



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

Subject: TA No. 6822/2021 in SWP No. 2541/2012 titled Ajay Sharma V/s State and others.

**Government Order No. 194-PW(R&B) of 2024  
Dated: 12.07.2024**

**WHEREAS**, Er. Ajay Sharma was appointed as Junior Engineer (Mech.) in the Public Works (R&B) Department on 28.02.1994 and subsequently placed as In-charge Assistant Engineer (Mech.) in the year 2003;

**AND WHEREAS**, vide Government Order No. 193- PW(R&B) of 2022 dated: 10.06.2022, he was regularized as Assistant Engineer w.e.f. 01.12.2004;

**AND WHEREAS**, Er. Ajay Sharma was placed as In-charge Assistant Executive Engineer (Mech) in the year 2006 and subsequently placed as In-charge Executive Engineer (Mech), vide Government Order No. 12-PW(R&B) of 2012 dated: 09.01.2012;

**AND WHEREAS**, the placement of Er. Ajay Sharma as I/c Executive Engineer (Mech) was challenged by Er. Makhan Khajuria before the Hon'ble High Court;

**AND WHEREAS**, the matter was examined in the Department and vide Government Order No. 437-PW(R&B) of 2012 dated: 20.09.2012, the placement of Er. Ajay Sharma as In-charge Executive Engineer, ordered vide Government Order No. 12- PW(R&B) of 2012 dated 09.01.2012 ,was kept in abeyance;

**AND WHEREAS**, the engineer filed a writ petition before the Hon'ble High Court at Jammu bearing SWP No. 2541/2012, titled "Ajay Sharma V/s State of J&K and Others", where under the applicant prayed for quashment of Government Order NO. 437-PW(R&B) of 2012 dated 20.09.2012;

**AND WHEREAS**, Government Order No. 437-PW(R&B) of 2012 dated 20.09.2012, where under placement of Mr. Ajay Sharma as In-charge Executive Engineer (Mech) ordered vide Government Order No. 12-PW(R&B) of 2012 dated 09.01.2012 was kept in abeyance , was withdrawn ab-initio, vide Government Order No. 192 of PW(R&B) of 2014 Dated: 29.05.2014;

**AND WHEREAS**, the Hon'ble High Court passed an order dated 12.08.2021 and transferred the case to Central Administrative Tribunal (CAT), Jammu Bench as the matter pertains to the service dispute;

**AND WHEREAS**, the Hon'ble CAT passed an order on 29.02.2024 in T.A. 68 22/2021, titled "Ajay Sharma v/s State of J&K" , the operative portion of which reads as under:-

*"The Transferred Application is disposed of with a direction to respondents to treat this T.A. as representation of the applicant and decide the same by passing a reasoned and speaking order in light of order dated: 29.05.2023 passed by Srinagar Bench of this Tribunal in Transferred application No. 2663 of 2021. Respondents are further directed to communicate the order so passed to the applicant. The whole exercise shall be completed within a period of four weeks from the date of receipt of a certified copy of this order. With these directions, the T.A. No. 6822 of 2021 is disposed of. However, there shall be no order as to costs".*

**AND WHEREAS**, the Departmental Promotion Committee meeting of the Public Works (R&B) Department was held in the Jammu and Kashmir Public Service Commission on 17.01.2023 in which several proposals of the Department regarding regularization of In-charge Assistant Engineers as Assistant Engineers (Mech.), Incharge Assistant Executive Engineers as Assistant Executive Engineers(Mech.) and Incharge Executive Engineers(Mech.), as Executive Engineers(Mech.) were considered;

**AND WHEREAS**, perusal of the records reveals that Mr. Ajay Sharma has been placed as Incharge Assistant Executive Engineer on 10.11.2006 and Incharge Executive Engineer (Mech) on 01.11.2013 respectively. The DPC/J&K PSC cleared him for regularization as Assistant Executive Engineer (Mech.) w.e.f 25.01.2011 and as Executive Engineer (Mech) w.e.f. 14.01.2022 under general category in view of the stay of the Hon'ble Court on reservation in promotions. However, a slot and vacancy under RBA category has also been reserved for him at the level of Assistant Executive Engineer and Executive Engineer (Mech) w.e.f 01.08.2008 and w.e.f. 01.03.2021 respectively, in light of the instructions issued by the General Administration Department vide O.M No.GAD(MTG)RB-IV/04/2016 dated 21.06.2016;

**AND WHEREAS**, based on the above recommendations of the DPC/J&K PSC, Mr. Ajay Sharma has been regularized as Assistant Executive Engineer w.e.f 25.01.2011, vide Government Order No.105-PW(R&B) of 2023 dated 15.03.2023 and as Executive Engineer w.e.f 14.01.2022, vide Government Order No.107-PW(R&B) of 2023 dated 15.03.2023:

**AND WHEREAS**, the contention of Mr. Ajay Sharma that he should have been regularized as Executive Engineer w.e.f 01.11.2013 i.e., the date when he was placed as Incharge Executive Engineer is not based on rationale and is not supported by merits of the case. Date of confirmation/regularization of any officer on any post is, among other factors, dependent upon the availability of vacancy. As can be seen from the regularization orders, the officers who are senior to Mr. Ajay Sharma have been regularized as Executive Engineers from 18.07.2018 onwards and none of them have been regularized from the date which Mr. Ajay Sharma is claiming. The seniority list of Assistant Engineers Mechanical, issued vide Government Order No.357-PW (R&B) of 2022 dated 06.10.2022 has been operated upon for considering the regularization of the engineers of Mechanical wing as Assistant Executive Engineers and as Executive Engineers. In the said seniority list,

Mr. Ajay Sharma figures at Sr. No.37 as an RBA category officer. Er. S. Bahadur Singh, also figures as an RBA category officer at Sr. No.31 in the said seniority list. In the regularization order as Executive Engineer, S. Bahadur Singh (RBA) has been regularized as Executive Engineer w.e.f 30.04.2021 and Mr. Ajay Sharma (RBA) w.e.f 14.01.2022. In view of this, Mr. Ajay Sharma cannot claim his regularization as Executive Engineer from a date prior to the date of regularization of his admitted seniors.

Now, therefore, the plea of Er. Ajay Sharma for ante-dating his regularization as Executive Engineer, having been examined in the Department in light of the orders of the Hon'ble CAT dated 29-02-2024, has been found devoid of merits and is accordingly rejected.

**By the order of the Government of Jammu and Kashmir**


Sd/-  
(Bhupinder Kumar) IAS  
Secretary to the Government

No.PWD-LIT/189/2023-05-(CC: 7199694)

Dated:12.07.2024

Copy to the:-

1. Principal Secretary to the Lieutenant Governor, J&K.
2. Joint Secretary (Jammu, Kashmir & Ladakh), Ministry of Home Affairs, Government of India, New Delhi.
3. Secretary, J&K Public Service Commission.
4. Director, Archives, Archaeology and Museums, J&K, Srinagar.
5. Chief Engineer, M&HD, Jammu/Kashmir.
6. Deputy Advocate General, Central Administrative Tribunal, Jammu Bench, Jammu/Srinagar.
7. Private Secretary to Secretary to the Government, Public Works (R&B) Department.
8. Concerned Engineer.
9. I/c Website, PW(R&B) Department.
10. Government Order File/Stock File/Monday Returns File.

  
(Namrita Bhan) JKAS  
Under Secretary to the Government

