



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

Subject: Promotion of Sh. Ramohan Lal, Assistant Engineer(Civil)JDA as Assistant Executive Engineer(Civil) in the Pay Band of Rs. 15600-39100+GP 5600.

Government Order No: 163 -JK(HUD) of 2024

Dated: 08-08-2024

Whereas, Sh. Ramohan Lal was initially appointed as Draftsman (Civil) vide Govt; Order No. 66-PW of 1986 dated 27-01-1986 figuring at S.No. 52 issued by Public Works Department under endorsement No. PW(Cood)NG/DM(C)/86 dated 28-01-1986 in the pay scale of 630-980 subject to the condition laid down in SRO 549 Dated 5.12.1981 and was posted in the Jammu Development Authority;

Whereas, the services of Sh. Ramohan Lal were absorbed in the Jammu Development Authority vide office order No.491-96 Dated 2-1-2003 issued under endorsement No. JDA/Order/Esstt/491-096 Dated 02-01-2003;

Whereas, Sh. Ramohan Lal was promoted as Head Draftsman in the pay scale of 6500-200-10500 against the available vacancy vide Jammu Development Authority's endorsement No. JDA/Esstt/Promotion/5061-63 Dated 14-07-2004;

Whereas, in pursuance to the decision taken by the Departmental Promotion Committee in its meeting held on 17th September 2011, Shri. Ramohan Lal was promoted as Junior Engineer Grade-II in the Grade of 9300-34800+-4200 against the available post vide order No. 143-JDA of 2011 dated 01-10-2011 notionally w.e.f.28-06-2008 and monetarily prospectively;

Whereas, Sh. Ramohan Lal filed writ petition before the Hon'ble High Court Jammu Wing being SWP No. 869/2016 titled Ramohan Lal V/s State of J&K & others and the Hon'ble High Court disposed of the writ petition with the following direction:-



"The instant writ petition is disposed of by directing respondent No.2 to place the matter relating to the petitioner through proper channel for consideration. Before the Board with regard to the promotion to the post of Assistant Engineer (Civil). It is made clear that claim of the petitioner be considered, subject to the satisfying the requirements of law and norms as may be prescribed".

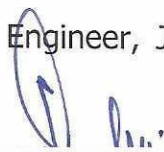
Whereas, the petitioner has completed the qualifying service as prescribed in SRO-297 of 2006 dated 14-09-2006 for the post of Assistant Engineer and he has completed 30 years continuous service also he has passed the Departmental Examination of Assistant Engineer (Accounts) vide PSC's result Notification No.PSC/EX-09/AE/38 Dated 05-04-2010 besides he has passed AMIE (Section A & B) in respective discipline on 14-03-2008;

Whereas, the case of Sh. Ramohan Lal was placed before the Establishment Committee in its meeting held on 04-01-2017 and 14-02-2017 for considering his promotion from Junior Engineer to Assistant Engineer against the available post of Assistant Engineer on the basis of qualification, experience and APR's and work & conduct and he was recommended for promotion to Assistant Engineer;

Whereas, the Board of Directors of Jammu Development Authority has approved the promotion of Sh. Ramohan Lal Junior Engineer as Assistant Engineer in the 78th meeting and V.C Jammu Development Authority vide communication No. VC/PS/2017/480 Dated 05-07-2017 after the approval of Board of Directors has submitted his case to Administrative Department with recommendation that promotion be accorded to Sh Ramohan Lal Junior Engineer as directed by Hon'ble High Court;

Whereas, the case of the petitioner was examined in the Housing & Urban Development Department and he was found eligible for promotion to the post of Assistant Engineer as he fulfils the requisite criteria as laid down in SRO 297 Dated 14-09-2006 i.e; qualification, experience, merit and suitability against the post of Assistant Engineer lying vacant in Jammu Development Authority since 2011.

Whereas, as per the High Court directions, approval of Board of Directors and recommendation of V.C Jammu Development Authority, the promotion order was issued in favour of Sh. Ramohan Lal, Junior Engineer, JDA as Assistant Engineer



(Civil) vide Government Order No. 330-HUD of 2018 dated 18.12.2018 issued under endorsement No. HUD-107/2016/JDA dated 18.12.2018 in the pay scale of 9300-34800+GP-5200 against an available vacancy prospectively.

Whereas, Sh. Ramohan Lal, Assistant Engineer (Civil) submitted a representation on 07.01.2019 where under he requested for granting of retrospective effect for his promotion w.e.f. June, 2011 instead of 18.12.2018.

Whereas, Sh. Ramohan Lal filed writ petition before the Hon'ble High Court Jammu Wing being SWP No. 876/2019 & IA No. 01/2019 titled Ramohan Lal V/s State of J&K & others and the Hon'ble High Court disposed of the writ petition with the following direction vide court judgment dated 01.05.2019:-


"Issue Notice to the respondents in the main petition as well as IA, returnable within four weeks .Requisites for service within a week's time. List on 12.07.2019. Meanwhile, respondents are directed to consider and decide the representation of the petitioner dated 07.01.2019".

Whereas, in pursuance to the Hon'ble High Court directions, sanction was accorded to the confirmation of Sh. Ramohan Lal, Junior Engineer, Jammu Development Authority as Assistant Engineer (Civil) in the pay band of Rs.9300-34800+GP 5200 (pre-revised) notionally w.e.f. Ist July, 2011 to 17.12.2018 and monetarily w.e.f. 18.12.2018, vide Government order No. 169 HUD of 2019 dated 01-08-2019.

Whereas, Sh. Ramohan Lal filed writ petitions bearing WPC No. 2595/2021 c/w WPC No. 4329/2019 and WPC No. 1145/2020 titled Ramohan Lal V/s UT of J&K &Ors. wherein he prayed for the promotion as Assistant Executive Engineer (Civil) from the post of Assistant Engineer (Civil).

Whereas, the Hon'ble High Court disposed of the writ petitions referred herein supra with the common judgment dated 27-07-2023, the operative part of which reproduced hereunder:-

14. The respondents have un-necessarily dragged the petitioner into the unwarranted litigation. The respondent Nos. 2 and 3 in absence of recruitment rules are acting arbitrarily and just to defeat the genuine claims of their employees, they are choosing the stand as per their convenience.

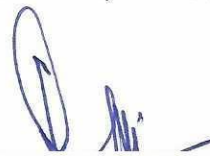


15. In view of what has been said and discussed above, the order impugned bearing No. JDA/Estt/1372-73 dated 18.08.2020 is quashed and the respondent Nos. 2 & 3 shall consider the case of the petitioner afresh for promotion as Assistant Executive Engineer (Civil) from the date he became eligible for the promotion to the said post. The entire exercise shall be undertaken by the respondent Nos. 2 & 3 with in the period of six weeks from the date the copy of this order is served upon the respondent Nos. 2 & 3. Registry shall send the copy of this order to the respondent No.1 with the expectation that the respondent No.1 would at least finalise the rules governing the service conditions of the employees of the Jammu Development Authority, as the lack of the same has led to arbitrariness and discrimination in the action of the Jammu development Authority in dealing with its Employees. As the respondent Nos. 2 and 3 have unnecessarily dragged the petitioner to litigation and the petitioner was compelled to file three writ petitions, so cost of Rs. 30,000/ is imposed upon the respondent Nos. 2 & 3, to be deposited with the Registry within a period of one month and after deposit, the same be released in favour of the petitioner.

Whereas, the matter placed before the Establishment Sub-Committee of JDA on 12.08.2023 & 19.08.2023 in which the committee recommended as below-

- a. The case of the petitioner for promotion to Assistant Executive Engineer may be considered by the competent authority i.e. Housing & Urban Development department. For the implementation of the directions of the Hon'ble High court, the opinion of the General Administration Department may also be required to be taken, as the JDA has taken stand for not granting promotions/regularization in other pending writ petitions of JDA employees in the Hon'ble High Court in the absence of Recruitment rules.

Since the draft recruitment rules have not been finalised till date and if the Government considers to grant promotions to Sh Ramohan Lal Assistant Engineer to the post of Assistant Executive Engineer (Civil) by referring to the Recruitment rules of other Engineering Department, in that case the post held



- by Sh Ramohan Lal, Assistant Engineer may become part of diminishing cadre which shall get the abolished after the superannuation of the said officer.
- b. With regard to the confirmation of absorption of Sh Ramohan Lal in JDA by the Board of Directors of JDA, it is proposed that post facto approval to the action taken by the then VC, JDA vide office order no. 491-96 dated 02-01-2003 and endorsement no. JDA/Order/Esstt/491-96 dated 02-01-2003 may granted by the Board of Directors as the employees has already been granted three promotions in JDA and this issue is not significant in nature now and is a mere irregularity which can be addressed even at this stage.
- c. As regard to the imposition of cost of Rs 30,000/- by the Hon'ble High Court on VC, JDA & Secretary, JDA for unnecessarily dragging the petitioner in litigation, it was observed that since the recruitment rules of the authority have not been approved by the competent authority till date and in the drafted rules there is 100% absorption of vacancies of Assistant Executive Engineer (Civil) through deputation from Jammu & Kashmir Engineering (Gazetted) Services i.e. R&B department and no post of Assistant Executive Engineer (civil) being available under promotion quota, there was no deliberate attempt/arbitrariness and discrimination in action of JDA, for which JDA may go for appeal before the Divisional Bench of Hon'ble High Court for dropping the cost so imposed.

Whereas, the administrative department vide letter bearing No. HUD/LIT0JDA/9/2021(11548) dated 18-10-2023 didn't concur with the said recommendations and informed JDA that the judgment needs to be challenged before the Division Bench as such.

Whereas, the Jammu Development Authority accordingly filed LPAs which are pending adjudication before the Divisional Bench of Hon'ble High Court of Jammu and Kashmir & Ladakh.

Whereas, Sh. RamohanLal filed Contempt Petition No. CCP(S) 281/2023 titled RamohanLal V/s ParshantGoyal&Ors. and on the other hand the Jammu Development Authority filed Letter Patent Appeals in the Hon'ble High Court (Division Bench) along with an application for condemnation of delay which is pending adjudication before the Hon'ble High Court (Division Bench). In the

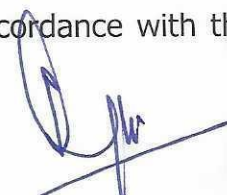
contempt petition filed by Sh. RamohanLal, the Hon'ble High Court passed an order on 12-07-2024, the order is reproduced here under:-

"Judgment dated 27.07.2023 passed by this Court in WP(C) No.2595/2021 has not been complied with by the respondents till date. It appears that aforesaid judgment came to be assailed by the respondents before Division Bench of this Court by way of LPA along with an application for condemnation of delay. Notice in the condemnation application has been issued. However, aforesaid judgment dated 27.07.2023 has not been stayed.

Vide order dated 26.02.2024, two weeks' time as last and final opportunity was granted to the respondents/contemnors to report compliance of the judgment, which period came to be extended by this Court in the interest of justice on 18.03.2024. Subsequently, statement of facts came to be filed by the respondents on 18.04.2024, which, however, is not compliance of the judgment. It appears that respondents have taken undue advantage of the leverage extended to them by this Court on 26.02.2024 and 18.03.2024 and the statement of facts filed by the respondents on 18.04.2024 is nothing but an excuse devised to sit over the judgment sought to be implemented, which cannot be countenanced in law. However, before resorting to the coercive measures to ensure the compliance of aforesaid judgment, this Court deems expedient to afford one more opportunity to the respondents to come up with the compliance without any excuse.

Mr. S.S. Nanda, learned Sr. AAG appearing for the respondent seeks and in the interest of justice is granted three weeks' time as last and final opportunity to file compliance report subject to payment of Rs.10,000/- as costs to be deducted from the salary of respondent No.1 and to be deposited in the Advocates' Welfare Fund, failing which, respondent No.1 shall remain present in the Court on next date of hearing.

Whereas, the case of the petitioner has now been considered in the Housing & Urban Development Department for promotion in accordance with the Recruitment rules of Public Works Department (R&B).



Whereas, as per the Recruitment rules of Public Works Department (R&B), the petitioner has been found eligible for promotion to the post of Assistant Executive Engineer (Civil) as he fulfils the requisite criteria as laid down in SRO 297 dated 14-09-2006 i.e. qualification, experience, merit and suitability against 01 post of Assistant Executive Engineer (Civil) from JDA cadre which is lying vacant in Jammu Development Authority.

Now, therefore, in compliance to the Hon'ble High court directions dated 27-07-2023 and recommendations of the Establishment Sub-committee of JDA, sanction is hereby accorded to the promotion of Sh. Ramohan Lal, Assistant Engineer (Civil), JDA as Assistant Executive Engineer (Civil) in the pay scale of 9300-34800 + GP-5600 , notionally from the date of his eligibility/availability of post and monetary from the date of issuance of this order .This shall be without prejudice to superior claims of others, if any and subject to outcome of any writ petitions.

By order of the Government of Jammu and Kashmir.

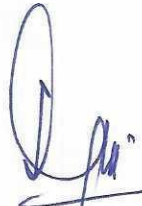
Sd/-
(Mandeep Kaur) IAS
Commissioner/Secretary to the Government

No. HUD-LIT0JDA/09/2021 (C. No. 11548)

Dated: 08.08.2024

Copy to the:-

1. Principal Secretary to the Hon'ble Lieutenant Governor, J&K.
2. Joint Secretary, (Jammu & Kashmir and Ladakh) Ministry of Home Affairs, Government of India.
3. Commissioner/Secretary to the Government General Administration Department.
4. Director, Archives, Archaeology & Museums, J&K.
5. Vice Chairman Jammu Development Authority.
6. Principal Private Secretary to Chief Secretary, J&K.
7. Private Secretary to Commissioner /Secretary to Government, Housing & Urban Development Department.
8. Pvt. Secretary to Sh. S. S. Nanda, Ld. Sr. Advocate General , J&K High Court, Jammu.
9. Concerned Officer(s).
10. Government Order file (w.2.s.c).


(Er. Abdul Qyume) JKAS
Deputy Secretary to the Government
08.08.24.