

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

Subject:- Speaking/consideration order in OA. No. 62/427/2020 titled Altaf Ali Dar V. U.T of J&K and Ors.

Government Order No: 205- JK(JSD) of 2024
Dated: 04.09.2024

1. Whereas the petitioner namely **Altaf Ali Dar** has filed an Original Application bearing No. **62/427/2020** before the Hon'ble Central Administrative Tribunal, Bench Jammu/Srinagar, seeking relief for restraining the respondents from confirmation to the promotions accorded vide order dated 22.10.2012 and 04.08.2014 in favour of the candidates therein as Incharge Sr. Draftsman as well as Incharge Head Draftsman unless and until the petitioner is not included in the said orders being eligible in all respects as is reflected from communication dated 06.12.2010, 29.12.2010 and 07.05.2011 and to consider the applicant also firstly for promotion to the post of Sr. Draftsman and then to the post of Head Draftsman retrospectively from the year 2012; and

2. Whereas, the directions passed by the Hon'ble Tribunal vide order dated 14.08.2020 are reproduced as under:

***"Put up file for further orders on 25.09.2020.
In the meanwhile, the respondents will consider and decide the pending representation dated 02.03.2020 filed by the applicant."***

3. Whereas, the directions passed by the Hon'ble Tribunal vide order dated 25.09.2020 are reproduced as under:

"Learned A.A.G. seeks and granted three weeks time to file counter affidavit. Learned counsel for the applicant submits that vide order dated 14.08.2020, the respondents were informed to consider and decide the pending representation dated 02.03.2020 filed by the applicant. Learned counsel submits that the respondents have not decided his representation."

Respondents required to consider and decide the pending representation dated 02.03.2020 filed by the applicant within a shortest possible time with intimation to the applicant."

4. Whereas, pursuant to the directions passed by the Hon'ble Tribunal on 25.09.2020, the matter has been examined by the Department and from the perusal of the record, it has come to fore that Mr. Altaf Ali Dar (RBA) was figuring at Sr. No. 355 in the seniority list of Draftsman (Civil) issued vide Government Order No. 322-PW(Hyd) of 2004 dated 13.08.2004 and initially the Chief Engineer, Jal Shakti (Irrigation & Flood Control), Kashmir vide his letter No. 8450 dated 29.12.2010 has forwarded the posting details and APRs of Mr. Altaf Ali Dar alongwith others, to the department. Thereafter, vide this Department's OM No. PW/I&FC/63/2003 dated 07.06.2011, the particulars of Mr. Altaf Ali Dar, among other eligible candidates was forwarded to the General Administration Department for seeking Vigilance Clearance. Besides, vide this department letter dated 23.05.2011, the District Development Commissioner, Budgam was also requested to verify the genuineness of the RBA certificate of Mr. Altaf Ali Mohd. Dar; and



5. Whereas, from further perusal of the records, it has come to fore that initially the name of Altaf Ali Dar was included in the list of Draftsman who were proposed for considering their placement as Senior Draftsman, but during examination of the case from the relevant point of time, it has been worked out that there were only 22 posts available for considering promotion of Draftsman as Sr. Draftsman. Category wise break-up of these posts at that point of time is as under:

Open Merit	14
Scheduled Case	02
RBA	02
Scheduled Tribe	02
Social Caste	01
ALC	01
Total	22

6. Whereas, at the relevant point of time, as per above break-up of vacant posts, the officials senior to the petitioner under RBA category namely Mr. Gh. Mohi-Ud-Din Ahanger figuring at Sr. No. 106 of seniority list and Mr. Mumtaz Raina figuring at Sr. No. 183 of seniority list, were considered for their promotion/placement as Senior Draftsman but during the process, instead of 22 posts, 25 posts became available for considering for promotion with the following break-up:

Open Merit	15
Scheduled Case	02
RBA	03
Scheduled Tribe	03
Social Caste	01
ALC	01
Total	25

7. Whereas, at the relevant point of time, the following three officials under RBA category who were senior to the petitioner became/was eligible for considering their placement as Sr. Draftsman:

Name of the official	Seniority position
Gh. Mohi-Ud-Din Ahanger	106
Mumtaz Raina	183
Aiyaz Ahmad Khan	189

8. Whereas, as per availability of posts at the relevant point of time, among others, the above mentioned 03 Draftsman were proposed for considering their placement as Sr. Draftsman under RBA category and finally as per availability of posts at the relevant point of time vide Government order No. 476-PW(Hyd) of 2012 dated 22.10.2012, these officials were placed as Incharge Senior Draftsman and later vide Government Order No. 306-PW(Hyd) of 2014 dated 04.08.2014 among others, these officials were placed as I/c Head Draftsman under RBA category; and

9. Whereas, the following officials under RBA category are figuring above the petitioner in the Final Seniority list of Draftsman issued vide Government Order No. 28-JK(JSD) of 2021 dated 29.01.2021 as it stood on 01.01.2020 and as yet they have not been placed as Head Draftsman. The seniority position of the petitioner and other RBA officials figuring above to him in the Final Seniority List of Draftsman issued vide Government Order No. 28-JK(JSD) of 2021 dated 29.01.2021 are as under:-

Name of the official	Seniority position
Javid Ahmad Tantray (RBA)	130
Hazoor Ahmad Mir (RBA)	140
Syed Sakhawat Hussain (RBA)	145
Altaf Ali Mohammad Dar	215

10. Whereas, it is important to mention here that the General Administration Department vide OM dated 21.06.2016 has directed all the Administrative Departments to keep the slots meant for reserved category employees vacant/unfilled till the matter is finally heard and disposed of by the Hon'ble Supreme Court, so far it relates to promotion under reserved category.

11. Whereas, the officials senior to the petitioner have also not been promoted/placed as yet, and as such, the question of considering promotion of the petitioner does not arise. Further, seeking Vigilance Clearance of any employee by the employer do not confer any right for promotion as the Government is vested with power to obtain Vigilance Clearance or any kind of document of any employee at any point of time; and

12. Whereas, the case of the petitioner has been duly considered in compliance to the directions given by the Hon'ble Central Administrative Tribunal, Srinagar Bench and in light of the facts explained above it is found devoid of any merit.

13. Now, therefore, in view of the above, the claim of the petitioner namely Mr. Altaf Ali Dar is found devoid of any merit and is hereby, rejected accordingly.

By order of the Government of Jammu and Kashmir.

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

No: JSD-LS02(1)/92/2024(7472453)

Dated: 04.09.2024

Copy to the:-

1. Joint Secretary (J&K), Ministry of Home Affairs, Government of India, New Delhi.
2. Chief Engineer, I&FC Department, Kashmir
3. Director, Archives, Archaeology and Museums, J&K.
4. Senior Law Officer, JSD
5. Pvt. Secretary to the Financial Commissioner (Additional Chief Secretary), Jal Shakti Department, J&K.
6. I/c Website, Jal Shakti Department.
7. Concerned official for information.
8. Government Order file.(w.2.s.c.)

(Rehmatullah)
Under Secretary to the Government
Jal Shakti Department