



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

Subject:- Consideration order in terms of Hon'ble High Court order dated 13.12.2017 passed in SWP No. 2546/2017, MP No. 01/2017.titled Mukhtar Ahmad Bhat V/s State and Ors.

Government Order No: 85- HUD of 2018

D a t e d: 19 - 03- 2018

Whereas, Mr. Mukhtar Ahmad Bhat, working as Section Officer in Director Urban Local Bodies Kashmir has approached the Hon'ble High Court for promotion to the post of Administrative officer.

Whereas, the Hon'ble High Court has disposed of the case titled Mukhtar Ahmad Bhat V/s State and Ors, SWP No. 2546/2017, MP No. 01/2017 with the following directions:-

"Petitioner states to be working as Section Officer in respondent department since 6th December 2006, which is also born out from seniority list (Annexure G to writ petition). His gravamen is that though in terms of SRO 259 dated 18.07.2007, pay scale of section officers and equivalent officers, has been enhanced, yet he is not being paid the salary attached to the post of Section Officer. It is pleaded that respondent no. 2 has recommended petitioners name for promotion to the post of next higher post of Administrative Officer vide letters dated 31.03.2016 and 26.11.2016 (Annexure H&J to writ petition), yet respondent no. 1 has not till date considered and decided the case of petitioner for promotion to the post of Administrative Officer, forcing him to knock at portals of this court with writ petition on hand.

Learned counsel for petitioner, after arguing for a while, states that given the relief solicited for the petitioner would feel contented in the event writ petition is disposed of at this stage and respondent directed to consider and decide the case of petitioner for release of grade attached to the post of Section officer and his promotion to the next higher post of Administrative Officers, within fixed time frame.

Writ petition, keeping in view case set up coupled with submission made by learned counsel for petitioner, is disposed of with a direction for release of salary attached to the post of Section officer as also promotion

J. Aul

to the next higher post of Administrative Officer in light of averments made in petition, annexures appended thereto and rules occupying the field. Let such consideration be accorded and decision taken within a period of six weeks from the date certified copy of this order with complete set of paper book is served upon respondent.

Whereas, the petitioner (Mr. Mukhtar Ahmad Bhat) was initially appointed as Junior Assistant in the Directorate of Urban local Bodies Kashmir in the year, 1980

Whereas, the petitioner vide order No. DLB/Estt/837/460 of 1996 dated 19.11.1996 was adjusted against the post of Head Assistant in the pay scale of 1400-2600 against the clear vacancy fallen vacant after promotion Mr. Bashir Ahmad Sheikh as Secretary.

Whereas, the petitioner vide order No. DULB/G/Estt/839/1125 dated 06.12.2006 was promoted as I/C Secretary works temporarily, in view of the heavy work load on account of preparation of various projects and monitoring of ongoing projects. However this order was without prejudice to the seniority of any other incumbent and order has been issued strictly for the purpose of Administrative exigencies.

Whereas, Director Urban Local Bodies Kashmir vide order No. DUB/Estt/1995 of 2009 dated 04.03.2009, released the grade attached to the post of Secretary i.e. 6500-10500 in favour of the petitioner from the date of his holding the post of Secretary In-charge.

Whereas, Director Urban Local Bodies Kashmir vide Govt. Order No. DULB/Estt/1379/2010 dated 30.03.2010 changed the nomenclature of post of Secretary as Section Officer and placed the petitioner as Section Officer. The Director Urban Local Bodies Kashmir is not competent to change the nomenclature of any post including the Secretary, the authority for change of nomenclature/re-designation of any post lies with the Administrative Department.

Whereas, SRO 259 of 2007 issued by General Administration Department pertaining to pay scale of post of Section Officer is only applicable to the Government Departments while as the Urban Local Bodies are autonomous bodies, therefore the said SRO is not directly applicable to the petitioner and petitioner cannot claim benefit under this SRO.

Whereas, as per SRO 417 dated 18.12.2008 (JAMMU AND KASHMIR URBAN LOCAL BODY INSTITUTIONS (MANAGEMENT) SERVICE RECRUITMENT RULES, 2008) the post of Secretary is feeding cadre to the post of Executive Officer.



Whereas, as per SRO 417 dated 18.12.2008 (JAMMU AND KASHMIR URBAN LOCAL BODY INSTITUTIONS (MANAGEMENT) SERVICE RECRUITMENT RULES, 2008) no post of Administrative Officer exists in the above said rules.

Now, therefore, in compliance of the Hon'ble High Court order dated: 13.12.2017, the case of the petitioner has been examined and considered in the department under rules occupying the field and the petitioner's case was found devoid of any merit in respect of promotion to the post of Administrative Officer, hence rejected.

By Order of the Government of Jammu and Kashmir.


Sd/-
(K. B. Agarwal)IAS
Financial Commissioner to Government
Housing & Urban Dev. Department

No:- HUD/Lit/02/2018/DULBK

Dated:- 19 .03.2018

Copy to the:-

1. Director Urban Local Bodies Kashmir.
2. Senior Law Officer H& UDD for information with further direction to file statement of facts before the Hon'ble High Court through Ld. AAG Srinagar.
3. Pvt. Secretary to Hon'ble Deputy Chief Minister (I/C Housing & Urban Development Department) for information of Hon'ble Deputy Chief Minister.
4. Pvt. Secretary to Hon'ble Minister of State Housing & Urban Development Department for information of Hon'ble Minister.
5. Pvt. Secretary to Financial Commissioner Housing & Urban Development Department.
6. P.A to Additional Secretary to Govt. H& UDD.
7. Concerned.
8. Stock file.


(Zahoor Ahmad Butt)
Under Secretary to Govt.
Housing & Urban Dev. Department
