

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

Subject:- Consideration Order in terms of Hon'ble High Court Order dated 13.03.2019 passed in SWP No. 518/2019, IA No. 01/2019, titled Shafat Ahmad Reshi V/s State of J&K and Ors.

Government Order No: 66 - JK (HUD) of 2019

D a t e d: 11 - 11- 2019

Whereas, the petitioner Sh. Shafat Ahmad Reshi was initially appointed as Draftsman in Town Planning Organization vide Order No. 110-CTPK of 1986 dated 25.01.1986;

Whereas, the petitioner applied for grant of 03 days casual leave on 07.04.1992 on the grounds that he had to proceed to Jammu for some personal work, but did not return back for few weeks;

Whereas, after issuance of several notices by CTPK from time to time to attend his duties, viz vide CTPK's letter dated 15.07.1992, 28.08.1992, 02.11.1992 and 19.02.1994, the services of Mr. Shafat Ahmad Reshi, then Head Draftsman, Town Planning Organization, Srinagar were eventually terminated with effect from 07.04.1992, vide Order No. PF/H-DM-66/CTPK/94/59 dated 27.05.1994, for remaining unauthorizedly/without leave, absent from duty;

Whereas, the petitioner reported to CTPK on 04.06.1995 for joining his duty but was not allowed as his services had already been terminated on 27.05.1994;

Whereas, petitioner filed W.P. No. 3038/97 titled Shafat Ahmad Reshi V/s State and other in the Hon'ble High Court seeking quashment of termination order dated 27.05.1994 issued by then CTPK;

Whereas, the case was listed before the Hon'ble High Court on 24.11.1997 and the Hon'ble Court passed the following directions:

“Respondents are directed to allow the petitioner to join subject to the outcome of the writ petition. This order, however, will be subject to objection of the other side”.

Whereas, the petitioner was allowed to join in compliance to Hon'ble Court Order and the salary was also released in his favour as per the directions of Hon'ble Court Order dated 02.01.1998;

Whereas, meanwhile the petitioner had applied for the post of Junior Engineer, Grade-II, Civil in PW(R&B) Department as fresh candidate



without the consent of parent department (TPO) when he had option of applying through proper channel and was subsequently appointed as Junior Engineer, Grade II, vide Govt. Order No. 181-PW of 1999 dated 24.06.1999;

Whereas, the petitioner was keen to join the fresh appointment as JE-II (Civil) in PW(R&B) and therefore, he filed a CMP No. 1505/99 in SWP No. 3038/97 before the Hon'ble High Court wherein he prayed that he be allowed to join the fresh appointment in PW (R&B) Department;

Whereas, the Hon'ble High Court vide Order dated 07.07.1999 passed the following directions:

“Meanwhile, subject to objections of the other side, respondents are directed to allow the petitioner to join the fresh appointment without prejudice to his right to contest the writ petition against his termination.”

Whereas, in compliance to Hon'ble Court directions dated 07.07.1999, the petitioner was relieved by the then CTPK on 09.07.1999 to join in PW (R&B) Department and LPC of the petitioner was forwarded to Chief Engineer, PW(R&B) Kashmir for further necessary action on 02.08.1999;

Whereas, the termination order of petitioner dated 27.05.1994, issued by the then, CTPK was revoked vide Govt. Order No. 301-HUD of 2018 dated 17.10.2018 and the period of absence of 851 days was treated as dies-non only with the intention to bridge the past and present service for the purpose of pensionary benefits;

Whereas, the petitioner is discharging his duties as JE, Grade II, in PW(R&B) Department from 09.07.1999 till date and is receiving the salary regularly. It is evident that the petitioner has served in PW(R&B) Department for more than 20 years till date on substantive basis.

Whereas, in terms of Article 37(A) of J&K CSR, Vol. I, the lien of the petitioner stands terminated in Town Planning Organization after joining fresh appointment on substantive basis in PW(R&B) Department. The petitioner holds his lien in the PW(R&B) Department, where he presently discharging his duties on permanent and substantive basis. The relevant portion of the said article is as under for the perusal of the Hon'ble Court:

“Unless in any case it, be otherwise provided in these regulations, a Government servant on substantive appointment to any permanent post acquires a lien on that post and cease to hold any lien previously acquired on any other post.”

Whereas, the case of petitioner (Mr. Shafat Ahmad Reshi) is not similarly situated to that of Mr. Nisar Ahmad Wani, as the petitioner on his own volition applied, got selected as JE in R&B Department, and has been working there substantively for last more than 20 years. Now R&B is the parent Department of Sh. Shafat Ahmad Reshi and Sh. Reshi has no lien with Town Planning Organization.

Now, therefore, in compliance of the Hon'ble High Court order dated: 13.03.2019, the case of the petitioner has been examined and it was found that the petitioner's claim for repatriation to Town Planning Organization Kashmir is devoid of any merit and is therefore rejected.

By order of the Government of Jammu & Kashmir.


Sd/-
(Dheeraj Gupta) IAS
Principal Secretary to Government
Housing & Urban Dev. Department

No:- HUD/TPO/25/2018

Dated:- 11.11.2019

Copy to the:-

1. Chief Town Planner, Kashmir/Jammu for information.
2. Additional Secretary (Legal) with the direction to file the statement of facts before the Hon'ble Court.
3. Pvt. Secretary to Principal Secretary to Government, Housing & Urban Development Department.
4. P.A to Additional Secretary to Govt. H& UDD.
5. Concerned official.
6. Stock file.


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

