



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

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Subject: OA No. 61/292/2022 & RA 61/04/2022 titled Tahir Rashid V/s UT of J&K and others.

Government Order No: 468 PW(R&B) of 2022  
Dated: 22.12.2022

Whereas, Er. Tahir Rashid was appointed as Junior Engineer (Mech) Diploma holder vide Govt. Order No. 201-PW (R&B) of 2019 dated: 09.04.2019, in compliance to the directions dated 15.07.2017, passed by the Hon'ble Division Bench in LPA (SW) No. 117/2009 titled Tahir Rashid v/s State & Ors; and

Whereas vide order ibid sanction was accorded to the appointment of Er. Tahir Rashid with retrospectively w.e.f 21.10.2004, alongwith his counterparts who have been appointed in the department vide Govt. Order No. 416-PW(R&B) of 2004 dated: 21.10.2004; and

Whereas, vide Govt. Order 336-PW (R&B) of 2022 dated: 21.09.2022, the seniority of the petitioner has been fixed at Sr. No. 306 under RBA category alongwith other engineers appointed in the year 2004; and

Whereas, petitioner represented this department in the 2021 for release of Financial/Monetary benefits/Salary arrears ; and

Whereas, vide this department letter dated: 30.09.2021, it was intimated that there is no provision in the rules to provide the salary arrears to the incumbents for the period of he was non-existent; and

Whereas, petitioner approached the Hon'ble CAT with the plea to set aside the letter/order 30.09.2021 and direct the respondents to give financial benefits to the petitioner against the post of JE Mechanical w.e.f 21.10.2004 in terms and compliance of judgment dated 15.07.2017 passed in LPA (SW) No. 117/2009.

Whereas, Hon'ble, CAT in the case issued an order for considering case of petitioner. The relevant order is reproduced as under:

*"In the light of the limited prayer made by the learned counsel for the applicant, the respondents are directed to consider On considering the above submissions of counsels for the parties, this O.A. is disposed of at admission stage, without expressing any opinion on merits of the case, directing the respondents to consider a copy of this*

  
22/12/2022

*to him for the post of Junior Engineer (Mechanical) from 21.10.2004 and decide it with a speaking order within four weeks from the date of receipt of a certified copy of this order and within one week thereafter to communicate it to the applicant. No costs."*

The case of the petitioner has been further examined in the light the direction of Hon'ble CAT dated: 31.03.2022 and 29.07.2022 and it is found that there is no provision in government rules to provide salary and other arrears as claimed by the incumbent for the period he had not given his services to the government or public or in the department and was not even born in the department, as public servant as defined in the J&K CSR. He has been given though notional benefit to protect his seniority from the date, his appointment has been given effect of. Thus the case for providing salary and other benefits from the date his appointment has been given effect without giving any service to the public, is found devoid of merits.

**By Order of the Government of Jammu and Kashmir.**

Sd/-

(Shailendra Kumar), IAS  
Principal Secretary to the Government  
Public Works (R&B) Department

No. PWD-LIT/447/2022-05

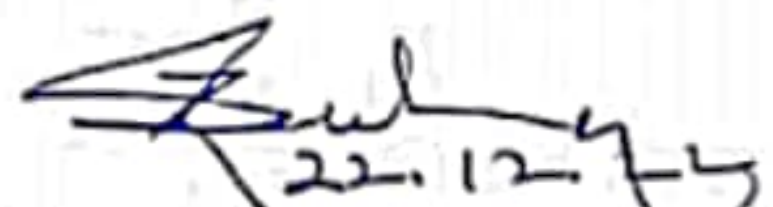
Dated: 22/12/2022

Copy to the:-

1. Managing Director/CEO \_\_\_\_\_
2. Director Archaeology Archives & Museums, J&K, Srinagar.
3. Chief Engineer, \_\_\_\_\_.
4. OSD to the Hon'ble Advisor (B) for information.
5. Concerned Engineers \_\_\_\_\_.
6. Private Secretary to the Principal Secretary to the Government, Public Works (R&B) Department.
7. I/c Website
8. Government Order File.

Copy also to :

Joint Secretary (J&K), Ministry of Home Affairs, GOI.

  
22.12.22  
(Dr. Zeba Suleman) JKAS  
Under Secretary to Government