

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

Subject:- Consideration Order in terms of Hon'ble High Court Order dated 26.09.2019 passed in SWP No. 1447/2018, titled Mukhtar Ahmad Bhat Vs State of J&K and Others.

Government Order No: 39 - JK (HUD) of 2020

D a t e d: 29 - 01- 2020

Whereas, Mukhtar Ahmad Bhat, working as Secretary in the Directorate of Urban Local Bodies, Kashmir has filed writ petition SWP No. 1447/2018, titled Mukhtar Ahmad Bhat Vs State of J&K and Ors in the Hon'ble Court asking for following relief:-

- i. To quash Government Order No. 85-HUD of 2018 dated 19.03.2018,
- ii. To pay and release the pay scale/grade attached to the post of Section Officer with retrospective effect from the date the petitioner has been promoted/adjusted as Section Officer i.e. 06.12.2006 with all other consequential benefits attached to the said post,
- iii. To promote the petitioner to next higher post i.e. Administrative Officer.

Whereas, the Hon'ble High Court Vide its interim Order dated 26.09.2018, passed in I.A. No. 02/2018, in SWP No. 1447/2018, titled Mukhtar Ahmad Bhat Vs State of J&K and Ors has ordered as under:-

“Notice of application, to the counsel for the respondents returnable within a period of two weeks.

List on 15.10.2018.

Meanwhile, the Respondent No. 2 (Principal Secretary to Government, Housing & Urban Development Department) shall take decision on the recommendation of the Respondent No. 3 in tune with the direction passed by this Court on 07.07.2018, in SWP No. 1447/2018 i.e. In the Meanwhile, respondents shall consider the representation of the petitioner.”

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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 of 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. DULB/Estt/1995 of 2009 dated 04.03.2009, released the grade attached to the post of Secretary i.e. 6500-10500 (Rs. 9300-34800+ GP 4600 revised) in favour of the petitioner from the date of his holding the post of Secretary In-charge;

Whereas, Director Urban Local Bodies, Kashmir vide 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 without referring the matter to Departmental Promotion Committee for regularization of the promotion. The Director Urban Local Bodies, Kashmir is not competent to change the nomenclature of any post including the Secretary, the authority for change of the nomenclature/re-designation of any post lies with the Administrative Department after prior approval of Finance Department;

Whereas, the legality in basic appointment of the petitioner and subsequent promotions is being looked into separately due to the fact, that the procedure for his recruitment and subsequent promotions conferred had not been followed in accordance with the recruitment rules. The Director, Urban Local Bodies, Kashmir vide his letter dated 09.10.2019, has informed that:-

- a) As per records, the grade of Rs. 9300-34800 + GP 4600 (PR) has not been released in favour of the petitioner.
- b) That the Director was not competent to re-designate the post of Secretary as Section Officer and adjustment of the petitioner against the said post, without referring the matter to the DPC.





Whereas, SRO 259 of 2007 issued by the General Administration Department pertaining to pay scale of post of Section Officer, while as the petitioner is holding the post of Secretary substantively, therefore the said SRO is not directly applicable to the petitioner and as such, he cannot claim benefit under this SRO;

Whereas, promotions to the post of Administrative Officer are made by the General Administration Department in terms of Jammu and Kashmir Administrative Officers (G) Services Recruitment Rules, 1996, issued vide SRO-272 dated 16.08.1996, wherein the method of recruitment for the post of Administrative Officer is prescribed as under:-

“By promotion from amongst Section Officers of Heads of Departments in the pay scale of Rs 2000-3200 having at least 5 years service as such.”

Whereas, in terms of Jammu and Kashmir Administrative Officers (G) Services Recruitment Rules, 1996, the post of Section Officer is the feeding cadre for the post of Administrative Officer, whereas the petitioner is working against the post of Secretary, even which is in violation of norms and is not the feeding cadre for the post of Administrative Officer;

Now, therefore in compliance of the Hon'ble High Court Order dated 26.09.2018 passed in I.A. No. 02/2018 in SWP No. 1447/2018 titled Mukhtar Ahmad Bhat Vs State of J&K and Ors, the case of the petitioner has been examined and considered in the department and the same is found devoid of any merit and hence rejected.

By order of the Government of Jammu & Kashmir.

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

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

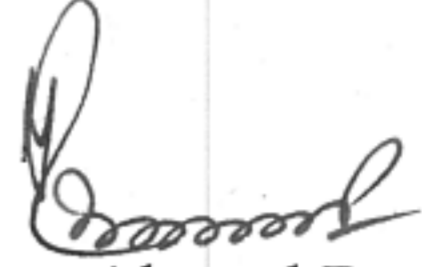
Dated:-29.01.2020

Copy to the:-

1. Director, Urban Local Bodies, Kashmir..
2. Senior Law Officer 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 Special Secretary, H&UDD for information of Special Secretary.
5. P.A to Additional Secretary to Govt. H& UDD for information of Additional Secretary.
6. Concerned official.
7. Stock file.



(Zahoor Ahmad Butt)

Under Secretary to Government,
Housing & Urban Dev. Department.

