
54	Sohan Lal S/O.Shanker Dass	C/O.Shanker Dass Cloth Merchants, Maikn Bazar, Ram nagar, Udhapur.	1000511		1994		
55	Atul Gupta S/O.Kasturi Lal Gupta	R/O.36-A Ext.Gandhi Nagar, Jammu.	1000556		1995		

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56	Maqsood Shafi S/O.Mohd.Shafi Basu	R/O.Namblabal, Pampore, Pulwama	1000748		2004		
57	Rajiv Kumar Sharma S/O. Sudesh Kumar	R/O. H.No. E-8, W.No. 3, Indra Colony, Kathua.	1000313		2002		M.Tech 2004
58	Girdhar Gopal Gourav S/O.Badri Nath Sharma	C/O.Prof.Hans Raj Sharma. H.No.58-D,Tawi Vihar, Sidhra Udampur, Jammu.	1000158		2005		
59	Asiuf-Ullah Khan S/O.Mohd.Sidiq Khan	R/O.Pahilpora Safapora, Bla.	1000599		2004		
60	Vaneet Vaid S/O. Jagdish Chander Vaid	R/O. 96/A/D Gandhi Nagar, Jammu.	1000099		1993		
61	Amit Sharma S/o Rajesh Sharma	R/o Nai Basti Kana Chak Akhnoor Road	1000050		2000		M.Tech.2003

Note: The information in respect of column No:5 & 7 cannot be provided at the moment because the selection record in sealed cover is lying with the Standing Council J&K Public Service Commission for providing the same before the Hon'ble High Court at Jammu as and when the case is listed for hearing.