



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

Subject:- WP(C) No. 1058/2021, read with Contempt No. 475/2021 titled: Mohd. Shafi Yattoo & others V/s UT of J&K & Ors. WP(C) No. 894/2021 titled Shahid Gull V/s UT of J&K & Ors.

Government Order No. 210-JK(HUD) of 2024
DATE D: 18-10-2024

Whereas, the following petitioners, in WP(C) No.1058/2021 and WP(C) No.894/2021, were engaged by Srinagar Development Authority for the preparation of Zonal Plans, purely on temporary basis, on consolidated monthly remunerations, vide no. SDA/VC/PS/30 of 2017 dated: 16.11.2017 (w.e.f March-2018 to February-2019), for period of 12 months or till the completion of Zonal Plans, whichever is earlier, and by the Town Planning Organization, Kashmir, for the preparation of Master Plan/Zonal Plans for Anantnag, vide office no; MP-Anantnag/CTPK/2018/973-77 dated: 29.06.2018. (w.e.f July 2018 to June, 2019, for a period of one year with the following details:

Petitioners of WP(C) No. 1058/2021 their designation and consolidated payment per month:

Petitioner No.	Name	Designation	Consolidated payment per month
1.	Mohd Shafi Yattoo	Field Data Specialist	25,000/-
2.	Irfan Ahmad Lone	Urban Planner	35,000/-
3.	Subzar Bashir	Urban Planner	35,000/-
4.	Samina Amin	Urban Sociologist	35,000/-
5.	Irshad Ahmad	Urban Sociologist	35,000/-

6.	Dheeraj Singh Manhas	Infrastructure Planner	35,000/-
7.	Faizan Jalal	GIS personal	40,000/-
8.	Ikra Syed	Urban Designer	40,000/-
9.	Moshin Nabi	Transport Planner	60,000/-

Petitioner of WP(C) No.894/2021, his designation and consolidated payment per month:

1	Shahid Gull	GIS Analyst	35,0000/-
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Whereas, nine petitioners in WP(C) No. 1058/2021 and one petitioner in WP(C)No. 894/2021 have filed the writ petitions before the Hon'ble Court at Srinagar and prayed as under:-

- i. **A writ of Mandamus be issued** directing the respondents to allow the Petitioners/applicants to continue their services on the posts designated to them by the respondent department and the respondents be directed to pay the salary to the Petitioners/applicants as attached to the post of each of the Petitioner/applicant as contained in Annexure III & IV to this writ petition.
- ii. **A writ of mandamus be issued** directing the respondents not to terminate or remove or disengage the Petitioners/applicants from their respective designated posts in the respondent organization.
- iii. **A writ of Mandamus be issued,** directing the respondents not to substitute the services of the petitioners by similar arrangements at the cost of rights and interests of the Petitioners.
- iv. **A writ of Mandamus be issued,** directing the respondents to release the withheld salary of the Petitioner/Applicant No. 1 to 6 w.e.f September 2019 till date and the Petitioner/ applicant No. 7 to 9 w.e.f from June 2019 till date.

Whereas, the Hon'ble Court while hearing the petition on 02.06.2021 has directed as under:-

In the meantime, subject to objections and till next date of hearing, it is ordered that the present status of the petitioners be maintained and they be permitted to continue. This order is, however, subject to

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modification and alteration on motion. The petitioners shall also be paid their wages if they have worked.

Whereas, the WP(C) No. 894/2021 is also clubbed with WP(C) No. 1058/2021 being the similar case.

Whereas, the petitioners have filed Contempt Petition No: CCP(S)/475/2021 for implementation of Hon'ble Court interim order dated: 02.06.2021.

Whereas, the then CTP, Kashmir submitted the compliance report through the then standing counsel of the department vide office letter No: Court/Contempt/Contractual/CTPK/2022/1473-75 dated: 9.5.2022. The then CTP, Kashmir, vide office letter No. Court/Contractual/CTPK/2023/568-71; dated: 15.02.2023, also filed a compliance report before the Hon'ble Court stating therein as under:

"...in the premises, it is therefore most humbly prayed that the claim of the petitioners for release of wages stands clear till the survival of their contractual period (for one year). The absence of any order of extension or authorization from the Administrative Department make the claim untenable beyond the contract period. Hence the claim of the petitioners may be dismissed ab-initio."


Whereas, the Hon'ble High Court vide Order dated: 5.4.2023 observed:-

".....the respondents are, as such, directed to file a fresh compliance in terms of Order dated: 4.2.2023 for release of legitimately wages in favour of the petitioners for the period they have actually worked. Needful be done within a period of three weeks.

Whereas, the Administrative Deptt., vide no. HUD- LIToCTPK/6/2021 (C.No. 26352) dated: 25.05.2023, directed the CTP, Kashmir, for determination of legitimately earned wages of the petitioners and release of the payment, accordingly, and also to file a fresh compliance report, so as to avoid any adverse orders from the Hon'ble court. In response, vide letter no. Court/CTPK/2023/2192 dated: 07.07.2023, the then Town Planner on behalf of the then CTP, Kashmir, submitted estimate for Rs. 32.7 Lacs to the Housing & Urban Development Department for the release of amount; and,

Whereas, the Hon'ble High Court, vide order dated: 04.08.2023, directed for ensuring that the requisite funds are kept at the disposal of the respondent no. 5 (CTP, Kashmir) for its disbursal in favour of the petitioners in terms of the Order dated: 04.02.2023 ; and,

Whereas, the determination of wages by the then CTP was doubtful and consequently an inquiry was initiated by the Government, vide No. HUD-LIToCTPK/6/2021(26352) dated 06.11.2023, to examine legitimate claims made by the Town Planner and appointed the Director, Land Management (SDA) as an Inquiry Officer. The DLM, SDA, submitted his report, vide SDA/DLM/3844-46 dated


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21.11.2023, pointing out that the attendance of the contractual professionals w.e.f. September 2019 till March-2020 is self marked and has not been certified by any Competent Authority (viz. Town Planner/s) as was done till July-2019 (Zonal Plans Srinagar) and August-2019 (Master Plan/Zonal Plan- Anantnag) for which the remuneration stands paid. The Inquiry Officer also submitted that the estimates/statements submitted, vide letter No: Court/CTPK/2023/2192 dated: 07.07.2023, by the then Town Planner need to be reconsidered for arriving at actual remuneration; and,

Whereas, the claim of the petitioners is found devoid of merit on following grounds:

- a. Vide circular No. CTPK/19/1774 dated 02.08.2019, it has been notified to all the contractual professionals, who were engaged purely on temporary basis on 16.11.2017 w.e.f March 2018 to February 2019 for the period of one year which was later on extended by six months upto August, 2019, by the Competent Authority and their services shall stand deemed to be disengaged w.e.f 01.09.2019 as per the terms and conditions. The petitioners are being paid upto 31st August 2019.
- b. Further, the data furnished does not specify the work done claims as there is no certification of the concerned authorities and the dates for which the remuneration is being sought by the petitioners is beyond the legitimate period.
- c. There was no extension of their contract, moreover, the attendance produced by the petitioners has not been issued/certified by the concerned Competent Authorities (viz. Town Planner/s). The contractual professionals (Srinagar and Anantnag) submitted Affidavits that they shall neither claim for any permanent absorption nor any regularization after the completion of the contractual services.
- d. That on 5th August 2019, the erstwhile State of J&K has been reorganized and divided into two Union Territories i.e, UT of J&K and Ladakh, and during this period the offices at Kashmir remained closed upto March 2020 due to curfew like situation. Secondly, the offices again remained completely shut down due to COVID-19 after March 2020.
- e. The petitioner have not worked as per their own statement in the writ petition in para 26(f) that on 5th August 2020 complete lock down was enforced in the erstwhile state of J&K as physical movements of the people were restricted and offices were officially closed till march 2020 and, thereafter on 22nd of March 2020, complete lock down was imposed due to outbreak of COVID19 pandemic which was announced by the Government of India and the physical movement and the offices were closed.

Now therefore, in view of the above grounds and report of the Inquiry Officer, the claim of the petitioners have been considered, in pursuance to Hon'ble Court directions dated 02.06.2021, and found devoid of merits for release of legitimate earned wages and hence rejected.

By order of the Government of Jammu & Kashmir.


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

No. HUD-LIToCTPK/13/2024 (C.No.7535678)

Dated: 18.10.2024

Copy to the:-

1. Joint Secretary (Jammu, Kashmir & Ladakh), Ministry of Home Affairs, Government of India.
2. Chief Town Planner, Town Planning Organization, Kashmir.
3. Director, Archives, Archaeology & Museums, J&K.
4. Private Secretary to the Commissioner/ Secretary to the Government, Housing & Urban Development Department for information of the Commissioner Secretary.
5. Incharge Website, Housing & Urban Development Department with the request to upload the copy of Government Order on Departmental website.
6. Concerned.
7. Government Order File (w.2.s.c).


(Kashif Altaf Bhat) JKAS,
Under Secretary to the Government
Housing & Urban Development Department


18/10/24
