

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

Subject: Compliance of Order dated 19.11.2019 passed in SWP No. 129/218 CPSW No. 758/2018 titled Sh. Balbir Singh Vs Sh. K.B. Aggarwal and others by the Hon'ble High Court - Consideration for promotion to the post of Compost-Cum-Transport Officer- Interim order issued by the Hon'ble Court.

Government Order No:- 87 - JK(HUD) of 2020
Dated:- 05 - 03 - 2020

Whereas, the petitioner (Mr. Balbir Singh), Assistant Sanitation Officer carrying pay scale of ₹ 9300-34800 + GP of ₹ 4300/- [Leve-6F (40800-129200)] was deployed as I/c Transport Officer for Zone-II till further orders, in terms of Order No. 75 of 2010 dated 01.03.2010 issued by the then Commissioner, JMC, despite non-availability of recruitment rules; and

Whereas, the charge allowance as admissible under rules was released in favour of Mr. Balbir Singh vide JMC Order No. 632 of 2012 dated 16.05.2012.; and

Whereas, the cases of officers / officials of JMC/SMC seeking promotion to the grade pay above 4600/- including petitioner were considered by the Departmental Promotion Committee headed by the Administrative Secretary, H&UDD (Chairman of SLDPC) on 13.09.2017. The post mentioned in the Agenda does not have the corresponding method of recruitment in the existing rules and in absence of the specific rules and eligibility criteria, the Committee was not in a position to clear cases for grant of promotion / regularization in favour of the officers/officials of JMC/SMC including petitioner and it was decided that both the Commissioner should submit the fresh proposals of their respective Corporation to the Administrative Department for placing the same before the Committee constituted for revision of Jammu/ Srinagar Municipality Subordinate Service Rules, 1970; and

Whereas, Mr. Blabir Singh filed SWP No. 129/2019 titled Balbir Singh v/s State of J&K & Ors. before the Hon'ble High Court at Jammu praying therein:

"Writ of mandamus directing and commanding the respondents to immediately and forthwith confirm the service of the petitioner and promote him as Transport Officer, Jammu Municipal Corporation, Jammu w.e.f 01.03.2010 keeping in view the recommendation made by the departmental promotion committee on 24.07.2013.

Writ of Mandamus for commanding the respondents to allow the petitioner to continue as Incharge Transport Officer in the office of respondent no. 3 i.e. Jammu Municipal Corporation, Jammu till his confirmation / promotion as Transport Officer or on the post equivalent thereto.

Promotion restraining the respondents from reverting the petitioner to the post of Assistant Sanitation Officer.

Such other appropriate writ, direction or order as the Hon'ble Court deems fit and proper in the facts and circumstances of the case".

Whereas, the Hon'ble High Court vide its Order dated 30.01.2018 disposed of the above petition with the following directions:

"Heard learned counsel for the petitioner. The case set up by the petitioner is that he has been working as Transport Officer in Municipal Corporation Jammu with effect from 01.03.2010. He has been recommended by the departmental promotion committee for being promoted to the said post in the year 2013 but till date no decision has been taken.

Petition is disposed of with a direction to the respondents to accord consideration to the recommendations as made by the departmental promotion committee on 24.07.2013 and to take a decision thereon if not already taken within a period of 15 days. Result of the decision shall be conveyed to the petitioner. Till decision is taken the present position of the petitioner shall not be disturbed.

Petitioner disposed of as above alongwith connected MP" ;and

Whereas in the meantime, contempt petition was filed by the petitioner through the medium of CPSWP No. 758/2018 in SWP No. 129/2018 titled Balbir Singh v/s State of J&K & Ors. in the Hon'ble High Court at Jammu. The Hon'ble High Court vide its Order dated 19.11.2019 disposed of the above petition with the following directions:

"In terms of communication dated 17.04.2018, respondent No. 3 has already submitted and forwarded the case of the petitioner to respondent No. 1 with a request that a speaking order needs to be passed on the ground that claim for grant of promotion to the petitioner including all eligible candidates will be considered by the DPC constituted for the purpose as and when rules are framed and notified by respondent No. 1".

Whereas, the case has further been examined and observed that the post of Transport Officer against which the petitioner was deployed falls in the Superior Cadre carrying pay scale of 9300-34800 + 4800/- [Level-8(47600-151100)] and proposed to be filled-up by deputation from Mechanical Engineering Department of the rank of Assistant Engineer. Further, the next promotion avenue for the post of Assistant Sanitation Officer has been proposed to be Sanitation Officer in the pay scale of having minimum three years in that category, therefore, the claim of the petitioner for confirmation against the post of Transport Officer is devoid of merits, cannot be acceded to. However, the petitioner's case alongwith all other candidates can be considered only when the recruitment rules are finalized that too against the post of Sanitary Officer, which is feeding cadre of Assistant Sanitary Officer, substantively held by the petitioner, if eligible.

Now, therefore, in compliance to the Order dated 30.01.2018 read with Order dated 19.11.2019, passed by the Hon'ble High Court, the case of the petitioner, after having duly been considered, being found devoid of merits, is hereby rejected. However, the claim for grant of promotion to the petitioner including all eligible candidates shall be considered for the post, which he is eligible to, as and when rules are framed and notified.

By order of the Government of Jammu & Kashmir.

Sd/-

(Dheeraj Gupta) IAS

Principal Secretary to the Government
Housing & Urban Development Department

Dated. 05-03-2020

No. HUD/Lit/JMC/08/2018

Copy to the:-

1. Commissioner, Jammu Municipal Corporation.
2. Shri S.S. Nanda, Senior Ld. Additional Advocate General, Hon'ble High Court Jammu for information.
3. Pvt. Secretary to Principal Secretary to the Government, Housing & Urban Dev. Department.
4. Concerned official for information.
5. Stock File.



(Syed Nazir Ahmad)

Under Secretary to the Government
Housing & Urban Development Department

