

Government of Jammu and Kashmir
Jal Shakti Department
Civil Secretariat, J&K

* * * * *

Subject: - CCP(S) No. 122/2022 in WP (C) No. 1675/2019, titled Ram Kumar Singh Vs M. Raju, Secy. PHE Deptt. and others.

Government Order No. 86 –JK (JSD) of 2024.

Dated: 23-04-2024

1. Whereas, Ram Kumar Singh herein called petitioner filed a writ petition bearing WP (C) No. 1675/2019, titled Ram Kumar Singh Vs U.T of J&K before the Hon'ble High Court of J&K and Ladakh at Jammu seeking directions to the respondents to immediately and forthwith regularize the services of the petitioner w.e.f the date he became eligible for regularization under the provision of SRO 64 of 1994 dated 24.03.1994 with all consequential benefits; and
2. Whereas, the Hon'ble High Court disposed of the case on 04.05.2019 with the directions, the operative part of which reads as under:-

"With a view to cut short the further litigation, it is provided that the petitioner, if held eligible and entitled to regularization, shall be regularized retrospectively w.e.f the date he attained the eligibility for regularization in terms of SRO 64 of 1994 dated 24.03.1994, though notionally.

Disposed of as above with connected CM."

3. Whereas, the case was examined in the Department in light of directions passed by the Hon'ble High Court, it has been found that the case of the petitioner was already placed before the Empowered Committee of the Finance Department and the Empowered Committee of Finance Department in its 10th meeting of Empowered Committee held on 09.03.2017, wherein have cleared and approved creation of **53** posts of '**Helpers**' in the pay scale of 2550-3200 (PR) for regularization's of DRW's of PHE Division Akhnoor including petitioner w.e.f 01.04.1999 with the certain conditions and in the instant case has been observed that "Due date of regularization" **01.04.1999 subject to recovery of excess wages for the period 01/11, if any.**" ;and
4. Whereas, the department accordingly forwarded the observations of the Empowered Committee of the Finance Department to the Chief Engineer Jal Shakti (PHE) Department Jammu; and

5. Whereas, the Chief Engineer Jal Shakti (PIIE) Department Jammu vide letter dated 12.10.2020 has intimated that the petitioner has not drawn any excess wages from his office w.e.f. 03/1992 to 11/2011; and
6. Whereas, the Department took up the matter with the Finance Department seeking their advice, particularly in light of the latest S.O. 514 dated 06.10.2023 wherein the SRO64/1994 stands repealed.
7. Whereas, the Finance Department returned the cases with the advice reads as under:-

"The Department is apprised that S.O. 514 dated 06-10-2023 has been kept in abeyance in terms of S.O. 132 dated 27-02-2024. The department may seek opinion of the Law Department and General Administration Department regarding further course of action."

8. Whereas, in light of the advice of Finance Department, the department took up the matter with the Department of Law, Justice & P.A. The Department of Law, Justice & P.A. returned the cases with the advice reads as under:-

" In view of the above, an appropriate speaking order is required to be passed in the matter by the department in compliance to order dated 07.05-2019 based upon the factual background of the case and the eligibility of the petitioner as has been directed by the Hon'ble Court in its order. The order passed in the matter shall be in either way. The department as such to examine the matter further in light of the record and pass appropriate speaking order in the matter in-compliance with order dated 07.05.2019 which will withstand the judicial test after seeking opinion of the GAD also as has been advised by the Finance Department."

9. Whereas, the contempt petition filed by the petitioner also came to be listed on 19.04.2024 and the cases is again scheduled for listed on 24.04.2024.

Now, therefore, the claim of the petitioner having been considered with due deference to the order dated 07.05-2019 passed by the Hon'ble High Court at Jammu in case WP (C) No. 1675/2019, titled Ram Kumar Singh Vs U.T of J&K coupled with the advice of the Finance Department and Department of Law, Justice & P.A and sanction is hereby accorded to the creation of 01 temporary post of Helper in the pay scale of Rs. 2550-3200 with the grade pay 1300/- (PR) for regularization w.e.f 01.04.1999, as per the recommendations of the Empowered Committee.

The regularization order of Daily Rated Worker's shall be issued by the Chief Engineer, Jal Shakti (PHE) Department, Jammu subject to the fulfillment of terms & conditions mentioned as below:-

1. The aforesaid creation is subject to the fulfillment of following terms and conditions:-
 - a. That on the date of their initial appointment, their age was within the minimum and maximum age limit as prescribed for appointment in Government Service
 - b. That he is not retirees from any State or Central Government service or any Local Body, Public Sector Undertaking or Autonomous Body in or outside the U.T;
 - c. That his work and conduct has remained satisfactory during the period he worked as Daily Rated worker and no disciplinary proceedings are pending against him.
 - d. That he has continuously worked in the Department from prior to 31.03.1994 till date and fully qualify as per SR0-64 of 1994
 - e. That no enquiry i.e. departmental or in Vigilance Organization/Crime Branch/Police Station is pending against the incumbents and no adverse reports are received regarding their character & antecedents from the concerned agencies.
 - f. That the incumbents fulfill all the terms & conditions as laid down in SRO 64 of 1994 and record note of meeting of Empowerment Committee held on 09.03.2017
2. The Chief Engineer shall ensure that eligibility criteria for regularization as per SR0-64 of 1994 is strictly established and complete original record and bio-data is verified in respect of each DRW and in case he fails to fulfill the required term and conditions, the HOD shall convey the same to Administrative Department. If after regularization at a later stage he is found to have any of the deficiency, the whole responsibility shall be upon the HOD concerned and further legal action under law/rules will be initiated against him..
3. The post so created shall not be utilized except for the purpose for which created.
4. The post so created shall get reduced as and when the existing incumbent vacates the post by way of termination/retirement/death. The Budget provisions under the wage component shall be correspondingly reduced in the current year's Budget of concerned Division
5. The utilization certificate of the sanctioned post shall be made available to the Administrative Department within one month from the date of issue of this order.
6. The case involving relaxation in age/qualification bar should be established by the Chief Engineer and referred to the Administrative department for further necessary action.



7. Arrears from date of regularization to the date of issue of regularization order shall be paid in five equal annual installments after projecting the same under Annual Budget Estimates of the Department

By order of the Government of Jammu and Kashmir.

Sd/-

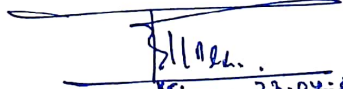
(Shaleen Kabra) IAS
Financial Commissioner (ACS)
Jal Shakti Department.

No: JSD-LS02(1)/236/2023 (7247006)

Dated: 23 -04-2024

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 Financial Commissioner (ACS) Jal Shakti Department for information of the Financial Commissioner (ACS).
5. PA to Special Secretary to Government, Jal Shakti Department.
6. Petitioner.
7. Incharge website, Jal Shakti Department.
8. Monday Return file (w.2.s.c).
9. Government order file.


(Ashwani Khajuria) JKAS
Special Secretary to Government,
Jal Shakti Department.