

Government of Jammu and Kashmir
Jal Shakti Department
Civil Secretariat, Jammu/Srinagar

Subject:- Implementation of Order dated 30.05.2022 passed by Hon'ble Central Administrative Tribunal Jammu in O.A No. 61/411/2022 titled Roshan Lal V/s UT of J&K and ors.

Government Order No. 20 /JK(JSD) of 2024
Dated: 27.08.2024

1. Whereas, Sh. Roshan Lal S/o Sh. Jagan Nath, R/o Village Bakhar, Tehsil Sunderbani, District Rajouri filed a writ petition SWP No. 1224/2018 titled Roshan Lal Vs State of J&K and ors before the Hon'ble High Court at Jammu praying that the Respondent No.1 (Commissioner/Secretary, Public Health Engineering (I&FC) Department), be directed to issue formal order of appointment in his favour as Draftsman (Civil) Divisional Cadre Jammu notified for selection by JK Services Selection Board vide advertisement notification No. 01 of 2013 (Item No. 046) under Open Merit category as he is figuring at S.No. 05 in the waiting list furnished by JKSSB; and

2. Whereas, the matter was considered by the Hon'ble High Court on 19.06.2018 with the following directions, the relevant portion whereof is reproduced as under:-

"Keeping in view the submissions made and the nature of the relief prayed for, this petition is disposed of by directing respondent No. 1 to consider the issuance of formal order of appointment in favour of the petitioner as Draftsman (Civil) in the light of communication of the J&K Services Selection Board dated 27.02.2017 (supra) after conducting cross verification as provided in the aforesaid communication".

3. Whereas, in the meantime, the petitioner filed a Contempt petition bearing CPSW No. 571/2018 and sought punishment for respondent for willful/intentional defiance of Judgment dated 19.06.2018. The said contempt petition was considered on 10.09.2018 with the following directions:-

*"Issue notice to the respondent, returnable within four week. Requisites for services within one week.
List on 25.10.2018.
Meanwhile, statement of facts/compliance report be filed."*

4. Whereas, the case of the petitioner was examined in the department in consultations with the General Administration Department and Department of Law, Justice and Parliamentary Affairs and accordingly the claim of the petitioner was **rejected** vide Government Order No. 446-PW (Hyd) of 2019 dated 27.11.2019; and

5. Whereas, the department has received a copy of Order dated 30.05.2022, issued by the Hon'ble Central Administrative Tribunal, the operative part of which is reproduced as under:

"On consideration of the above submissions of the counsels for both 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 OA as a representation of the applicant for appointment as a draftsman as per provisions of relevant rules and GAD order dated 10.08.2021 for extension of validity period of wait list and decide it with a reasoned order within three weeks from the date of receipt of a certified copy of this order and within one week thereafter to communicate it to the applicant."

6. Whereas, in accordance with the aforementioned directions of the Hon'ble CAT, the representation has been examined, as indicated below; and

7. Whereas, the Department received selection list including the wait list of candidates for the post of Draftsman (Civil) from J&K Service Selection Board vide letter No.

SSB/Secy/Sel/2016/8062-68 dated 05.04.2016 under item No. 046 (01 of 2023) and SSB/Sel/2018/2250-52 dated 27.02.2018.

8. Whereas, the recommendations of some candidates were kept withheld by the JKSSB for want of certain documents/certificates including that of the petitioner who figured at Serial No. 5 in the wait list of OM category. The waiting list under OM Category from Serial No. 1 to 5 forwarded by the JKSSB was as under:-

1. Virender Singh S/o Karnail Singh, Baribrahmana Samba.
2. Yash Paul Sharma S/o Dewan Chand Sharma, Dharam Kote Billawar Kathua.
3. Shashi Mohan Sharma S/o Tirath Ram Sharma, Bhatwal Sunderbani Rajouri.
4. Lakhwinder Singh S/o Babu Ram, Godar Rajouri.
5. Roshan Lal S/o Jagan Nath, Bakher Sunderbani Rajouri.

9. Whereas, the J&K SSB released the withheld recommendations from time to time in respect of candidates falling in the select list including Mr. Virender Singh vide letter No. SSB/Sel/Secy/2016/13569-71 dated 17.05.2016; and

10. Whereas, from the perusal of records, it has been found that Mr. Deepak Dubey figuring at Serial No. 08, OM Category in the said Selection list has not joined and accordingly, the Department operated the waiting list and appointed Mr. Virender Singh S/o Karnail Singh R/o Bari Brahamana, Samba figuring at Serial No. 01 in waiting list as Draftsman vide Government Order No. 147-PW (Hyd) of 2017 dated 10.04.2017 in place of Mr. Deepak Dubey; and

11. Whereas, subsequently, the selection of Mr. Manish Kumar figuring at S. No. 03, OM Category in the selection list was cancelled by JKSSB (vide order No. 232-SSB of 2018 dated 12.04.2018) owing to his failure to produce requisite documents; and

12. Whereas, in the meantime, Mr. Yash Paul Sharma and Lakhwinder Singh figuring at Serial No. 02 and 04 respectively in the waiting list of OM category had been appointed in Public Works (R&B) Department; and

13. Whereas, vide Government Order No. 11-PW (Hyd) of 2019 dated 04.01.2019 the claim of Mr. Shashi Mohan Sharma figuring at Serial No. 03 of the waiting list of OM Category whose withheld recommendation was released by the Board on 06.05.2017 was also cancelled by the Administrative Department in view of the opinion received from General Administration Department vide U.O. No. GAD/Mtg/RB-IV/45/2018 dated 02.08.2018, which is reproduced as under:-

“Returned. The department is informed that the instant case is not covered under SRO-60 of 2018 dated 02.02.2018.”

14. Whereas, in view of dropping of candidates from Serial No. 02 to 04 in the said waiting list (OM Category), the department examined the case of the petitioner Sh. Roshan Lal figuring at Serial No. 05 of the wait list; and

15. Whereas, during examination it has been found that the **validity of waiting list expired on 04.04.2017**. The Rule 14 (7) of the Jammu and Kashmir Civil Services Decentralization and Recruitment Rules, 2010 amended vide SRO-60 of 2018 dated 02.02.2018, so far as it relates to operation of waiting list provides as under:-

“Provided that the validity period of one year of the waiting list of those selectees whose recommendations/selection is kept withheld by the recruiting agency shall be reckoned from the date of release of their recommendation.”

16. Whereas, the withheld recommendations of Mr. Roshan Lal were released by the Board vide letter No. SSB/Sel/Secy/2018/2250-52 dated 27.02.2018 and the case was referred to General

Administration Department in coordination vide U.O. No. PW/PHEJ/66/2018-WP-I dated 09.07.2018 for re-validation of waiting list;and

17. Whereas, the General Administration Department returned the departmental file vide U.O. No. GDC-93/CM/2019 dated 25.07.2019 with the advice that:-

“The proposal was placed before the authorities, who has observed as under:-

The candidature of Sh. Shashi Mohan Sharma (S. No. 3 in the wait list) for the post of Draftsman has been cancelled by the PHE/I&FC Department. The Court Orders in the case of Shri Roshan Lal (Petitioner) are similar to that of Sh. Shashi Mohan Sharma. The petitioner figures at S. No. 5 of the waiting list. On the principle of equity, his case needs to be rejected under SRO-60 dated 02.02.2018.

Accordingly, the department is advised to accord consideration to the claim of the petitioner and reject it through a speaking order in consultation with the Department of Law, Justice and Parliamentary Affairs. Simultaneously, the department should file statement of facts to the contempt petition.

18. Whereas, on the advice of General Administration Department the case has been referred to the Department of Law, Justice and parliamentary Affairs for opinion, who returned the case vide U.O. No. LD(Lit) 2018/385-PHE dated 11.11.2019 and opined as under:-

“The department has already rejected a similar matter relating to Shashi Mohan Sharma on advice of the General Administration Department. Therefore, the department may in view of advice of GAD pass a speaking consideration order in the present matter and file statement of facts before the Hon’ble High Court”.

19. Whereas, the claim of the petitioner was accordingly **rejected** vide Government Order No. 446-PW (Hyd) of 2019 dated 27.11.2019; and

20. Whereas, the General Administration Department vide Circular No 27-JK (GAD) of 2021 dated **10.08.2021** has impressed upon all the Administrative Departments to adhere to the statutory provisions with circular instructions/advisories issued on the subject with the advise to refrain from recommending the cases for re-validation of select list/wait list in relaxation of the Jammu and Kashmir Civil Services (Decentralization and Recruitment) Rules, 2010 particularly those which have lost their validity prior to 31st of October 2019 considering the change in legal framework and re-organization of erstwhile state.

21. Whereas, the case was again referred to the General Administration Department, who vide their U.O dated 25.04.2023 returned the case with the following opinion:-

“General Administration Department reiterates the opinion already conveyed vide U.O. No. GDC – 93/CM/2019 dated: 25.07.2019 (Copy enclosed).

The Department is further advised to accord fresh consideration in the matter in compliance of the Order dated 30.05.2022 passed by the Hon’ble Central Administrative Tribunal along the lines of Government Order No. 446-PW (Hyd) of 2019 dated: 27.11.2019, and file a comprehensive compliance report before the Hon’ble Tribunal in consultation with the Department of Law, Justice and Parliamentary Affairs.”

22. Whereas, the case was yet again referred to the General Administration Department, to revisit their earlier opinion, who vide their U.O. No. GAD-CORD/52/2023-09 dated 23.04.2024 reiterated its earlier decision/opinion conveyed vide U.O. No. GDC-93/CM/2019 dated 25.07.2019 and U.O. No. GAD-MTGORBIV/19/2023-GAD dated 25.04.2023; and

23. Whereas, upon reference to the Department of Law, Justice and Parliamentary Affairs, it has advised vide their U.O. No. LAW-Ser2/22/2024-10 dated 06.08.2024 (Computer No: 7508509) to proceed further in the matter in terms of the opinion tendered by General Administration Department in the matter; and

24. Whereas, the validity of wait list so far it relates to Shri Roshan Lal expired on 26.02.2019 i.e. before 31st of October 2019; and

25. Whereas, as mentioned above the case of Shri Shashi Mohan Sharma (S. No. 03 in the waiting list) has been rejected for not being covered under J&K Decentralization and Recruitment Act 2010 as the selection list lost its validity before the date of release of withheld recommendations. Also, on the basis of parity the case of the petitioner Sh. Roshan Lal, figuring at S. No. 05 in the waiting list which is not covered under the ambit of existing Rules; and

26. Now, therefore, the claim of the petitioner having been considered with due deference to the orders dated 30.05.2022 passed by Hon'ble Central Administrative Tribunal coupled with opinions of the General Administration Department and Department of Law, Justice and Parliamentary Affairs, the case has been found bereft of any merit for aforesaid reasons and is accordingly rejected.

By order of the Government of Jammu and Kashmir.


Sd/-
(Shaleen Kabra) IAS
Financial Commissioner (Additional Chief Secretary)
Jal Shakti Department

No. JSD-LS03/73/2022/211586

Dated 27.08.2024

Copy to the:-

1. Joint Secretary (J&K), Ministry of Home Affairs, Government of India.
2. Concerned Chief Engineer.
3. Private Secretary to Financial Commissioner (ACS), Jal Shakti Department.
4. Sh. Roshan Lal S/o Sh. Jagan Nath, R/o Village Bakhar, Tehsil Sunderbani, District Rajouri.
5. Incharge Website, Jal Shakti Department.
6. Stock/Personal files.


(Renmatullah)
Under Secretary to the Government,
Jal Shakti Department