

Government of Jammu and Kashmir
Housing and Urban Development Department
Civil Secretariat, Jammu/Srinagar

Subject: WP(C) No. 2989 of 2019 titled Prem Raj V/s State of J&K and others.

**Government Order No. 146- JK(HUD) of 2022
Dated. 11 .10.2022**

Whereas, Sh Prem Raj is presently working as Sanitation Officer in the grade pay of Rs. 4600 (i.e. Level-7) in Sanitation Wing of Jammu Municipal Corporation;

Whereas, Jammu Municipality Subordinate Service Rules, 1970 were notified vide SRO 292 dated 25.06.1970 are presently in vogue in the Municipal Corporation, Jammu. The Sanctioned Strength of JMC was notified vide Government Order No. 78-HUD of 2019 dated 09.03.2019;

Whereas, Commissioner, Municipal Corporation, Jammu vide communication No. JMC/Estt/S/673 dated 11.10.2021 has intimated that Sh. Prem Raj, Assistant Sanitation Officer, Jammu Municipal Corporation has filed a writ petition bearing No WP(C) No. 2989 of 2019, titled Prem Raj Vs State of J&K and others wherein the petitioner has prayed as under:

".....Mandamus commanding the respondents to consider the petitioner for promotion to the post of Compost-cum-Transport Officer in the Pay Band of 9300-34800 plus Grade Pay 5200 (per-revised) in the Jammu Municipal Corporation."

Whereas, as per SRO 292 dated 25.06.1970 the post of Sanitation/Compost Officer (in the class (I) (A) of the Health and Sanitation wing of JMC) is in the grade pay of Rs. 4600 (i.e. Level-7).

Whereas, during the pendency of the aforementioned writ petition, a meeting of the Departmental Promotion Committee (D.P.C) was convened on 24.08.2021 and among others the case of the Petitioner, who was working as Assistant Sanitation officer was also placed before the D.P.C for promotion to the post of Sanitary Officer and the Committee in the said meeting cleared his case for promotion as Sanitation Officer and JMC vide Order No.21 of 2021 dated 08.09.2021 has promoted the petitioner as Sanitation Officer w.e.f 24.08.2021 and the petitioner is already holding the post of Sanitation Officer substantively and as per rules the said post is at the summit of the sanitation wing ;

Whereas, the Hon'ble High Court, at Jammu vide order dated 08.09.2021 has disposed off the aforesaid writ petition with directions as under:

"if there is a post vacant in the cadre of Compost-cum-Transport Officer and if the petitioner is eligible, then he has a right of being considered for promotion against the said post along with similarly situate other eligible candidates with regard to the seniority of the petitioner and in accordance with rule.

Be that as it may, this writ petition is allowed and the respondents are directed to consider the case of the petitioner for promotion on substantive basis against the post of Compost-cum-Transport officer along with all other eligible candidates strictly in accordance with rules".

Whereas, the petitioner is agitating that he may be promoted as Compost-cum-Transport officer in the grade pay of 5200 (Level-10 A) which is not a part of the recruitment rules of the Jammu Municipal Corporation but has been reflected in the sanctioned strength of Jammu Municipal Corporation (Schedule-I) attached with the Government order No. 78-HUD of 2019 dated 09.03.2019. Pertinently, the aforementioned Government Order clearly specifies that certain posts have been created in Jammu Municipal Corporation over a period of time to enable the Corporation to fulfill its statutory obligation and the existing Recruitment Rules of Jammu Municipal Corporation do not include these posts / their method of recruitment but these posts exist in the Jammu Municipal Corporation.

Whereas, the re-organization of Jammu Municipal Corporation has been done and notified vide Government Order No.64-JK (HUD) of 2022 dated 12.05.2022 and the revision of recruitment rules of Jammu Municipal Corporation is under consideration of the Government. The post of Compost-cum-Transport officer has been included in the Draft Recruitment Rules of Jammu Municipal Corporation and the method of recruitment for same is through deputation of Mechanical Engineer of the rank of AEE (Mech) Level-10 A) from R&B Department.

Whereas, in order to comply with the directions of the Hon'ble High Court a meeting of the state level DPC was held on 10.10.2022 and the case of the petitioner was placed before the Committee and the Committee has decided as under :

"The DPC after a threadbare discussion on the issue and observations made, decided that the post of Compost-cum-Transport Officer is not vacant

against which Mr. Prem Raj could be considered. Further, as per the Existing Rules of the Jammu Municipal Corporation, the Said post is not a part of the Recruitment Rules, 1970 and as per the draft Recruitment Rules which are under consideration of Government the mode of filling up of the post of Compost-cum-Transport Officer is through deputation from Mechanical and the Government in anticipation of Revised Recruitment Rules has already deputed a officer against the said post.. In light of aforesaid, the DPC considered the case of promotion of Mr. Prem Raj against the post of Compost-cum-Transport Officer in terms of the extant Recruitment Rules of Jammu Municipal Corporation and found the claim devoid of Merit."

Now therefore, in light of aforesaid and in compliance to the directions of the Hon'ble High Court , the case of the petitioner has been considered in terms of rules in vogue (SRO 292 dated 25.06.1970) /Government Order No. 64-JK(HUD) of 2022 dated 12.05.2022 /Draft Recruitment Rules of Jammu Municipal Corporation and found devoid of merits as he is not eligible for promotion to the post of Compost-Cum Transport Officer and is accordingly rejected.

By order of the Government of Jammu and Kashmir.

Sd/-

(Dheeraj Gupta) IAS

Principal Secretary to the Government
Housing and Urban Development Department

No. HUD-LIT0JMC/35/2021-01(C. No.59070)

Dated 11.10.2022

Copy to the :

1. Joint Secretary, J&K, Ministry of Home Affairs, Government of India.
2. Commissioner, Municipal Corporation, Jammu.
3. Special Secretary (Legal), Housing and Urban Development Department.
4. Private Secretary to Sr. Additional Advocate General, High Court of J&K, at Jammu.
5. Private Secretary to Principal Secretary to the Government, Housing and Urban Development Department.
6. Concerned.
7. Incharge Website ,Housing and Urban Development Department.
8. Government orders (w.2.s. cs)/ Stock file.

(Thannaji Bhat)

Under Secretary to the Government
Housing and Urban Development Department