



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

Subject: - Implementation of Hon'ble High Courts Order dated 25/09/2017 passed in SWP No.412-A/2001 titled Vikas Mahajan V/s State - placement of Sh. Vikas Mahajan, Planning Assistant as I/c Assistant Town Planner.

GOVERNMENT ORDER NO. 331-HUD of 2018

D A T E D: 19 .12. 2018

Whereas, the petitioner Vikas Mahajan, was appointed as Draftsman in Town Planning Organisation, Jammu vide Order No. 28 CTP/J of 1992 dated 14.05.1992 issued Town Planning Organisation, Jammu, subsequently he was promoted as Head Draftsman and Planning Assistant;

Whereas, Petitioner Mr. Vikas Mahajan possessed three years diploma in Architecture at the time of appointment in the year 1992. In the year 2000, the Administrative Department relaxed technical qualification bar in favour of Sh. Bushan Kumar vide Govt. Order No. 150-UD of 2000 and subsequently promoted Mr. Bushan Kumar retrospectively w.e.f. July/1993 to the post of Head Draftsman. This aggrieved Mr. Vikas Mahajan, Draftsman to file a case (SWP No. 412-A/2001) in the Hon'ble High Court in the year 2001 citing Hon'ble Supreme Court direction in the case **titled Suraj Prakash Gupta V/s State;**

Whereas, The Hon'ble High court of J&K in SWP No. 412-A/2001 Vikas Mahajan V/s State, passed an order dated: 25.09.2017. The operative/relevant portion of the Hon'ble High court Order (para 19 & 20) are reproduced as follows:

19-a) The Petitioner would be given the benefit of promotion as Head Draftsman and Planning Assistant with effect from the earlier date when either of the respondents were promoted.

b) In case, the respondent No. 4 has been promoted as Assistant Town Planner on substantive basis, the petitioner too would stand promoted with effect from the same date and in case the arrangement is temporary, the petitioner be given a similar benefit with effect from the same date.

c) The benefit would be on notional basis without past salary or allowances but the period could count for promotion or retirement benefits.

d) The petitioner would get an appropriate place in seniority, depending upon his position in the seniority of Draftsman.

20 Requisite orders be passed within one month from today, failing which the petitioner would be entitled to the same salary payable to respondent No. 4, working in the substantive capacity after the expiry of period prescribed.

Whereas, this department vide letter No. HUD/TPO/34/2017 dated 18/06/2018 directed the Chief Town Planner Jammu to convene meeting of DPC within 10 days regarding implementation of Hon'ble High court order dated 25.09.2017. Since representative of the Administrative Department is also member of DPC, subsequently vide Order No. 110-HUD of 2018 dated 09/07/2018 deputed Deputy Secretary to Govt. H&UDD to attend the meeting of DPC held on 06/07/2018.

Whereas, the Departmental Promotion Committee meeting was held on 06.07.2018 to implement the directions of the Hon'ble High court order dated 25/09/2017 in letter and spirit passed in the SWP No. 412-A/2001 titled Mr. Vikas Mahajan V/s State of J&K and Others. The orders for implementation of the Hon'ble Court directions in light of the

DPC dated 06/07/2018 were issued vide No. 32 CTPJ of 2018 dated 07/07/2018.

Whereas, as per the Hon'ble Court directions dated 25.09.2017 contained at para-19 (a), (c) and (d) the case of the petitioner was to be considered and decided by Chief Town Planner Jammu. The CTP Jammu has implemented the part of Judgment pertaining to his Organization.

Whereas, the para 19- (b) and para 20 of the Hon'ble Court direction dated 25.09.2017 pertains to the Administrative Department and Administrative Department has to take the decision to implement the Hon'ble Court Order in letter and spirit. The Direction para 19(b) and 20 is reproduced for perusal of the authorities:-

19(b) In case, the respondent No. 4 has been promoted as Assistant Town Planner on substantive basis, the petitioner too would stand promoted with effect from the same date and in case the arrangement is temporary, the petitioner be given a similar benefit with effect from the same date.

(20). Requisite orders be passed within one month from today, failing which the petitioner would be entitled to the same salary payable to respondent No. 4, working in the substantive capacity after the expiry of period prescribed.

Whereas, in this regard, it is submitted that resp. No. 04 namely Mr. Bushan Kumar has been placed as In-charge Assistant Town Planner vide Govt. Order No. **59-HUD of 2013 dated 08.03.2013** in his own pay and grade with charge allowance as admissible under rules.

Whereas, the petitioner(Mr. Vikas Mahajan) is to be placed as In-charge Assistant Town Planner with effect from the date of issuance of Govt. Order No. 59-HUD of 2013 dated 08.03.2013 i.e the date from which resp. No. 4 namely Mr. Bushan Kumar has been placed as In-charge Assistant Town Planner. As per the fresh final seniority list of the Planning Assistants, Town Planning Organisation Jammu issued vide

Order No. **57-CTPJ of 2018 dated 24.08.2018** Mr. Vikas Mahajan is figuring at S. No. 2 and his juniors from S.No. 3 to 6 viz., Sh. Manoj Kumar, Sh. Ravinder Kumar, Sh. Ashwani Kumar and Sh. Nazir Ahmed Shah have already been placed as I/c Asstt. Town Planner.

Now therefore, keeping in view the Hon'ble High Court directions dated 25.09.2017 and departmental examination of the case "sanction is hereby accorded to placement of Mr. Vikas Mahajan (petitioner), Planning Assistant as In-Charge Assistant Town Planner with effect from the date the resp. No. 04 namely Mr. Bhushan Kumar was placed as In-Charge Assistant Town Planner vide Govt. Order No.59-HUD of 2013 dated 08.03.2013 against an available vacancy. He is allowed charge allowance prospectively. The stop gap arrangement shall be subject to confirmation by the Departmental Promotion Committee headed by a Member of J&K Public Service Commission & shall be subject to seniority & superior claims of others, if any and shall not confer any right on either the petitioner or the respondents to claim regularisation from the date they were placed as I/c Assistant Town Planner.

By Order of the Government of Jammu & Kashmir.

Sd/-

(K.B. Agarwal) IAS

Financial Commissioner


Housing & Urban Dev. Department

No:-HUD/TPO/34/2017

Dated: 19.12.2018

Copy to the:-

1. Commissioner/Secretary to Govt. General Administration Department.
2. Chief Town Planner, Town Planning Organisation, Jammu.
3. Senior Law Officer, H&UDD for information and necessary action.
4. Pvt. Secretary to Advisor (S) to Hon'ble Governor.
5. Pvt. Secretary to Financial Commissioner, H&UDD.
6. Pvt. Secretary to Secretary, H&UDD.
7. Concerned officer.
8. Government order file(w.2.s.c.).


(Pardeep Kumar)KAS
Deputy Secretary to Government
Housing & Urban Dev. Department



