



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

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

Ref.: Hon'ble High Court order dated 04.05.2017 passed in SWP No.812/2017.

Government Order No. 131 .HUD-of 2017

DATED:- 29 .05.2017

Whereas, Mr. Rajinder Kumar Tutoo and Mr. Pushpati Nath Koul, currently working as Divisional Town Planners, SMC (referred to herein below as the petitioners), have filed multiple number of writ petitions before the Hon'ble High Court of Jammu and Kashmir. The latest of such writ petitions, SWP No.812/2017 has been disposed of by the Hon'ble High Court vide order dated 4<sup>th</sup> May, 2017, operative portion whereof reads as under:-

*"11. In view of above, the writ petition is admitted to hearing, impugned order dated 10 April, 2017, passed by the respondent No.2 is set aside and the respondent No.2 is directed to pass a reasoned order with regard to the claim of the petitioners on its own merit within a period of 3 weeks from the date of receipt of copy of this order."*

Whereas, the reliefs sought by the petitioners in the writ petition SWP No.812/2017 read as under:-

- i) Issuance of writ of certiorari for quashment of government order No.108-HUD of 2017 dated 10.04.2017. and*
- ii) Issuance of writ in the nature of mandamus commanding the respondents to implement the judgment of this Hon'ble Court passed in SWP No.30/2014 in its letter and spirit by performing their legal obligation and duty of fairness by terminating discrimination and denial of accord of earned service promotions vis-à-vis their counterparts belonging to the same service, category, class, grade and category in its initial appointment till earning of promotion both by petitioners as Divisional Town Planners as well as their*

*counterpart as Divisional Town Planner with retrospective effect. And*

- iii) Issuance of any other writ, order or direction which this Hon'ble Court deems fit and proper in the attending circumstances of the case.*

Whereas, before according consideration to the claim of the petitioners on merits, it is imperative to summarize the claim of the petitioners in the matter on hand; and

Whereas, the petitioners seek parity with respect to their service benefits on retrospective basis, with one Mr. Mehraj-ud-Din Bhat, Divisional Town Planner, since retired; and

Whereas, it is imperative to tabulate the comparative service of the petitioners and the said Mr. Mehraj-ud-Din Bhat in order to ascertain whether any disparity or otherwise exists. The comparative table of the petitioners and the aforesaid Mr. Mehraj-ud-Din Bhat is as under:-

1.	Name of the Officer/ Official	Mr. Mehraj-ud-Din Bhat S/o Ali Mohammad Bhat	Pushpati Nath Koul S/o Prithvi Nath Koul	Rajander Kumar Tutoo S/o Poshkar Nath Tutoo
2.	D.O.B	12.12.1955	19.03.1958	01.11.1959
3.	Qualification	2 years Draftsman course in Civil Engineering	2 years Draftsman course in Civil Engineering	2 years Draftsman course in Civil Engineering
4.	First Appointment	First Appointment against Draftsman in the pay scale of (300-580) vide order No.627 of 1978 dated 16.09.1978	First Appointment against Draftsman (300-580) vide order No.627 of 1978 dated 16.09.1978	First Appointment against Draftsman in the pay scale of (300-580) vide order No.627 of 1978 dated 16.09.1978
5.	First Promotion	Promoted as Head Draftsman in the pay scale of (680-1240) vide order No.1526 of 1985 dated 15.03.1985 and granted retrospective effect viz: 25.02.1981 vide order No.2169 of 1986 dated 04.03.1986.	Promoted as Sectional Officer (680-1240) vide order No.1528 of 1985 dated 15.03.1985 and re-designated as JE-II in identical scale vide order No.1350 of 1989 dated 14.03.1989./***	Promoted Head Draftsman (340-700) vide order No.1266 of 1981 dated 25.02.1981 and kept in abeyance vide order No.574 of 1981 dated 29.08.1981. Later on promoted in identical scale against the post of Sectional Officer vide order No.1141 of 1984

				dated 27.12.1984 and adjusted vide 1527 of 1985 dated 15.03.1985. Further re-designated as JE-II vide order No.1350 of 1989 dated 14.03.1989 in identical scale.
6.	Quasi Permanent	Quasi Permanent with retrospective effect vide order No.181 of 1982 dated 10.05.1982.	Quasi Permanent with retrospective effect w.e.f 22.09.1978 vide govt. order issued under SRO No.193 dated 26.04.1973 vide this office order No.701 of 1982 dated 28.08.1982.	Quasi Permanent with retrospective effect w.e.f 22.09.1978 vide order No.181 of 1982 dated 10.05.1982.
7.	2 <sup>nd</sup> Promotion	Promoted as Assistant Town Planner (1050-1710) vide order No.18 of 1986 dated 05.04.1986.	Promoted as Assistant Engineer (8000-12950) vide govt. order No.255 of 2004 dated 20.09.2004	Promoted as Assistant Engineer (8000-12950) vide govt. order No.255 of 2004 dated 20.09.2004.
8.	3 <sup>rd</sup> Promoted	Promoted as Divisional Town Planner (10000-15200) vide govt. order No.222 of 2004 dated 09.08.2004.	Promoted as AEE (9000-14100) vide govt. order No.188-HUD of 2009 dated 10.12.2009.	Promoted as AEE (9000-14100) vide got. Order No.05-HUD of 2010 dated 06.01.2010 w.e.f 10.12.2009.

Whereas, it is abundantly clear that even though the petitioners and the said Mr. Mehraj-ud-Din Bhat initially have been appointed as Draftsman, the similarity in their service careers diverges immediately thereafter, for, whereas the aforesaid Mr. Mehraj-ud-Din Bhat has been promoted from the post of draftsman to the post of Head Draftsman, vide order No.1526 of 1995 dated 15.03.1995, retrospective effect w.e.f 25.02.1981 vide No.2169 of 1986 dated 04.03.1986 then to the post of Assistant Town Planner vide order No.18 of 1986 dated 05.04.1986 and then to the post of Divisional Town Planner (vide government order No.222 of 2004 dated 09.08.2004) all promotions in the Planning Wing of the Corporation), the petitioners have been granted promotions

Whereas, the claim of the petitioners has been again considered after going through the entire record and the matter has been considered in its entire conspectus ; and

Whereas, it is seen that the petitioners have reaped the fruits of promotion, in the Engineering Wing, on which side they rose to the level of Assistant Executive Engineers and have not resented to such promotions at the relevant point of time and accepted the said promotions without reserving their rights to get promotion on the Planning Side of the Corporation, along-with all service benefits accruing there from; and

Whereas, the case of the petitioners that they form one class with the aforesaid Mr. Mehraj-ud-Din Bhat is not manifest from the record, inasmuch as the petitioners and the said Mr. Mehraj-ud-Din Bhat have risen to the post of Divisional Town Planner through different channels viz: Engineer and Planning Wing; and

Whereas, the petitioners cannot on the one hand reap the benefits of their promotions on the Engineering Side and on the other hand claim retrospective promotions to the post of Assistant Town Planner and Divisional Town Planner on par with the said Mr. Mehraj-ud-Din Bhat. The petitioners cannot breath hot and cold in the same breath; and

Whereas, the petitioners have conveniently omitted and maintained a conspicuous silence in their writ petitions, as to how they have been promoted to the post of Assistant Engineer, Assistant Executive Engineer and Divisional Town Planner.

Now therefore, the claim of the petitioners in its entirety, and particularly in light of the findings and reasons recorded hereinabove, is found devoid of merit and is accordingly rejected. However, the case of the petitioner shall also be placed before the Departmental Promotion Committee(DPC) of the Srinagar Municipal Corporation and if the DPC finds any merit in the promotion given to the petitioners from time to time and the benefits which they claim in the instant petition, accordingly the matter can be reopened and decided. The Department needs two months time for the same.

By order of the Government of Jammu and Kashmir.

Sd/-  
(Hirdesh Kumar)IAS  
Commissioner/Secretary to Government  
Housing and Urban Dev. Department

No.HUD/lit/323/2015-SMC

Dated:- 29.05.2017

Copy to the:-

1. Commissioner, Srinagar Municipal Corporation.
2. Pvt. Secretary to Hon'ble Deputy Chief Minister (I/C Housing and Urban Dev. Department) for information.
3. Pvt. Secretary to Commissioner/Secretary to Government, Housing and Urban Dev. Department.

4. Additional Advocate General Standing Counsel, H&UDD at Hon'ble High Court Srinagar for information.
5. Concerned \_\_\_\_\_.
6. I/c, Departmental Website for uploading on Departmental Website.
7. Stock File.
8. Government order file(w.2.s.c.)



(Firdous Hussain)  
Under Secretary to Govt,  
Housing and Urban Dev. Department