



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

Subject: OA No. 61/1215/2023 titled Masood Ahmed Shah V/s UT of J&K and Others.

Government Order No. 272 - PW(R&B) of 2024
Dated: 13 -09-2024

WHEREAS, the petitioner namely Masood Ahmed Shah was appointed as Junior Engineer vide Government Order No. 181-PW of 1999 dated 24.06.1999 in the pay scale of 4500-7000(pre-revised);

AND WHEREAS, Rule 15(g) of SRO-18 of Jammu and Kashmir Civil Services (Revised Pay) Rules, 1998, provides as under:

"All the Junior Engineers, present in the pay scale of Rs 1760-3200 will be placed in the revised pay scale of Rs 5700-10100. The fresh recruitment to the post of Junior Engineers (both in diploma & Degree holders) will be made in the pay scale of Rs 4500-7000 and they will placed in the revised pay scale of Rs 5700-10100 after putting in 8 years of service in the former scale. The Degree holders will be entitled to 8 advance increments on their initial appointment in the pay scale of Rs 4500-7000";

AND WHEREAS, the petitioner was appointed on 24.06.1999, and as such in terms of above-mentioned rule, the petitioner was placed in the pay scale of Rs 5700-10100 w.e.f. 24.06.2007 after completion of 8 years of continuous service;

AND WHEREAS, in terms of the provisions outlined in the SRO-14 of 1996 dated 15.01.1996, sanction was accorded for grant of 1st in-situ promotion in favor of the petitioner w.e.f 01.07.2008 i.e., from the date the applicant had completed 9 years of continuous service and fixed in the higher pay scale of 6700-10700 as on 01.07.2008;

AND WHEREAS, the pay of the petitioner was again revised in terms of the SRO 93 dated 15.04.2009, in the pay band of 5200-20200 with grade pay of 2800 w.e.f. 01.01.2006 and 2nd in-situ promotion was granted in favour of the petitioner w.e.f. 01.07.2017;

AND WHEREAS, the concerned Executive Engineer, R&B Division, Sumbal vide communication No. R&B/ Sbl/2339-41 dated 21.01.2020, forwarded verification of title case to the Principal Accountant General, J&K, before considering the voluntary retirement case of the petitioner;

AND WHEREAS, the Accountant General, J&K vide communication dated 20.05.2020 advised the Executive Engineer, R&B Division Sumbal to proceed on voluntary retirement of the petitioner subject to the condition among which of the condition is reproduced as under:

"The time-bound promotion may please be rechecked, in view of the up-gradation after 8 years of service as the same was due after 18 years from the date of entering into Government Service".

AND WHEREAS, the Executive Engineer, R&B Division vide letter No. R&B/891/21/925-27 dated 29.06.2021 has again referred the pension case of the petitioner to the Principal Accountant General, J&K;

AND WHEREAS, the Principal Accountant General, J&K vide communication No. PNR-I/S-I/2021-22/188639/1622-23 dated 25.08.2021 returned the pension case of the petitioner with the following advice:-

"The time-bound promotion may please be rechecked in view of upgradation after 8 years of service as the same was due after 18 years from the date of entering into Government Service. It is pertinent to mention that Rule 03(II) (g) of SRO-14 dated 15.01.1996, provides that where there is provision of only one time bound promotion under the aforementioned rules or any orders for the time being in force and the same is allowable and granted after putting in less than 09 years on the entry post, the next higher standard pay scale under these rules in such case(s) will be granted from the first of the following month in which such employees complete 18 years of regular satisfactory Service with reference to entry post without getting any promotion. Therefore pay in favour of Shri Masood Ahmed Shah (Ex-J.E) be refixed from time to time and recovery intimated to this office".

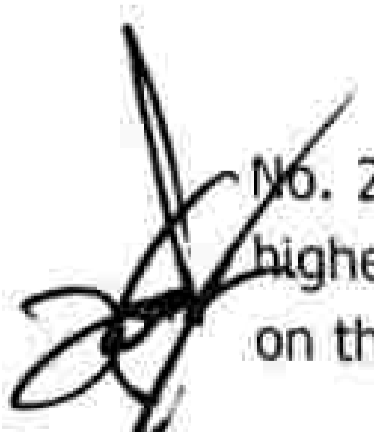
AND WHEREAS, the petitioner approached the Hon'ble Central Administrative Tribunal and the Hon'ble Tribunal disposed of the Original Application vide order dated 14th September, 2023 with the following direction:-

Accordingly, the Original Application is disposed of with a direction to Principal Secretary, Public Works (R&B) Department, Union Territory of Jammu & Kashmir to consider granting administrative approval to the case of the applicant keeping in the view the communication dated 09.02.2022 addressed by Executive Engineer, PW(R&B), Division Sumbal to Superintending Engineer, R&B Circle, Ganderbal/Bandipora, communication dated 24.02.2022 addressed by Superintending Engineer PWD (R&B), Circle Ganderbal/Bandipora to the Chief Engineer, PW (R&B) Department, Kashmir and communication dated 12.05.2022 addressed by Chief Engineer, PW (R&B) Department to Respondent No. 1 as well as the judgment of Hon'ble High Court of Jammu & Kashmir in the case of Kuldeep Singh and Ors Vs. State of Jammu & Kashmir (SWP No. 64 of 2008) connected with Kakay Ram and others Vs. State of Jammu & Kashmir (SWP No. 2421 of 2012) decided on 25. 10.2016. Before taking any decision, the applicant shall also be afforded an opportunity of hearing. The whole exercise shall be undertaken within a period of two months from the date of receipt of a certified copy of this order".

AND WHEREAS, vide Public Works (R&B) Department's letter dated 18.12.2023, the petitioner was directed to appear in person along with all records on 22.12.2023 at 3.00 pm in the office chamber of Additional Secretary, PW(R&B) Department for taking the further course of action;

AND WHEREAS, the petitioner was heard in person and the petitioner stressed that his case is similar to that of the case decided on 25/10/2016 in SWP No. 64/2008 and SWP No. 2421/2012 titled Kuldeep Singh and others v/s State and Kakay Ram v/s State of J&K;

AND WHEREAS, in the case of SWP No. 64/2008 titled Kuldeep Singh and in the case of SWP No. 2421/2012 titled Kakay Ram v/s State of J&K and Ors, the petitioners have been granted benefit of higher pay scale under J&K Civil Services (Revised Rules) 1998, after completion of eight years service on the grounds that the petitioners were not granted any promotion under any special provision;



AND WHEREAS, the case of the petitioner was further examined and accordingly taken up with the Finance Department for seeking necessary opinion in the matter and the Finance Department vide their U.O.No.FD-Code/6/2022-02- (CC 126775)-2/4 dated 08.03.2023 returned the case with the following advise:

"The Department is advised to examine the Issue in terms or Rule 3(g) of SRO-14 dated 15-01-1996."

AND WHEREAS, Rule 03(ii) of (g) of SRO-14 dated 15-01-1996, provides that where there is provision of only one time bound promotion under the aforementioned rules or any orders for the time being in force and the same is allowable and granted after putting in less than 09 yrs on the entry post, the next higher standard pay scale under these rules in such cases will be granted from the first of the following month in which such employees complete 18 yrs of regular satisfactory services with reference to entry post without getting any promotion;

AND WHEREAS, the petitioner was already placed in the High Standard Pay Scale of Rs (5700-10100) after putting in eight (08) yeras of service in terms of the provisions under Rule 15(g) of SRO-18 of 1998, and further granted in-situ promotion only after one year in terms of SRO-14 of 1996 dated 15-01-1996 w.e.f 01-07-2008 by again reckoning his nine (09) years of service from the date of his initial appointment i.e., 25-06-1999, which lead to ambiguities in the instant case.

NOW, THEREFORE, in compliance with the Hon'ble Central Administrative Tribunal's order dated 14.09.2023 and considering the opinion of the Finance Department dated 08.03.2023, the case of the petitioner has been considered and being found devoid of any merit, rejected accordingly.

By order of the Government of Jammu and Kashmir.

Sd/-

(Bhupinder Kumar)IAS,
Secretary to Government
Public Works(R&B) Department

Dated: 13 -09-2024

No:-PWD-LIT/444/2023-05

Copy to the:-

1. Joint Secretary (J&K), Ministry of Home Affairs, Government of India, New Delhi.
2. Director, Archives & Archeology & Museums J&K.
3. Senior Advocate General, CAT, Jammu Bench.
4. Chief Engineer PW(R&B) Department, Jammu.
5. Senior Law Officer, PW(R&B) Department.
6. OSD to Advisor(B) to the Hon'ble Lieutenant Governor, J&K.
7. Private Secretary to Secretary to the Government Public Works(R&B) Department.
8. Concerned.
9. In-Charge Website PW(R&B) Department.
10. Government Order file/Monday return.

(Hamid Hameed)

Under Secretary to the Government
Public Works(R&B) Department