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Union Territory of Jammu and Kashmir
Social Welfare Department
Civil Secretariat, J&K

Subject: Writ Petition (C) No. 2355/2019, No. 3885/2021 titled Firdous Ahmad Shah V/s State of J&K & Ors.

Government Order No: 137-JK (SWD) of 2022
Dated : 11.08.2022

Whereas, vide communication No. SSK-6/CA/2018-19/HM-40 dated 11.10.2018, the office of the Principal Accountant General (Audit), J&K informed that during Audit conducted for the period from 2/2016 to 08/2018, in the Directorate of Social Welfare Kashmir, serious irregularities were noted regarding irregular promotion/antedating of promotions without having clear vacancy in the higher posts etc.;

Whereas, a committee was constituted vide office order No. 60-SW of 2018 dated 19.10.2018, to enquire into the matter. However, pending completion of the enquiry, 35 promotion orders issued by Director Social Welfare, Kashmir were kept in abeyance till further orders;

Whereas, the committee inspected the record as well as the minutes of the meeting of the Divisional Level Promotion Committee held on 10th May, 2018 under the chairmanship of State Mission Director, ICDS in the Director, Social Welfare department, Kashmir and observed as under:-

"During the inspection of record viz-a-viz the minutes of Divisional Level Promotion Committee, it has been verified and found that the observations of the Audit team of the office of Accountant General are based on facts and irregular promotion/antedating regularization/promotions have been affected by the then authorities at the helm of the affairs during the period May, 2018 till October, 2018".

Whereas, in light of the observations of the Committee and coupled with Accountant General report, 35 orders issued by the Directorate of Social Welfare, Srinagar were rescinded/cancelled ab-initio vide Govt. Order No. 28-SW of 2019 dated 16.01.2019. It was also stipulated in the order that Director General Social Welfare Kashmir shall verify the records and if any more such promotion orders have been issued, same shall be rescinded immediately ab-initio. It was also stated in the order that DDOs concerned shall recover the financial benefit if any drawn by such official;

[Handwritten signature]

Whereas, vide Government Order No. 28-SW of 2019 dated 16.01.2019, the promotion of Mr. Firdous Ahmad Shah from Class-IV to Junior Assistant was also rescinded /cancelled ab-initio amongst other illegal beneficiaries:

Whereas, Mr. Firdous Ahmad Shah approached the Hon'ble High Court through the medium of WP(c) No. 2355/2019, No. 3885/2021 challenging the Government Order No. 28-SW of 2019 dated 16.01.2019, vide which the promotions granted to the petitioners by the Directorate of Social Welfare, Srinagar in favour of the petitioner from time to time have been rescinded/cancelled ab-initio and seeking quashment of the said Government Order:

Whereas, the Hon'ble High Court in the above titled petition has passed order dated 10.07.2019, wherein it is directed as under:

"...In the meanwhile, subject to objections of the other side and till next date before the bench, the order impugned bearing no. 28-SW of 2019 dated 16.01.2019, so far as it pertains to the petitioners shall not be given effect to. However, it shall be open to the respondents to pass appropriate orders after complying with principle of natural justice and affording opportunity of hearing to the petitioners."

Whereas, in order to comply the Court Order, this department issued notice vide No. SW/Lit/46/2021 dated 02.08.2021, whereunder opportunity of being heard was given to the petitioner to present in person before the Deputy Secretary/ Under Secretary within 10 days and submit response/objection, if any, regarding the rescission of promotion order referred above or email their response/objections at socialwelfare.adm@gmail.com.

Whereas, the petitioner filed his response, which was examined in the department and nothing substantial was found therein;

Whereas, the matter, regarding irregular promotion / anti-dating regularization/ promotions affected by the then authority was also referred to the Commissioner of Enquires vide communication dated 21.01.2019 for conducting of Inquiry into the matter;

Whereas, the Commissioner of Enquiries in his enquiry report submitted vide No.COI/01/2019/SWD/189-90 dated 16.08.2021 has concluded that :-

"..... the decision of the Divisional Level Promotion Committee regarding one time exemption for necessary type test of the Class-IV employees for consideration of promotion to vacant posts of Junior Assistants under promotion quota is beyond their domain/ competence/power...."

Whereas, the above said report of the Commissioner of Enquiries has further revealed in its findings that *"....the minutes of the meeting do not reveal any approval granted by the DLPC for the promotion / regularization of Class-IV to the post of Junior Assistant in clear cut terms....."*



Whereas, in the sand report among other findings, it has further been concluded that six employees were placed as Junior Assistant without availability of sufficient posts in the promotion quota and the system of filling the vacant post under promotion quota was faulty because of non implementation of extant rules and without updated seniority list(s).

Now, therefore, in compliance to Hon'ble High Court Order dated 10.06.2019 passed in SWP No. 2355/2019, No. 3885/2021 titled Firdous Ahmad Shah V/s State of J&K & Ors. the claim of the petitioner for promotion from Orderly to the post of Junior Assistant stands examined and considered in terms of rules in vogue and is found devoid of merit and hence status of the official considered to be governed as per Government Order No.28-SW of 2019 dated 16.01.2019.


By order of the Government of Jammu and Kashmir.

Sd/-
Sheetal Nanda, IAS
Commissioner/ Secretary to the Government
Social Welfare Department
Dated: 11.08.2022

No: SWD-ESTB/69/2021-02

Copy to the:-

1. Joint Secretary (J&K) Ministry of Home Affairs, Government of India
2. Additional Advocate General, J&K, High Court, Srinagar
3. Director, Social Welfare, Kashmir
4. Mission Director (ICDS) J&K, Srinagar.
5. Pvt. Secretary to Principal Secretary to the Government, Social Welfare Department.
6. Concerned official.
7. Official Website Incharge.
8. Government Order file/ Stock file .


(Sanjay Pandita) 11/08/2022
Under Secretary to Government
Social Welfare Department