



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

Subject: T.A. No. 61/280/2020 Tashi Namgial V/s UT of J&K & Others-*consideration thereof.*

Government Order No. 16-PW(R&B) of 2025
Dated: 14-01-2025

WHEREAS, Er. Tashi Namgial approached the Hon'ble Central Administrative Tribunal, Jammu Bench through the medium of T.A. No. 61/280/2020 titled Tashi Namgial V/s UT of J&K and others seeking following relief:

A) *Commanding the respondents to regularize the promotion of the applicant to the posts of Assistant Executive Engineer and Executive Engineer with effect from the date he was so placed as Incharge with all consequential benefits of regular grade from the said date.*

B) *Commanding the respondents to consider the applicant for his further promotion as Superintending Engineer and Chief Engineer with all consequential benefits from the date his juniors, particularly, Sh. Shabir Ahmed Chowdhary (ST) has been so promoted.*

C) *Commanding the respondents to include the applicant's name in the seniority lists of Assistant Executive Engineer and Executive Engineer and beyond.*

D) *Further for issuance of an appropriate writ, order or direction, that may include a writ in the nature of writ of certiorari, quashing letter OM No. GAD(Vig)02-NOC/2019-PW(R&B) dated 17.09.2019, if it is pleaded by the respondent Nos.1 and 2 as a reason for not regularizing applicant in his promotion as Assistant Executive Engineer and Executive Engineer and also not considering him for further promotion as Superintending Engineer and Chief Engineer, being illegal, arbitrary and incapable in generating any such power or jurisdiction to deny the applicant his right.*

AND WHEREAS, the petitioner has been regularized as Assistant Executive Engineer w.e.f. 12.12.2001 after confirmation from JKPSC/DPC vide Government Order No. 155-PW(R&B) of 2022 dated 06.05.2022;

AND WHEREAS, the petitioner has been regularized as Executive Engineer w.e.f. 01.03.2014 after confirmation from JKPSC/DPC vide Government Order No. 463-PW(R&B) of 2022 dated 22.12.2022;

AND WHEREAS, after regularization as Executive Engineer, seniority of the petitioner was fixed in the seniority of Executive Engineers (Civil) issued vide Government Order No. 234-PW(R&B) of 2019 dated 13.05.2019 at Seniority No. 98-A vide Government Order No. 162-PW(R&B) of 2023 dated 20.04.2023;

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AND WHEREAS, the State of Jammu and Kashmir was reorganized into two successor Union territories in terms of the Jammu and Kashmir Reorganization Act, 2019, with Appointed Day as 31.10.2019;

AND WHEREAS, Section 89 of the Jammu and Kashmir Reorganization Act, 2019, provides for determination of the successor Union territory to which every employee/person falling under the ambit of the Sub Section (1) of Section 89 of the Jammu and Kashmir Reorganization Act, 2019 shall be finally allotted for service; the relevant provisions whereof are reproduced as under:-

"89(2) As soon as may be after the appointed day, the Lieutenant Governor of Jammu and Kashmir shall, by general or special order, determine the successor Union territory to which every person referred to in sub section (1) shall be finally allotted for service, after consideration of option received by seeking option from the employees, and the date with effect from which such allotment shall take effect or be deemed to have taken effect:

Provided that even after the allocation has been made, Lieutenant Governor of Union territory of Jammu and Kashmir may in order to meet any deficiency in the service, depute officers from one successor Union territory to the other Union territory."

AND WHEREAS, in terms of the provisions of Section 89(2) of the Jammu and Kashmir Reorganisation Act, 2019, options with regard to allocation of Union territory were sought from all employees of the erstwhile State of Jammu and Kashmir serving on substantive basis, on a proforma notified vide Circular No. 42-GAD of 2019 dated 11.10.2019 and the petitioner had opted for Union territory of Ladakh;

AND WHEREAS, the General Administration Department vide Circular No. 20-JK(GAD) of 2021 dated 19.06.2021, had advised the Administrative Departments to consider promotion of employees of the erstwhile State of J&K against combined cadre strength of UT of J&K and UT of Ladakh, till apportionment of employees to the successor Union territories. As such, Er. Tashi Namgyal was placed as Incharge Superintending Engineer, prior to his apportionment vide Government Order No. 289-PW(R&B) of 2021 dated 23.09.2021;

AND WHEREAS, the petitioner among other employees was apportioned to the Union Territory of Ladakh vide Government Order No. 1212-JK(GAD) of 2021 dated 15.11.2021;

AND WHEREAS, as a sequel, the General Administration Department issued another advisory vide Circular No. 09-JK(GAD) of 2021 dated 08.03.2022, wherein it was cleared that after apportionment of employees, their promotion shall be considered in the respective Union territories and against the posts allocated to the successor Union territories. The employees apportioned to Union territory of Ladakh, shall be excluded from the seniority list. However, vide Circular No. 12-JK(GAD) of 2024 dated 04.06.2024, the General Administration Department clarified that the cases involving pending regularization prior to apportionment of employees shall be placed before the J&K PSC for consideration and recommendations of the Commission, shall be forwarded to Administration of Union Territory of Ladakh for issuance of regularization orders;

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AND WHEREAS, the petitioner has been regularized as Superintending Engineer after confirmation from the JKPS/ DPC vide Government Order No. 441-PW(R&B) of 2023 dated 01.11.2023, notionally w.e.f. 01.02.2019 and regularly w.e.f. 29.09.2021;

AND WHEREAS, Since, Er. Tashi Namgial was apportioned to the Union Territory of Ladakh on 15.11.2021 and was not placed as Incharge Chief Engineer in the erstwhile State of J&K and including the period after Appointed Day of the J&K Reorganization Act, 2019, till his apportionment to the Union Territory of Ladakh, his placement/ promotion cannot be considered against the post of Chief Engineer, as he ceased to be employee of the Union Territory of J&K w.e.f. 15.11.2021 and also member of the J&K Engineering (Gazetted) Service. He retired on 31.12.2021 from the Union Territory of Ladakh as employee of the said Union territory;

NOW THEREFORE, the request of Er. Tashi Namgial with regard to promotion as Chief Engineer has been examined and is found devoid of any merit and hence the claim is rejected.

By Order of the Government of Jammu & Kashmir.


Sd/-

(Bhupinder Kumar) IAS
Secretary to the Government
Dated: 14-01-2025

No: PWD-LIT/145/2021

Copy to the:-

1. Additional Chief Secretary to the Hon'ble Chief Minister, J&K
2. Principal Secretary to the Hon'ble Lieutenant Governor, J&K.
3. Joint Secretary (JKL), Ministry of Home Affairs, Government of India.
4. Secretary, J&K Public Service Commission.
5. Director, Archives, Archaeology and Museums, J&K.
6. OSD to the Hon'ble Deputy Chief Minister, J&K.
7. Senior Law Officer, PW (R&B) Department.
8. Private Secretary to Secretary to the Government, PW (R&B) Department.
9. Concerned.
10. In-charge Website, Public Works (R&B) Department.
11. Government Order file (w.3.s.c.s)/Monday Return.


(Mohib Ali Bukhari) JKAS
Under Secretary to the Government