

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

Subject: - CCP (S) No. 295/2019 in SWP No. 1003/2014 titled Vijay Sharma and Ors Vs State and Ors.

Government Order No. 205 -JK (JSD) of 2022.

Dated: 22-09-2022.

01. Whereas, Shri Vijay Sharma and others (hereinafter called petitioners) filled a writ petition bearing SWP No. 1003/2014 before the Hon'ble High Court at Jammu and sought relief therein, to consider the case of petitioners for grant of 5150-8300 grade (PR) in favour of petitioners w.e.f the dates they have joined as Draftsmen in light of the Judgment dated 21.11.2008 passed by the coordinate Bench of this Court in SWP No. 2047/2003 titled "*Sham Paul Randhawa and others versus State and others*".
02. Whereas, the Hon'ble High Court while disposing the case on 11.04.2014 with the following directions, the relevant portion, whereof, is reproduced as under:-

"The instant writ petition is disposed of with a direction with a disposed of as above along with connected CMA." direction to the respondents to consider the claim of the petitioners for grant of 5150-8300 grade (Pre-revised) in favour of petitioners w.e.f the dates they have joined as Draftsmen in light of the Judgment dated 21.11.2008 passed by the coordinate Bench of this Court in SWP No. 2047/2003 titled "*Sham Paul Randhawa and others versus State and others*" provided it squarely covers the case in hand. Respondent are further directed to pass appropriate consideration order within a period of two months from the date copy of this Order is served upon them. Petitioners, on their part may handover copy of this order alongwith complete set of writ petition to respondents so as to facilitate early decision in the matter.

03. Whereas, the matter has been examined in the department at various levels and on perusal of the identical cases the issue has been taken up

with Department of Law justice and Parliamentary Affairs as well and the Department of Law advised as under:

"Since the analogy/parity for grant of higher grade as claimed by the petitioner is itself in violation of the Statutory Rules/recruitment Rules and to extend the same to petitioner is full of implications to open a flood gate of an un-ending litigation the department may in compliance of the Hon'ble Court directions pass a fresh speaking consideration order having regard to the stand/decision of the department in the matter."

04. Whereas, thereafter the matter was also taken up with the Finance Department and the Finance Department advised as under.

"the department is advised to pass a fresh speaking orders, as directed by the Hon'ble Court on the basis of Recruitment Rules as advised by the Law Department dated 28.09.2020 "

05. Whereas, in view of the opinion tendered by the Department of Law, Justice & Parliamentary Affairs as well as Finance Department, the Department examined the matter again and it was found that the petitioners have applied for the post of Draftsmen borne in the cadre of Engineering Service and came to be appointed by way of different Government orders issued by the Department. The services of the Draftsmen is governed by the Jammu and Kashmir Engineering Subordinate Services Recruitment Rules, 1997 notified vide SRO-180 dated 26th May, 1997 and the pay scale attached with the post is notified with the recruitment rules and have been revised, pursuant to the Rule 15(f) of Jammu and Kashmir Civil Services (Revised Pay) Rules, 1998 notified vide SRO-18 of 1998 dated 19th January, 1998 which provides as under:-

"that all the Draftsmen (2 years diploma/certificate holders) carrying the existing pay scale of Rs. 1600-2600 will be placed in the revised pay scale of Rs. 5000-8000. The fresh recruitment to the posts of Draftsmen will be made in the pay scale of Rs. 4000-6000 and such

fresh appointees will be placed in the pay scale of Rs. 5000-8000 after putting 8 years of service."

06. Whereas, the said rules are in force and have not been set aside by any court of competent jurisdiction and the petitioners have already been appointed and have accepted the terms and conditions governing there service conditions envisaged in the pay rules pertaining to them.
07. Whereas, the petitioners cannot seek parity with that of cases referred in the writ petition, as the said cases were considered on different facts and circumstances as the Department of Law Justice & Parliamentary Affairs has advised that it is settled law that significance of judgment having been decided without reference to the statutory provision is not to be followed as a precedence.

Now, therefore, the claim of the petitioner has been considered with due deference to the order dated 25.10.2019, passed by the Hon'ble High Court in SWP No. 1003/2014 titled Vijay Sharma and Ors Vs State and Ors and has been found devoid of any merit for the aforesaid reasons and is accordingly rejected.

By order of the Government of Jammu and Kashmir.

Sd/-

(Shaleen Kabra) IAS

Principal/Secretary to the Government,
Jal Shakti Department.

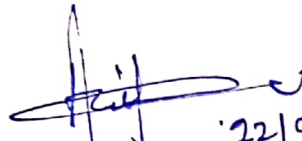
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Dated: -09-2022

Copy to the:-

1. Joint Secretary (J&K), Ministry of Home Affairs, Government of India, New Delhi.
2. Chief Engineer, (PHE) Jal Shakti Department, Jammu for information and necessary action.
3. Ld. Additional Advocate General, J&K High Court, Jammu for information and filing of compliance before the Hon'ble Court.
4. Private Secretary to the Principal Secretary to Government Jal Shakti Department for information of the Secretary.
5. PA to Additional Secretary to Government, Jal Shakti Department.

6. Petitioners.
7. Incharge website, Jal Shakti Department.
8. Monday Return file (w.2.s.c).
9. Government order file.


(Arifa Ashraf) 22/9/22

Under Secretary to Government,
Jal Shakti Department