



**Government of Jammu and Kashmir
Public Works (R&B) Department
Civil Secretariat, Jammu/Srinagar**

Subject: OA No. 511 /2023 titled Aftab Ahmed Beigh V/s UT of J&K and Others.

Government Order No. 446 -PW(R&B) of 2023

Dated: 02.11.2023

Whereas, Aftab Ahmed Beigh was appointed as daily wager in Mechanical Engineering Department in the year 1991 and his services were regularized as Helper, in the pay scale of 14800-47100 (Level-S.L-1) w.e.f. 01.04.1999;

Whereas, the petitioner was placed in the pay scale of 3050-75-3950-80-4590 in 2004 vide Order No. CEMK/GS-162 of 2004 dated: 28.02.2004 and promoted as Sr. Mechanic, in 2009, in the pay scale of 25500-81100 (Level-4);

Whereas, the petitioner was placed as I/c Junior Engineer (Mechanical) in the pay scale of 35400-112400 (Level-06), vide Government Order No. 26-PW(R&B) of 2014 dated 16.01.2014;

Whereas, among others, Mr. Aftab Ahmad Beigh figures at S.No. 02 in Shift Attendants/Field Workers/Field Supervisors category in the combined seniority list issued vide Govt. Order No. 386-PW(R&B) of 2019 dated: 29.08.2019;

Whereas, as per J&K Engineering Subordinate Service Rules, 1997 notified vide SRO 180 of 1997 dated 23rd July 1997, the method of filling up posts of Junior Engineer (Mechanical) (Civil) is as under:-

"90% by direct recruitment and 10% by promotion through DPC from draftsmen/works supervisor and shift attendants/field workers /field supervisors having obtained Degree/AMIE (A&B), 3 years Diploma from Indian University/ Government Recognized Institution in Civil/ Mechanical/Electric Engineering discipline in the ratio of 4:2:2 respectively with at least 5 years continuous service/experience service in their respective categories."

[Handwritten signature]
02/11/2023

Whereas, the petitioner was holding the post of Sr. Mechanic in substantive capacity w.e.f. 22.06.2009 and became eligible for Junior Engineer (Mech) w.e.f. 22.06.2014 i.e after having 5 years continuous service/experience in his respective category and regularized as Junior Engineer(Mechanical) from the same date;

Whereas, the petitioner was regularized as Junior Engineer (Mechanical) vide Government Order No. 395-PW(R&B) of 2019 dated 12.09.2019 w.e.f 22.06.2014, as he fulfills the eligibility for being JE (Mech) on that date only;

Whereas, the petitioner filed OA No: 511/2023 titled "Aftab Ahmad Beigh v/s UT of J&K and others" before the Hon'ble CAT, Srinagar Bench and the Hon'ble CAT in its order dated 10.07.2023 disposed off the instant O.A with the following directions:-

"In view of the limited prayer made by the Learned Counsel for the applicant, the respondents are directed to consider the representation of the applicant filed on 03.05.2023 and also consider the contents of the present OA while disposing of the representation, within a period of four weeks from the date of receipt of certified copy of this order, in accordance with rules, by a speaking and reasoned order. With this, OA No: 511/2023 is disposed of accordingly".

Whereas, the case of the petitioner namely Aftab Ahmad Beigh was examined again in light of directions of the Hon'ble CAT decision dated 10.07.2023, wherein he seeks grant of regularization of his services as Junior Engineer retrospectively on notional basis from 01.04.2004 and regularly from 22.06.2014, on the analogy adopted in case of other employees falling in other different categories namely Deepu Kumar Bhat, Rajinder Singh and Mohammad Amin Sheikh, who were elevated in Draftsman category and having seniority in that category only.

Since, Er. Aftab was promoted/regularised as JE (Mech.) in consonance with the Suraj Prakash Judgement of Hon'ble Supreme Court wherein eligibility, vacancy and Placement are to be seen primarily during promotion /regularization and effect to the incumbent is to be given from the date whichever is latest amongst the three and in this case the eligibility was the latest one and attained on 22-06-2014, therefore the effect was given from that date only.

Further, after re-examination of the case, it was found that his junior in the seniority list of senior Mechanic, Mr. Sunil Canie has been regularized w.e.f 16-01-2014, therefore the applicant is hereby given notional effect from the date his junior has been regularized as Junior Engineer (Mech) i.e 16-01-2014 upto 21-06-2014, in order to protect his seniority.

Moreover, this notional effect to the promotion of the applicant is only for purpose of determination of seniority and shall not confer any monetary benefit to the officer.

By order of the Government of Jammu & Kashmir.

Sd/-

(Shailendra Kumar), IAS

Principal Secretary to the Government
Public Works (R&B) Department

No: PWD-LIT/269/2023-05 (CC:7230556)

Dated: 02.11.2023

Copy to the : -

1. Director, Archives, Archaeology and Museum Department, J&K Jammu.
2. Chief Engineer, Mechanical and Hospital Engineering Department, Jammu/Kashmir.
3. Deputy Advocate General, Central Administrative Tribunal Jammu Bench, Jammu/Srinagar.
4. Senior Law Officer, PW(R&B) Department.
5. Private Secretary to the Principal Secretary to Government, PW(R&B) Department.
6. Concerned.
7. I/C Website, PW(R&B) Department.
8. Government Order file/ Monday return.

Copy also to the Joint Secretary (J&K) Ministry of Home Affairs, Government of India, New Delhi.



(Dr. Zeba Suleman), JKAS

Under Secretary to the Government