

Suppl. List VC
Sr. No. 02

IN THE HIGH COURT OF JAMMU AND KASHMIR AT  
SRINAGAR

EMG CM. No. 85-A/2020 in  
EMG WP(C) No. 69-A/2020  
EMG CM No. 86-A/2010

Towseef Ahmad Shah and Ors.

... Petitioner(s)

Through: - Mr. M. Y. Bhat, Advocate,  
(On video conference  
from his residence)

V/s

UT of J&K and Ors.

....Respondents(s)

Through: -

**CORAM:**

**Hon'ble Mr Justice Ali Mohammad Magrey, Judge**

**ORDER**  
02.06.2020

**EMG CM No. 85-A/2020**

On the set of facts and grounds urged, coupled with the submissions made at Bar, the instant application is allowed and petitioners are permitted to file the petition without stamps and affidavits with direction to file the same as and when the same are available.

CM disposed of.

**EMG WP(C) No. 69-A/2020**

In the instant petition, the petitioners who claim to have participated in the process of selection against the post of Assistant Cashier/Clerk (General Category) in the respondent Bank, advertised in terms of advertisement notice No. 01/2017 dated 18.04.2017, are on completion of the process not selected and seek direction for operation of the waiting list in the order of merit.

Petitioners' state that they being qualified and eligible have applied against the post of Assistant Cashier/Clerk (General Category) in the respondent Bank, advertised in terms of advertisement notice No. 01/2017 dated 18.04.2017. Further claim of the petitioners is on appearance in the written test petitioner No. 1 obtained 96.12 marks (Rank 5), petitioner No. 2 obtained 96.75 marks (Rank 3) and petitioner No. 3 obtained 96.75 marks (Rank 3). Petitioners claim to have been interviewed on 07.04.2019 and on completion of the process of selection, the respondent Bank as stated has issued merit list for the said post rank wise.

Petitioners further state that the respondent Board for extraneous considerations awarded less marks to the petitioners in interview out of 20 marks than they deserved on the basis of their performance in the interview and such intentional approach was only aimed at lowering down their position in the merit, qua they had obtained in the written test than those of the selected candidates. It is further stated that some of the candidates, who obtained less merit in the written examination than petitioners were awarded 14 marks out of 20 marks in the interview, while as the petitioners were only awarded 5 or 6 marks out of 20 marks, thereby merit of the petitioners was changed to demerit, which action amounts to glaring irregularity.

It is further stated that some selected candidates on appointment have not joined, thereby leaving the posts vacant to be filled up by operating the waiting list. It is further stated that the two candidates namely Farhana Farooq and Majid Yousuf, though selected have not jointed the post, therefore, their claim that they being next in the merit deserved to be selected/appointed. It is further stated that the respondent Bank has filled up more posts than advertised i.e., 20 posts were advertised but they have made

the selection against 34 persons, which is not permissible in terms of legal position.

Heard learned counsel for the petitioner, perused the material on record and considered the matter.

Mr. M. Y. Bhat, learned appearing counsel for the petitioners when asked as to whether the respondent Bank is amenable to the writ jurisdiction with reference to status as the State qua Article 12 of the Constitution of India, submits that this Court has already entertained the writ petitions against the State Cooperative Bank.

Before proceeding further, the Court is inclined to issue notice for seeking response of the respondents, qua maintainability of the writ petition as also on the merits.

Notice in main petition as well as in CM to be served on the respondents within two weeks. Steps for service upon respondents by whatever mode asked by the Registry of this Court be taken during the course of week.

In the meantime, respondent Bank shall consider the representation of the petitioners, pending decision qua their entitlement for appointment strictly in accordance with rules in vogue.

List on 19.06.2020.

Registry to send copy of this order to learned counsel for the petitioners through e-mail.

**(Ali Mohammad Magrey)**  
**Judge**

**Srinagar**  
**02.06.2020**  
*Mohammad Yasin Dar*