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**Government of Jammu & Kashmir
Public Works (R&B) Department
Civil Secretariat, J&K**

Subject: - OA No. 61/1721/2021 titled Satish Kumar V/s UT of J&K and others.

Government Order No. 189 - PW(R&B) of 2022
D a t e d: 6 -06- 2022

Whereas, the department received a communication/ representation dated 11.01.2022 from Mr. Kapil Sharma Advocate, J&K High Court Jammu on behalf of his client namely Mr. Satish Kumar R/o Village Majua Uttami Tehsil Bishna, District Jammu; and

Whereas, the petitioner has filed a petition vide OA No. 61/1721/2021 and has sought the direction in the shape of a writ of mandamus for the creation of commensurate one position of Government Service Assistant (GSA) on the ground that the respondent No. 3 was regularized to the post of GSA after the refusal of the applicant to be regularized vide SRO 520, whileas, the matter of the fact is that the Respondent No. 3 was regularized much later after the refusal; and

Whereas, the position was considered by the Hon'ble Bench of CAT, Jammu and directed the respondents to treat the petition filed by the petitioner as representation; and

Whereas, the operative portion of the CAT order dated 17.11.2021 speaks as under:-

"Looking to the limited prayer made by the learned counsel for the applicant, the O.A is disposed of with direction to the respondents to treat the O.A as representation of the applicant and dispose of the same by passing a reasoned and speaking order within a period of four weeks from the date of receipt of a certified copy of the order. A copy of the speaking order be given to the applicant."

Whereas, the regular engagement of Shri Satish Kumar as GSA has been cleared by the Empowered Committee of the Finance Department during its meeting held on 27.12.2018 subject to the condition that the department have to certify that the diploma acquired by the incumbent has been obtained through a Govt. recognized institute, to the Member Secretary Empowered Committee prior to issuance of regular engagement order; and

Whereas, the decision of Empowered Committee in respect of Shri. Satish Kumar reads as under:-

| S.No | Name, Parentage & Address | UID No allotted by finance Department | NIC ID no of worker | DOB | Wages drawn Period | Breaks if any | Length of service rendered as on 11.12.2017 | Decision of Empowered Committee |
|------|--|---------------------------------------|---------------------------|------------|--------------------|---------------|---|---|
| 2 | Satish Kumar S/O Baldev Raj R/O Majua Uttam Bishnah, Jammu | GSA-000364 | 107 of PWD District Jammu | 16.11.1981 | 12/02 to 12/17 | Nil | 14 years and 11 months | Recommended to be regularly engaged w.e.f 01.01.2018 and to draw remuneration under Skilled (I) category carrying remuneration of Rs. 13000/- P.m. subject to the condition that department have to certify that the diploma acquired by the incumbent has been obtained through a Govt. recognized institute, to the Member Secretary Empowered Committee prior to issuance of regular engagement order. |

Whereas, Empowered Committee of the Finance Department during its meeting held on 27.12.2018 further ordered that the department shall ensure that:-

- On the date of initial engagement of CSLW, his/her age was within the minimum and maximum age limit as prescribed for appointment in Government Service.
- The orders of relaxation of age/qualification, wherever required, shall be considered by the Department.
- Work and conduct of CSLW has remained satisfactory during the entire period for which the incumbent(s) have worked.
- The CSLWs(S) must have completed at least ten (10) years/120 months of aggregated working in the Department.
- No disciplinary action or criminal proceedings are pending against him/her.
- The CSLW(s) fully qualifies the conditions for regular engagements as laid down under SRO-520 dated 21.12.2017
- The Hospital Development Fund(HDF) & Local Fund Workers shall continue to be paid from Hospital Development Fund (HDF)/Local Funds as the case may be.

[Signature]

Whereas, the Chief Engineer PW (R&B) Department, Jammu vide letter No PW(R&B)/Adm/152/2018-II dated 05.03.2019 was requested to submit the above requisite information/document in respect of 16 CSLWs, who had been cleared by the Finance Department for regularization as GSA; and

Whereas, the Chief Engineer PW(R&B) Jammu again vide this department's letter No. PWD-LIT/348/2021-05 dated 26.11.2021 followed by letter dated 18.02.2022 was requested to furnish a factual report alongwith all the requisite information/documents as sought, vide this department's letter No. PW(R&B)Adm/152/2018-II dated 05.03.2019 in the matter enabling this department to file the objections before the CAT well in time; and

Whereas, the Chief Engineer vide his letter dated 18.02.2022 stated that the petitioner Shri Satish Kumar has approached the Hon'ble CAT on the grounds that initially he was engaged as Casual and other Workers (CSLWs) in the year 2002 and during the year 2017, the Govt. of J&K, regularized some of the Casual and Daily Wager in terms of SRO 520 dated 21.12.2017 and the petitioner further prayed before the CAT that the Empowered Committee after scrutinizing all the cases among others, finalized the case of Respondent no. 3 Sh Bhanu Pratap Singh including the petitioner Satish Kumar for regular engagement and due to the verification of diploma certificate of the petitioner, the case got delayed; and

Whereas, the Chief Engineer has further submitted that the petitioner's case was already submitted vide his office communication No. CEJ/Accts/2399 dated 21.09.2019; and

Whereas, the Chief Engineer vide his communication dated 18.02.2022, forwarded the copy of his earlier communication dated 21.09.2019 alongwith its enclosures whereunder all the conditions as laid down by the Empowered Committee have been cleared; and

Whereas, the diploma certificate of Mr. Satish Kumar has also been found genuine as reported/ certified by the Managing Director Professional learning Point Computer Education vide his reference No. 19447 dated 09.03.2019; and

Whereas, the case was examined in the department and the Finance Department vide OM dated 04.03.2022 was requested to convey necessary concurrence for issuing regular engagement order in favour of Mr. Satish Kumar S/O Baldev Raj R/O Majua Utami Bishnah Jammu as GSA in terms of SRO 520 dated 21.12.2017; and

Whereas, in return the Finance Department vide OM No. FD-Code/70/2022-03 dated 27.04.2022, advised this department that SRO 520 is under review on the advice of Law Department. The department may obtain opinion of GAD in the matter; and

Whereas, accordingly, vide this department's U.O NO.PWD-LIT/348/2021-05 dated 09.05.2022, the matter was taken up with General Administration Department for seeking their opinion; and



Whereas, in response the General Administration Department vide U.O. No. GAD-ADM01/2/2021-02-GAD(25783) dated 26.05.2022 returned the case with the following advise:-

Returned. The department is advised that the policy with regard to regularization of Casual labourers under SRO-520 is under examination in the Government.

Now, therefore, in light of the observation of the General Administration Department and Finance Department, official record viz a viz Hon'ble CAT directions, the case of the petitioner for his regularization has been considered and found devoid of merit at this juncture in absence of any policy guidelines in the matter, however, it shall be examined again after decision on continuation of SRO-520 is taken by the Government.

By Order of the Government of Jammu and Kashmir.

Sd/-

(Shailendra Kumar) IAS
Principal Secretary to the Government,
Public Works (R&B) Department

Dated: 6 -06-2022

No. PWD-LIT/348/2021-05

Copy to the:

1. Principal Secretary to the Hon'ble Lieutenant Governor, J&K
2. Joint Secretary, Ministry of Home Affairs (J&K Affairs), Govt. of India.
3. Principal Secretary to Government, General Administration Department.
4. Director Archives, Archaeology & Museums, J&K Jammu.
5. Chief Engineer, PW(R&B) Department, Jammu.
6. OSD to Hon'ble Advisor (B) to Hon'ble Lt. Governor, J&K.
7. Senior Law officer, Public Works (R&B) Department.
8. Advocate Kapil Sharma, Chamber No. 204, Lawyers Chamber, Janipur, Jammu.
9. Pvt. Secretary to Principal Secretary to Government, Public Works (R&B) Department.
10. Shri Satish Kumar S/o Baldev Raj R/o Majua Uttami Tehsil Bishna District Jammu.
11. Incharge Website, Public Works (R&B) Department.
12. Government Order file/Stock file.


(Hamid Hameed)

Under Secretary to the Government

