



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

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**Subject:** Accord of retrospective effect to the promotion of Mr. Rajinder Kumar Tutoo & Mr. Pushpati Nath Koul as Divisional Town Planners Srinagar Municipal Corporation.

**Ref:** Hon'ble High Court Srinagar order dated: 13-10-2015 read with order dated: 29-05-2014 passed in SWP No. 1737 of 2015 /CMP No. 01 of 2015 titled Sh. R. K. Tutoo & another V/s State & others.

**Government Order No.:** 108 - HUD of 2017

**Date d:** 10 - 04 - 2017

Whereas, vide order No. 627 of 1978 dated 16.09.1978, Mr. Rajinder Kumar Tutoo, Mr. Mehraj-ud-din Bhat and Mr. Pushpati Nath Koul have been appointed as Draftsman in the scale of 630 -980 pursuant to the selection, made by the Committee on the basis of interview against the available vacancies in the Municipal Works division-II. Subsequently, vide order No. 1266 of 1981 dated 25.07.1981 Mr. Rajinder Kumar Tutoo Draftsman has been promoted as Head Draftsman in the scale of 680-1240 against the available vacancy. Aggrieved by the promotion of Rajinder Kumar Tutoo, Mr. Mehraj-ud-din Bhat, Draftsman, made a representation with the prayer that he had the first right to be promoted as Head Draftsman on the basis of seniority. The order of promotion of Rajinder Kumar Tutoo as Head Draftsman has later on been kept in abeyance vide order No. 574 of 1984 dated 29.08.1981.

Whereas, Mr. Mehraj-ud-din Bhat has also filed a petition in the Hon'ble Court under No. 44/1981 claiming to be senior to Rajinder Kumar Tutoo and challenged his promotion against the post of Head Draftsman over and above him. The Hon'ble High Court has upheld the claim of petitioner (Mr. Mehraj-ud-din Bhat, Draftsman) and disposed off with direction that the petitioner be also promoted as Head Draftsman retrospectively w.e.f 25.02.1981. This order however, did not

allow the petitioner to draw the arrears of salary. It was further directed that he will be entitled to draw the salary of Head Draftsman from the date of decision of this writ petition. The promotion w.e.f 25.02.1981 will only be notional in favour of the petitioner so as to safeguard his regards seniority and right to seek consideration along with respondents 3 & 4 for any future promotions. Consequent to the directions of the Hon'ble High Court, Mr. Mehraj-ud-din Bhat, Draftsman was promoted as Head Draftsman vide order No. 1526 of 1985 dated 15.03.1985 and vide order No. 2169 of 1986 dated 04.03.1986 his promotion as Head Draftsman has been given notional effect from 25.02.1981.

Whereas, in pursuance of the directions of Hon'ble High Court, in another writ petition titled R.K. Tutoo V/s State No. 324/1981 another order Vide No. 1141 of 1984 dated 27.12.1984 has been issued whereby the order issued Vide NO. 574 of 1981 dated 29.08.1981 has been withdrawn and Mr. Rajinder Kumar Tutoo has been promoted in the identical scale (680-1240) against the post of Sectional Officer which was vacant at that time. Subsequently, Mr. Rajinder Kumar Tutoo has been adjusted as Sectional Officer vide order No. 1527 of 1985 dated 15.03.1985 and re-designated as Junior Engineer (grade-II), vide order No. 1350 of 1989 dated 14.03.1989 in the identical scale of Sectional Officer. Consequent to the issuance of orders of his adjustment as Sectional Officer and subsequent re-designation as Junior Engineer (grade-II), his seniority has been maintained in the Engineering Wing and placed in the seniority list of Junior Engineers and Assistant Engineers at S. No. 07.

Whereas, Mr. Pushpati Nath Koul has also been adjusted as Sectional Officer vide order No. 15287 of 1985 dated 15.03.1985 and subsequently re-designated as Junior Engineer (grade-II) along with Rajinder Kumar Tutoo vide the above referred order and placed on the seniority list in the field wing of Engineering Division as S. No. 08 after R.K. Tutoo.

Whereas, Mr. Mehraj-ud-din Bhat who continued as Head Draftsman has been promoted as Assistant Town Planner in the pay



scale of 1050-1710 vide order No. 18 of 1986 dated 05.04.1986 in the Town Planning Wing.

Whereas, Mr. Rajinder Kumar Tutoo and another V/s K.A. Bhat and Ors filed writ petition for promotion as Assistant Engineers and the Hon'ble High Court in COA (SW) 92-A/2002 disposed off the petition vide order dated 03.09.2004 with the directions to accord consideration to the petitioner case. The court orders were implemented and Rajinder Kumar Tutoo and Pushpati Nath Koul were promoted as Assistant Engineers in the grade of 8000-12950 (PR) vide Govt. Order No. 255 of 2004 dated 20.09.2004 which Engineering cadre of Srinagar Municipal Corporation and not agitated for their exclusion from the cadre of Town Planning of Srinagar Municipal Corporation.

Whereas, Mr. Rajinder Kumar Tutoo I/C, Assistant Engineer represented before the Government for placement against the post of Assistant Executive Engineer on 19.01.2007 and Commissioner SMC vide his No. SMC/Estt./General/6262 dated 12.07.2007 forwarded his representation to the Housing and Urban Development Department for consideration of the petitioner against any available vacancy under rules which indicates that the petitioners continued to be satisfied in the category of Engineering Wing where they have been promoted against the post of AEE.

Whereas, Mr. Mehraj-ud-din Bhat as Assistant Town Planner and subsequently as Divisional Town Planner and Mr. Rajinder Kumar Tutoo & Mr. Pushpati Nath Koul, Assistant Executive Engineers were convincingly satisfied with their adjustments in the Town Planning and Engineering cadre respectively. Therefore the petitioners did not agitate for being adjusted as Sectional Officer (JE grade II) which is the feeding cadre from promotion to the post of Assistant Engineer and subsequently Assistant Executive Engineer. Similarly Mr. Mehraj-ud-din Bhat never pressed for his promotion in the Engineering cadre.

Whereas, the claim of Rajinder Kumar Tutoo at this stage, for being considered at par with Mr. Mehraj-ud-din Bhat does not hold good and is not maintainable as their adjustment in Engineering Wing and

subsequently promotions have remained un-disputed. Mr. Rajinder Kumar Tutoo and Pushpati Nath Koul have no right or claims for seeking benefit in Town Planning Wing of the Corporation, as they all along continued to work in the capacity of Civil Engineers in the Corporation. Mr. Rajinder Kumar Tutoo in the petition No. 1278/2012 titled Rajinder Kumar Tutoo V/s State and others has prayed for termination of discrimination and accord of earned promotion viz-a-viz their counter parts belonging to same service, category, cadres/class and grade at his initial appointment of service, release of all consequential and all allied service benefits, as would be entitled to him after accord of aforesaid promotion and fixation of Seniority to the cadre of post equivalent to Divisional Town Planner and Executive Engineers as accorded to the similarly circumstanced employees viz-a-viz the petitioner in the respondent Corporation.

Whereas, Town Planning Wing and Engineering Wing are two different Services and their seniority was maintained separately. Accordingly, seniority of Mr. R.K. Tutoo and Mr. Pushpati Nath Koul was maintained in the Engineering Wing of the Corporation and subsequent promotion from Junior Engineer to Assistant Engineer and Assistant Executive Engineer whereas Mr. Mehraj-ud-din Bhat opted to continue in the Town Planning Wing and subsequently was promoted as Divisional Town Planner in his class, category and cadre.

Whereas, in compliance to Hon'ble Court order dated 15.01.2014 passed in SWP No. 30/2014 titled Rajinder Kumar Tutoo and another v/s and others and in reference to letter No. SMC/Gen./Estb./IInd /23/73 dated 27.10.2014 the petitioners were promoted as Divisional Town Planners vide Government Order No. 301-HUD of 2014 dated 15.12.2014.

Whereas, the petitioners have been promoted in engineering wing of SMC and rose to the level of Assistant Executive Engineers, the petitioners cannot claim parallel benefit in two wings of the corporation i.e. Engineering as well as Town Planning at the same time. The petitioner cannot seek parity with their counter part in a different cadre and benefit of promotion as Divisional Town Planner with effect from



2004 the date from which Mr. Mehraj-ud-din Bhat was promoted Divisional Town Planner.

Now therefore, the case of petitioners was examined in the department in compliance to the Hon'ble Court order dated 13.10.2015, passed in SWP No. 1737 of 2015 and the claim of the petitioners is found devoid of any merit and hence rejected.

**By order of the Government of Jammu & Kashmir.**

Sd/-

(Hirdesh Kumar) IAS

Commissioner/Secretary to Government  
Housing & Urban Dev. Department

Dated: /0 - 04 - 2017

No. HUD/Lit/323/2015-SMC

Copy to the:-

1. Commissioner, Srinagar Municipal Corporation.
2. OSD to Hon'ble Deputy Chief Minister (I/c Housing & Urban Development Department) for information.
3. Spl. Assistant to Hon'ble (MoS) H& UDD.
4. Pvt. Secretary to Commissioner/Secretary to Government, Housing & Urban Development Department.
5. P.A to Addl. Secretary to Government, H&UDD.
6. Additional Advocate General Standing Counsel, H&UDD at Hon'ble High Court Srinagar for information.
7. Concerned.
8. I/C, Departmental Website for uploading on Departmental website.
9. Government order files (w.3.s.c.)
10. Stock File.

(Nissar Ahmad)

Under Secretary to Government  
Housing & Urban Dev. Department