



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

(Computer No.102746)

Subject: O.A. No. 332/2021 titled Shazia Mushtaq V/s UT of J&K and others.

**Government Order No. 162 -PW(R&B) of 2022**  
**Dated:- 11 .05.2022**

Whereas Ms. Shazia Mushtaq was appointed as Assistant Research Officer (ARO) vide Government order No. 240-PW(R&B) of 2010 dated 29.06.2010 on substantive basis; and

Whereas after completion of her six years of service, she requested for her placement as Deputy Research Officer in terms of SRO-297 of 2006.

Whereas the final seniority list of ARO of the department was issued vide order dated 25-10-2016 and Shazia Mustaq was the lone candidate working against the said post; and

Whereas , Shazia Mushtaq, Assistant Research Officer appointed in 2010 through PSC was not considered for placement as Deputy Research Officer (DRO), owing to the constraints of Recruitment Rules issued vide SRO-297 of 2006; and

Whereas, in terms of Engineering (Gazetted) Service Recruitment Rules notified vide SRO-297 of 2006, the method of recruitment for the post of **Deputy Research Officer** is provided as under:

- i. 25% by direct recruitment from persons having Bachelor's Degree in Engineering or AMIE (Section A&B) India, in the discipline in which appointment is to be made. However, preference will be given to persons possessing a Master's Degree in Civil Engineering or Degree with a post-graduate Diploma in Civil Engineering.
- ii. 25% by transfer from Class-IV (Category B).
- iii. 50% by promotion from Class V(I) with experience of 3 years as such in the case of graduates in Civil Engineering and 5 years in the case of other graduates as Assistant Research Officer.

Whereas, from the above extract, the following position emerges for the recruitment of Deputy Research Officer:

- i. 25% Direct Recruitment through PSC.
- ii. 25% by transfer from Assistant Engineer/equivalent.
- iii. 50% by promotion from **Class V(I)** which is **Chief Foreman**

Whereas, relevant to mention here that the method of recruitment for the post of Chief Foreman as provided in SRO-297 of 2006 is:

- i. 50% by direct recruitment from the persons possessing degree in Mechanical Engineering with 2 years experience in installation, operation, maintenance and overhauling of heavy mechanical equipment with related certificates.
- ii. 50% by promotion from amongst persons possessing degree in Mechanical Engineering with at least 3 years experience or 3 years Diploma in Mechanical Engineering with at least 10 years experience.

Whereas, the above position explicitly clarifies that the **Chief Foreman** is a different post which requires Degree in Mechanical Engineering while as **Deputy Research Officer (DRO)** requires Degree in Civil Engineering.

Whereas, there has occurred a typographical error at the time of issuance of SRO-297 of 2006 while framing the method of recruitment for the post of Deputy Research Officer (DRO) as it should have been "50% by promotion from **Class VI**" which is "**Assistant Research Officer**" instead of 50% by promotion from "**Class V(I)**" which is **Chief Foreman** ".".

Whereas, the case was examined for carrying out suitable amendments in the SRO-297 of 2006 and the Competent authority advised to process the case and not to wait for formal orders of amendment in the relevant recruitment rules.

Whereas the instant case was examined and referred to the GAD on 02.07.2021 for placement of Ms. Shazia Mushtaq as DRO in relaxation of recruitment rules. The GAD vide UO dated 23.07.2021 returned the case file with the following observations:-

"The Departmental proposal is returned with the following advice:-

- i. The proposal seeking relaxation of recruitment rules for promotion of Ms Shazia Rasool, Assistant Research Officer as Deputy Research Officer is in violation of the policy of Government and judgment dated 28.04.2000 passed by the Hon'ble Supreme Court in the case titled Suraj Parkash Gupta & Ors Vs State of J&K and Ors.
- ii. The department instead of seeking relaxation of basic recruitment rules, may initiate proposal for amendment in the SRO-297 dated 14.09.2006, for correcting the error in the numbering of reflected Class/ Category forming the feeding post for promotion as Deputy Research Officer, although these rules clearly indicate the "Assistant Research Officer" is the feeding category for the said post and not **Chief Foreman.**"

Whereas, Shazia Mushtaq, ARO was not considered for placement as DRO owing to the constraints of SRO-297 of 2006, aggrieved to this, she approached to the Hon'ble Central Administrative Tribunal (CAT) by medium of a petition, for redressal on the plea that the amendment of rule is a time consuming process, till then she may get retired from the service as she has already been suffering from so many years.

Whereas, Hon'ble Central Administrative Tribunal vide Order dated 14.02.2022 directed the department to:

*"consider her promotion by rectifying the error and consider her claim for the post of Deputy Research Officer before the direct recruits are inducted. In view of the above discussion, the respondents are hereby directed to dispose off letter dated 03.02.2021(supra) and make requisite rectification in the SRO-247 of 2006, thereafter consider the case for promotion as Deputy Research Officer of the applicant well before the induction of direct recruits so that she is not made suffer for the long administrative delay in considering her for promotion. The respondents are directed to pass a reasoned and Speaking Order treating this OA as representation within a period of four weeks from the date of receipt of certified copy of this order."*

Whereas, the case was further examined in the department and was referred to the ARI & Trainings Department vide U.O No.PWD-HRM1/ 25/ 2021-05- Department of PWD R&B Dated: 29.09.2021 alongwith **proposal** for rectification/ correction of error/ modification in the roman numbering as "**VI**" **instead of "V(I)"** appearing at Class V category II against the post of **Deputy Research Officer** under para (iii) below the column of qualification & Method of recruitment, of schedule annexed to the J&K Engineering (Gazetted) Service Recruitment rules notified vide **SRO-297** dated 14.09.2006.

Whereas in the meeting of the Standing Committee Constituted vide Government Order No. 1223-JK(GAD) of 2021 dated 17.11.2021 was held under the Chairmanship of Additional Chief Secretary, Finance Department on 31.01.2022. Among other departments, the recruitment rules of PW(R&B) were also deliberated/discussed and draft recommendation was placed before the Committee and were cleared by the committee. As such the Public Works (R&B) Department was advised through the minutes of the meeting to make the requisite correction/rectification in the Roman numbering as "vi instead of v(i)" appearing at column v, category ii against the post of Deputy Research Officer J&K, in the Engineering Gazetted Service Recruitment Rules after seeking the prior approval of the Competent authority.

Whereas, the minutes of the Standing Committee referred ibid was received by this department on 20-04-2022 Accordingly, the file is under process for the necessary rectification,

**Now, therefore in compliance to the order of the Hon'ble CAT and in light of recommendations of the Standing Committee for making necessary rectification in the Recruitment rules the case of Shazia Mustaq was reexamined and it was decided that the claim of Shazia Mushtaq, Assistant Research Officer for her elevation as Deputy research officer under promotion quota shall be considered only after the rule of SRO- 297 ibid is modified and subject to fulfilment of all other necessary conditions.**

**By order of Government of Jammu & Kashmir.**

**Sd/-**

(Shailendra Kumar)IAS

Principal Secretary to Government

Dated:- 11 -05-2022

No. PWD-LIT/431/2021-05

Copy to the

1. Principal Secretary to the Hon'ble Lieutenant Governor.
2. Joint Secretary (J&K) Ministry of Home Affairs, Government of India, New Delhi.
3. Director, Achieves, Archaeology and Museum Department, J&K Jammu.
4. Chief Engineer, DIQC, J&K, Jammu.
5. Advocate Mr. Amit Gupta, AAG, Central Administrative Tribunal Jammu Bench, Jammu
6. Private Secretary to the Principal Secretary to Government, PW(R&B) Department.
7. Concerned.
8. I/C Website, PW(R&B) Department.
9. Government Order file/ Monday return.



(Dr. Zeba Suleman)

Under Secretary to the Government