

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

Subject:- CPSW No. 323/2018 in SWP No. 1957/2002 titled Swaran Singh Vs State of Jammu and Kashmir & Ors.

Government Order No. 70 -JK (JSB) of 2022.

Dated:- 20- 04 - 2022

Whereas, Shri Swaran Singh (hereinafter petitioner) filed a writ petition before the Hon'ble High Court bearing SWP No. 1572/2001 titled Swaran Singh Vs State of Jammu and Kashmir & Ors. wherein the petitioner sought benefit of appointment on the ground that 50% of agricultural land belonging to the family of the petitioner was acquired by the respondents in the year 1992 for construction of a Tube-Well, therefore, he was entitled for appointment on the basis of SRO-181 of 1988 and in alternate he also prayed in his writ petition that his services be regularized as DRW as the petitioner is working in the Department since 1992; and

Whereas, on consideration of the writ petition by the Hon'ble High Court on 04.03.2002 the Hon'ble High Court passed directions and consequent upon that the Chief Engineer rejected the claim of the petitioner vide Order No. PHEJ/2188-92 dated 08.05.2002 for appointment under SRO-181 of 1988 for the reason that the petitioner donated the land voluntarily which is less than 50% of his total land and SRO-181 was withdrawn in 1991 whereas the land was acquired in the year 1992, therefore, petitioner was not eligible for engagement and petitioner was also not eligible for regularization being a casual labour engaged in 1996; and

Whereas, aggrieved of the order dated 08.05.2002 issued by the Chief Engineer, the petitioner challenged the same by filing another writ petition SWP No. 1957/2002 titled Swaran Singh Vs State of J&K and Ors. and the said writ petition was considered by the Hon'ble Court on 19.05.2016 with the following orders:-

"While disposing the LPASW No. 115/2002, the Hon'ble Division Bench of this Court observed that the issue which arises for adjudication in the batch of appeals has already been conclusively dealt in LPASW No. 33/2010 (supra) and held as under:-

'We see no reason to take a view different from the one, which has already been taken by a Bench of this Court in Mushtaq Ahmed Sohail's case (supra). Accordingly, following the said judgment, as also the observations of the Apex Court reproduced in paragraphs 13 and 14 hereinabove, we dismiss the appeals and uphold the Judgment and orders dated 04.03.2002, 19.02.2002, 18.03.2002, 17.10.2001 and 7.11.2001,



providing for according consideration to the cases of the petitioners for regularization. The appellants are directed to consider the cases of the petitioners for regularization within three months from today.'

The instant writ petition is disposed of with the direction to the respondents to regularize the services of the petitioner on completion of seven years of continuous service in terms of the above said rules and on the same analogy as has been directed by Hon'ble Division Bench of this Court in the above quoted appeals, if he is otherwise eligible."

Whereas, pursuant to the directions passed by the Hon'ble Court on 19.05.2016, the Department (vide U.O No. PW/PHEJ/89/2016 dated 29.03.2017) took up the matter with the Department of Law, Justice & PA for seeking sanction to challenging the Judgment dated 19.05.2016 by filing LPA. The Department accordingly filed LPA against the Judgment dated 19.05.2016 and the said LPA was dismissed on 04.12.2017

Whereas, that Department pursuant to the judgment passed by the Hon'ble Division Bench on 04.12.2017 took up the matter with the Department of Law, Justice and Parliamentary Affairs vide U.O No. PW/PHEJ/89/2016 dated 18.09.2018 and in turn the Department of Law, Justice and Parliamentary Affairs vide their U.O No. LD (lit)2018/155-SC/PHE dated 12.10.2018 returned the file to file SLP in the matter which also stands dismissed vide order dated 23-08-2019.

Whereas, the Department accordingly, referred the case to the General Administration Department for placing the same before Lt. Governor through Chief Secretary in coordination for regularizing the services of the petitioners under SRO-64 of 1994 in relaxation of rules.

Whereas, in the meanwhile the contempt petition was listed before the Hon'ble High Court Of Jammu & Kashmir at Jammu on 12-08-2021 wherein Hon'ble High Court has passed the following directions:-

".....In the interest of justice, one more last and final opportunity of two weeks is granted to the respondents to file status report, failing which respondent No. 1 shall appear in person on the next date of hearing.

Whereas, again on consideration of the matter by the Hon'ble High Court in contempt petition dated 11.02.2022, the Hon'ble High Court of Jammu and Kashmir & Ladakh, at Jammu, has taken a very serious view and thereafter the matter was again taken up with the General Administration Department (GAD) as well as Secretary to Government, Department of Law, Justice & P.A. vide O.M. No. 55264 dated 24.02.2022 for their valuable advise/opinion. In turn the department received the approval of the Competent authority to the Departmental proposal for implementation of the orders of the Hon'ble Court; and

In view of the aforesaid position, sanction is hereby accorded to the regularization of



Sh. Swaran Singh S/o Sh. Lal Chand R/o Suram Morh, Langer Kauchak Tehsil and District Jammu under SRO-64 of 1994 in relaxation of rules against the available/ vacant 'Class-IV' post in the pay scale of Rs. 4440-7440 (GP- 1300) with immediate effect. The said regularization is in pursuance to the Hon'ble court directions and shall not form any precedence for any such regularization.

By order of the Government of Jammu and Kashmir.

Sd/-

(M.Raju) IAS

Commissioner/ Secretary to the Government,
Jal Shakti Department.

Computer No:- 158852

Dated: 20-04-2022

Copy to the:-

1. Ld. Addl. Advocate General, J&K High Court, Jammu for information and filing of compliance before the Hon'ble Court.
2. Principal Secretary to Government General Administration Department for information.
3. Joint Secretary (J&K), Ministry of Home Affairs, Government of India, New Delhi.
4. Special Secretary to the Chief Secretary for information of the Chief Secretary.
5. OSD to Advisor (B) to Hon'ble Lieutenant Governor for information.
6. Chief Engineer (PHE) Jal Shakti Department Jammu for information and necessary action.
7. Private Secretary to the Commissioner Secretary to Government Jal Shakti Department for information of the Secretary.
8. PA to Additional Secretary to Government, Jal Shakti Department.
9. Petitioner.
10. Incharge website, Jal Shakti Department.
11. Government order file.

Bansi Lal Sharma
(Bansi Lal Sharma)

Under Secretary to Government,
Jal Shakti Department