



Government of Jammu and Kashmir  
Public Works (R&B) Department  
Civil Secretariat Jammu

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Subject: - Contempt petition No. 18/2021 in SWP No. 2728/2015 titled Parvez Ahmad and others V/s UT of J&K and others.

Government Order No: 353- PW(R&B) of 2022  
D a t e : 03 -10- 2022

Whereas, Shri Parvez Ahmad, Shri Mohd Amin and Shri Mohd Iqbal filed a writ petitioner SWP No. 2728/2015 titled Parvez Ahmad and others Vs State of J&K and others before the Hon'ble High Court J&K Jammu seeking regularization of their services under SRO-64 of 1994; and

Whereas, the Hon'ble High Court in the above said writ petition, passed order dated 05.10.2015, the operative part of which is speaks as under:-

*Having regard to the grievance of the petitioners and relief sought by them and further the most of the similarly situated persons have been regularized, this petition is admitted and disposed of with a direction to the respondents, in particular respondent 1 and 3 to accord consideration to the cases of the petitioners and take final decision thereon and pass appropriate order in accordance with the rules without any further delay, preferably within eight weeks after petitioners provide a copy of this order in the office of respondent No.3.*

Whereas, Shri Mohd Amin & other and Shri Parvez Ahmad filed two separate contempt petitions bearing No. CCP(S) No. 413/2019 in SWP No. 2728/2015 titled Mohd Amin and another Vs Khurshid Ahmed Shah and others and NoCCP(S) NO.18/2021 in SWP No. 2728/2015 respectively praying therein that the respondents may be directed to implement the judgment dated 05.10.2015 in letter and spirit without any further delay.; and

Whereas, the Chief Engineer PW(R&B) Department Jammu vide letter No. PW(R&B)Legal/153/2019 dated 11.09.2019 was requested to examine the case in accordance with rules governing the field and take appropriate decision by passing of speaking order and file statement of facts in the instant contempt petition; and

Whereas, the petitioners case was submitted to the Finance Department vide U.O. dated 29.01.2018 for placing before the Empowered Committee for consideration of regularization of their services; and

Whereas, the Finance Department vide U.O. dated 13.06.2018 conveyed that the Empowered Committee in its 13th meeting held on 04.04.2018 under the Chairmanship of the Principal Secretary to the Government, Finance Department has made the following observation in the cases of the petitioners :-

S.No	Name/Parentage/ Address of DRW	Decision
1	Mohd Iqbal Naik S/O Jamal Din Naik R/O Gool	The department shall:- i. consult all records and ascertain the actual status of the incumbent as casual labour or DRW. ii. Clarify whether the incumbent has been paid wages for the period 07.01.1994 to 28.02.1994, if so amount paid, CV No. & Date may be furnished

2	Pervaiz Ahmad Wani S/O Saif-ud Din Wani R/O Alinbass Banihal	Not eligible for regularization under provisions of SRO-64/1994 being engaged as Casual labour
3	Mohd Amin S/O Noor Mohd R/O Harog Ramban	Not eligible for regularization under provisions of SRO-64/1994 being engaged as Casual labour

Whereas, decision of the Empowered Committee of the Finance Department was communicated to the Chief Engineer, R&B Jammu vide this department's letter dated 25.07.2018; and

Whereas, on receipt of the contempt petition, the Chief Engineer R&B Jammu vide letter No. PW(R&B)Legal/254/2020 dated 28.03.2021, was requested to pass a speaking order, strictly as per recommendation of the Empowered Committee and file compliance report accordingly, in consultation with Govt. Counsel engaged in the case; and

Whereas, in the meanwhile, the Finance Department vide O.M. No. FD/Legal/51/2021 dated 07.04.2021 requested this department to take necessary action and furnish copy of statement of facts filed in the matter; and

Whereas, accordingly, the Chief Engineer R&B Jammu vide this department's letter dated 30.04.2021 was requested to furnish action taken report pursuant to this department's earlier communication dated 28.03.2021; and

Whereas, the Chief Engineer R&B Jammu passed a speaking consideration order No. 23-PWD(R&B) of 2021 dated 26.04.2021 thereby rejecting claim of the petitioners namely Shri Parvez Ahmad and Mohd Amin, as found devoid of any merit; and

Whereas, the Chief Engineer PW(R&B) Jammu vide communication dated 23.05.2022, intimated that as reported by the Executive Engineer PWD Ramban vide letter No. 6227-32 dated 17.05.2022 pursuant to the observation of the Empowered Committee, the petitioner Mohd Iqbal Naik have been paid the wages Rs. 450 and Rs. 725 for the month of January 1994 and February 1994 vide CV No. 85 of 03/1994 and CV No. 83/1994; and

Whereas, the contempt petition was again listed before the Hon'ble High Court on 30.08.2022 and the Hon'ble High Court was pleased to direct to file fresh compliance report as earlier report filed was not in the consonance with writ judgment; and

Whereas, the case was referred to the Finance Department for placing the same before the Empowered Committee for necessary opinion vide this department's U.O. No. PWD-LIT/397/2022-05-PWD R&B Department dated 19.09.2022, who in turn, vide U.O. No. FD-Code/110/2022-02-1500 dated 21.09.2022 returned the case file with the following advice:-

**"The Department is advised that SRO-64 of 1994 is under the administrative scrutiny on the advice of the Law Department, Law Department has opined that SRO-64 of 1994 is violative of Article 14, 15 and 16 of the Constitution of India. The Department may accordingly pass the consideration order, in consultation with the Law Department and file status report before the court of Law."**





Whereas, in pursuance of opinion rendered by the Finance Department vide U.O. No. FD-Code/110/2022-02-1500 dated 21.09.2022, the case was referred to the Department of Law, Justice & PA vide this department's U.O. No. PWD-LIT/397/2022-05 dated 22.09.2022 for necessary opinion, who in turn, vide U.O. No. Law-Lit/2022/Misc dated 22.09.2022 advised as under:-

**"The Department is advised to consider the case of the petitioners as per rules and pass a speaking order by rejecting their claim, thereafter file a compliance report before the Hon'ble Court."**

Now, therefore, in light of the advice of the Finance Department and Department of Law, Justice & Parliamentary Affairs, the case of the petitioners for their regularization have been again considered and found without merit being violative of Article 14, 15 and 16 of the Constitution of India.

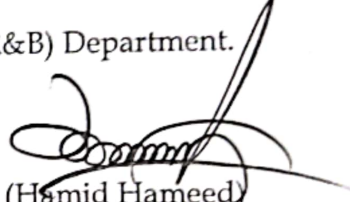
By Order of the Government of Jammu and Kashmir.

Sd/-  
(Shailendra Kumar) IAS  
Principal Secretary to the Government,  
Public Works (R&B) Department  
Dated: 03-10-2022

No. PWD-LIT/397/2022-05

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. Secretary to the 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. Pvt. Secretary to the Principal Secretary to Government, Public Works (R&B) Department.
9. Concerned official.
10. I/c Website, Public Works (R&B) Department.
11. Government Order file/Stock file.

  
(Hamid Hameed)  
Under Secretary to the Government  
Public Works (R&B) Department

