



Government of Jammu and Kashmir
Public Works (R&B) Department
Civil Secretariat, J&K, Jammu.

Subject: SWP 1300/96 CMPSW 98/D/99 titled Roshan Din Choudhari & ors
V/s State-release of Pay Scale of 1760-3200 (PR).

Government Order No:- 121 -PW(R&B) of 2021,

Dated:- 25 -03-2021.

Whereas, the Chief Engineer PW(R&B) Kashmir vide letter No. ES/8506/07 dated 19.6.2013 intimated that 68 candidates appointed as Junior Engineer vide Government order No. 278-PW(R&B) 1993 dated 30.4.1993 & Government order No. 331-PW(R&B) 1993 dated 15.3.1993 have been placed in the pay scale of 1760-3200 (PR) vide Government order No. 159-Works of 2002 dated 09.4.2002 in compliance to the Hon'ble Court order passed in SWP No. 1300/96-D titled Roshan Din V/s State and Ors; and

Whereas, one Shri Javid Ahmad Khan, Junior Engineer of PW(R&B) approached the department through the medium of representation for extending similar benefit on the analogy of his counterparts on the plea that his name figuring at S.No.36 in the above referred appointment orders has not been placed in the revised pay scale of Rs. 1760-3200 (PR); and

Whereas, the case was examined in the department and found that Shri Javid Ahmad Khan, Junior Engineer has claimed for the benefit after a gap of 13 years for placing him in the pay scale of Rs. 1760-3200 (PR) on the analogy of his counterparts; and

Whereas, the case was referred to the Finance Department vide U.O. dated 09.3.2016 for necessary consent and vide U.O. No. A/79(63)-II-431 dated 22.6.2016, the case was returned with the following advise:-

"To settle the issue in terms of Rule 2.43 of J&K Financial Code Vol.I by fixing his pay in the PR Sclae 1760-3200 notionally w.e.f. 04/2002 and monetarily from 03/2016 in order to protect his pensionary benefits".

Whereas, the case was further examined in the department and observed that the benefit of placement in the pay scale of 1760-3200 extended to Junior Engineer's in the year 2002 in compliance to Hon'ble High Court orders is not in consonance with the recruitment rules;

Whereas, the case was again referred to the Finance Department for re-visiting its advise conveyed earlier in the matter who vide U.O. No. A/79(63)-II-87 dated 14.3.2017 advised as under:

"The department is advised to cite reasons for re-visiting its earlier proposal and that Finance has no objection if the department can satisfy the court orders without extending the benefit in the instant case"

Whereas, the case has been examined and found that the impediment in terms of Rule 2.43 of J&K Financial Code Vol-I which speaks out that reopening of old cases should be deprecated as a fundamental principle does not reflect any obstruction in considering the placement of the official Mr. Javid Ahmad Khan, Junior Engineer in the pay scale of 1760-3200 (PR) as the question of reopening does not stand in the case of the Junior Engineer on the following grounds:-

- i) Shri Javeed Ahmad Khan, JE stand appointed among 68 candidates figuring at S.No. 36 vide Govt. order No. 278-PW (R&B) of 1993 dated 30.4.1993 & Govt. order No. 331-PW(R&B) of 1993 dated 15.3.1993 .
- ii) All the candidates have been extended benefit of placing in the grade pay of Rs. 1760-3200 (PR) vide Govt. order No. 159-Works of 2002 dated 09.4.2002 in light of Hon'ble High Court directions passed in SWP No. 1300/1996 titled Roshan Din Choudhari & Ors V/s State & Ors.
- iii) Non-implementation of benefit under Govt. order No. 159-Works of 2002 dated 09.4.2002 for last 13 years in respect of Shri Javeed Ahmad Khan, JE who, stand similar situated among 68 candidates appointed as JEs and extended the benefit of placing in the grade pay of Rs. 1760-3200 (PR).
- iv) The statement of Chief Engineer as mentioned in his office letter No. CE/RBK/ES/21824-25 dated 07.10.2015 that the said JE was working in Rural Development Department at the time of placement of his counterparts in the pay scale of 1760-3200 (PR) does not also justify the reasons for not extending the benefit to the similar situated Shri Javeed Ahmad Khan, JE.

Whereas, Rule 289 & 296 of General Financial Rules provides as under:-

"Retrospective claim due from date of sanction: In the case of sanction accorded with retrospective effect the charge does not become due before it is sanctioned. In 296(1) should be reckoned from the date of sanction and not from the date on which the sanction takes effect."

"(1) Procedure for dealing with time-barred claims: Even a time barred claim of a Government servant, shall be entertained by the concerned authority provided that the concerned authority is satisfied that the claimant was prevented from submitting his claim within the prescribed time limit on account of causes and circumstances beyond his control".

Whereas, in light of the enumerated facts of the case, the claim of Shri Javid Ahmad Khan, Junior Engineer for his placement in the pay scale of 1760-3200(PR) on the analogy of his counterparts has been found due for consideration.

Now, therefore, in terms of Rule 2.43 of J&K Financial Code Vol-I read with Rule 289 & 296 of General Financial Rules, sanction is hereby accorded to the placement of Mr. Javid Ahmad Khan, Junior Engineer in the pay scale of 1760-3200 (PR) notionally w.e.f. 04/2002 and monetarily from the date of issuance of this order.

By order of the Government of Jammu and Kashmir.


Sd/-

(Shailendra Kumar)IAS
Principal Secretary to Government
Public Works(R&B) Department
Dated: - 25 -03-2021

No:-PW(R&B)/NG/200/2013

Copy to the-

1. Joint Secretary (J&K), Ministry of Home Affairs, Government of India, New Delhi.
2. Financial Commissioner, Finance Department.
3. Director, Achieves, Archaeology and Museum Department, J&K, Jammu.
4. Chief Engineer PW(R&B) Department Kashmir.
5. OSD to Advisor (B) to the Hon'ble Lieutenant Governor.
6. Pvt. Secretary to Principal Secretary to Government, PW(R&B) Department
7. Concerned Official.
8. Government order file/stock file (w.s.2.c)
9. In-charge Website.


(Farooq Ahmad Malik)
Under Secretary to the Government
