



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

Subject: Implementation of judgment passed by Hon'ble High Court at Jammu in SWP No. 2053/2015 titled Eshan Pandita V/s State of J&K and others.

Government Order No:- 113-PW(R&B) of 2021,
Dated:- 18-03-2021.

Whereas, the J&K Services Selection Board vide Advertisement Notice No. 01 of 2012, dated 19.7.2012 invited applications from the eligible candidates for the post of Junior Engineer (Mechanical) under Hon'ble PM's Package for Kashmir Migrants reflected at item No. 046 in the said advertisement notice; and

Whereas, the petitioner namely Eshan Pandita also competed for the post, and the J&K Services Selection Board forwarded the selection list to this department vide communication No. SSb/Sel/Secy/1015/2284-95 dated 18.2.2014;and

Whereas, while framing the selection list, two slots at serial No. 17, and serial No. 19, were kept blank as the candidates including the petitioner herein, who were making grade at the said slots were having degree in production sandwich Production Engineering respectively; and

Whereas, the J&K Services Selection Board took up the matter with this department vide communication No. SSB/Sel/Secy/2015/2699 dated 02.3.2015 for clarifying as to whether degrees in B.E. (production sandwich), B.E (Production Engineering) & B.E (Mechanical Sandwich) are to be considered for the post of Junior Engineer Grade-II (mechanical) or otherwise; and

Whereas, the department vide letter No. PW(R&B)HRM/18/2015 dated 11.5.2015, responded to the J&K Services Selection Board and pursuant to which, the JKSSB placed the matter before the 121st meeting held on 15.6.2015 and the Board decided to cancel the selection of the candidates who were making grade at slots No. 17 and 19 as they did not possess the qualification prescribed for the post under relevant recruitment rules; and

Whereas, as a sequel to the said decision taken in the Board, order No. 367-SSB of 2015 dated 17.8.2015 was issued, thereby, cancelling/withdrawing selection of the candidates making the grade at slot No. 17/OM (interview S.No.

21) and S.No. 19/OM (interview S.No. 09) i.e. petitioner under Notification No. 01 of 2012 at item No. 046 ab-initio; and

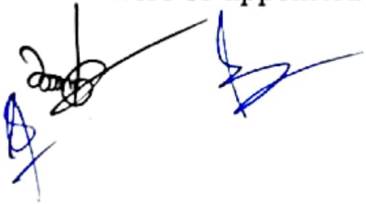
Whereas, aggrieved of the said order, Shri Eshan Pandita, filed a writ petition in the Hon'ble High Court J&K, Jammu in SWP No. 2053/2015 titled Eshan Pandita V/s State & others and the Hon'ble High Court disposed off the petition with the following directions:-

".....11. In my view, the petitioner could not have been held to be ineligible for appointment as Junior Engineer, Mechanical and in fact must be deemed to possess the requisite eligibility qualification. This Court, by virtue of order dated 10.4.2018, while admitting the petition had directed the respondents to consider the petitioner as eligible and process his case for appointment, which however has not been done till date. Be that as it may, this petition is allowed. Order impugned dated 17.8.2015 is quashed. The respondents shall consider the petitioner as eligible and process his case for appointment. The Services Selection Board shall make appropriate recommendation within two weeks from the date, a certified copy of this order is made available to SSB through the petitioner. The Government shall issue appointment order in favour of the petitioner positively within a period of ten days thereafter, the petitioner shall be entitled to all consequential benefits (except monetary benefits) with effect from the date similarly situate were so appointed in the said process of selection."

Whereas, pursuant to the order of the Hon'ble High Court, the Services Selection Board recommended the case of Shri Eshan Pandita for appointment as Junior Engineer (Mechanical) vide order No. 318 of 2019 dated 30.12.2019 issued by the Board; and

Whereas, on the recommendations of the J&K Services Selection Board, Shri Eshan Pandita was appointed as Junior Engineer (Mechanical) in the Mechanical Engineering Department under Prime Minister's Special Package vide Government order No. 93-PW(R&B) of 2020 dated 04.3.2020 ; and

Whereas, Shri Eshan Pandita through the medium of representation requested for full implementation of the court judgment dated 22.01.2021 passed by the Hon'ble High Court thereby releasing consequential benefits in his favour (except monetary) benefit with effect from the date similarly situated candidates were so appointed in the said process of selection; and



Whereas, the claim of the petitioner was examined in the department and the case was referred to the Finance Department vide U.O. No PW(R&B)/Legal/472/2018 dated 27.11.2020 for concurrence; and

Whereas, the Finance Department vide U.O. No. A/5(2018)-1-876/J dated 09.12.2020 returned the case with the following advice:

"Since the department has partly implemented the court judgment , the question of challenging the judgment part concerning consequential benefits may be taken up with the Law department for advise in the matter".

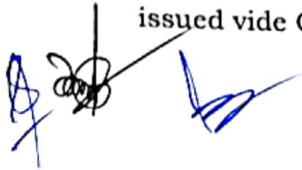
Whereas, the case was accordingly referred to the Law, Justice & Parliamentary Affairs for advice in the matter, who vide U.O. LA(Lit)2020/23-PWD(R&B) dated 21.01.2021 returned the case with the following advice:-

"Department is advised that since the major part of the judgment dated 22.11.2018 stands already implemented by the department, there seems little scope to get any favourable order at this belated stage by challenging the same before the Hon'ble Division Bench. So far as the clarifications vis-à-vis the Recruitment Rules issued vide Government order No. 147-PW(R&B) of 2019 dated 01.3.2019 is concerned, the department is further advised to take up the matter with the Standing Committee in ARI & Trainings Department for inserting such changes in the Recruitment Rules properly".

Whereas, the case was again referred to the Finance Department in view of opinion conveyed earlier in the matter, who vide U.O. No. A/5(2018)-I-162 dated 24.2.2021 advised as under:

"The department is advised to implement the Court directions as advised by Law, Justice & Parliamentary Affairs Department.

Now, therefore, in light of Hon'ble High Court directions and advice of the Finance/Law, Justice & Parliamentary Affairs Department, sanction is hereby accorded to the release of consequential benefit in favour of Shri Eshan Pandita, Junior Engineer by according him notional effect of his appointment from the date similarly situated candidates were so appointed vide Government order No. 103-PW(R&B) of 2015 dated 23.4.2015 and monetarily from the date of issuance of appointment order of the petitioner issued vide Government order No. 93-PW(R&B) of 2020 dated 04.3.2020.



The inter-se-seniority of the petitioner shall be drawn in accordance with the merit secured by the appointee in the selection list prepared by the J&K Services Selection Board i.e. 18A in between 18 & 20 in the selection list.

By order of the Government of Jammu and Kashmir.

Sd/-

(Shailendra Kumar)IAS

Principal Secretary to Government

Public Works(R&B) Department

Dated: - 18-03-2021

No:-PW(R&B)/Legal/472/2018

Copy to the-

1. Joint Secretary (J&K), Ministry of Home Affairs, Government of India, New Delhi.
2. Commissioner/Secretary to the Government, General Administration Department.
3. Secretary to the Government, Department of Disaster Management, Relief, Rehabilitation and Reconstruction.
4. Director, Achieves, Archaeology and Museum Department, J&K, Jammu.
5. Chief Engineer Mechanical Engineering Department, Kashmir.
6. Secretary, J&K Services Selection Board.
7. OSD to Advisor(B) to the Hon'ble Lieutenant Governor.
8. Pvt. Secretary to Principal Secretary to Government, PW(R&B) Department
9. Concerned Official.
10. Government order file/stock file (w.s.2.c)
11. In-charge Website.


(Farooq Ahmad Malik)

Under Secretary to the Government

