



राज्यमेव जयते

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

Subject: WP(C) No. 678/2020 CM No. 1470/2020 titled Syed Ikhlq Hussain vs UT of JK & Ors.

Government Order No: 65 -PW(R&B) of 2021
Dated: 10 -02-2021

WHEREAS, the PW(R&B) Department after fulfilling the codal formalities, vide Government order No. 50-PW(R&B) of 2020 dated 06-02-2020 accorded sanction to the placement of Six (06) In-charge Assistant Executive Engineers (Civil) as I/c Executive Engineers (Civil) in OPG and Er. Syed Ikhlq was not considered for placement due to his involvement in case FIR No. 14/2011 PS VOJ; and

WHEREAS, the PW(R&B) Department vide another Government Order No. 51-PW(R&B) of 2020 dated 06-02-2020 accorded sanction in favour of Three (03) additional In-charge Assistant Executive Engineers to look after the charge of Executive Engineers (Civil); and

WHEREAS, Sh. Ikhlq Hussain, I/c Assistant Executive Engineer, aggrieved of the above placement orders issued by the department *inter-alia* not considering him for Placement /Promotion as I/c Executive Engineer irrespective of his eligibility and seniority, approached Hon'ble Court of Law for seeking redressal by virtue of a writ petition bearing WP(C) No. 678/2020 CM No. 147/2020 titled Syed Ikhlq Hussain v/s UT of J&K and Others; and

WHEREAS, the Hon'ble High Court vide its interim order dated 09.03.2020 issued an interim order in the matter as under:

"in the meanwhile, respondents shall consider the claim of the petitioner for his promotion against the post of Executive

Engineer, R&B (Civil) notwithstanding the pendency of the criminal trial in tune with the similarly situated cases"

WHEREAS, the matter was examined in the department and it was found that Er. Ikhlāq Hussain I/c Assistant Executive Engineer is figuring in case FIR No. 14/2011 P/s VOJ as communicated by GAD vide O.M No. GAD(Vig)02-NOC/2019-PWD-IV dated 19-07-2019, resultantly declined vigilance clearance by GAD vigilance; and

WHEREAS, the matter was subsequently taken up with GAD, seeking advice whether the Engineer can be considered for placement on stop gap arrangement till the outcome in the case FIR No. 14/2011 P/s VOJ; and

WHEREAS, in response, General Administration Department returned the file with the advise to process the case of Engineer in terms of Rule 110(A) of J&K CSR 1956. The opinion of GAD is reproduced as under:

Returned. The matter was examined in the GAD and it was found that the promotion of Syed Ikhlāq Hussain, I/c AEE PW(R&B), Jammu, involved in case FIR No. 14/2011 P/s VOJ (now ACB), falls within the ambit of Rule 110(A) of the J&K CSR, 1956.

Accordingly, the PW(R&B) Department is advised to process the case of Syed Ikhlāq Hussain, I/c AEE PW(R&B) Department, Jammu in terms of Rule 110(A) of the J&K CSR, 1956.

WHEREAS, the case was further examined in the department in light of Rule 110(A) of the J&K CSR, 1956, along with the stand of department taken in similarly situated cases, it emerges that the following are pre-requisite for considering the placement or promotion of any officer to higher grade post:

- (1) Seniority
- (2) Availability of Post
- (3) Vigilance Clearance
- (4) Integrity Certificate
- (5) APRS



WHEREAS, considering the fact that Er. Ikhlq Hussain I/c Assistant Executive Engineer is figuring in case FIR No. 14/2011 P/S VOJ as communicated by GAD vide O.M No. GAD(Vig)02-NOC/2019-PWD-IV dated 19-07-2019 and as such, he is not clear from vigilance angle, however, he has availability of other four requirements mentioned above.

NOW, THEREFORE, in light of above, Er. Ikhlq Hussain I/c Assistant Executive Engineer, in absence of vigilance clearance from GAD (Vigilance), which is a pre-requisite for placement/promotion in higher position/grade, cannot be considered for higher placement. Thus, the claim of Er. Ikhlq Hussain I/c Assistant for his placement as I/c Executive Engineer is considered by the department and found devoid of merit.

By order of the Government of Jammu and Kashmir.

Sd/-

(Shailendra Kumar) IAS

Principal Secretary to the Government

No. PW(R&B)/HRM/02/2019

Dated: 10-02-2021

Copy to the:-

1. Joint Secretary (J&K) Ministry of Home Affairs, GOI.
2. Commissioner/Secretary to Government, GAD.
3. Chief Engineer, PW(R&B) Jammu.
4. Director Archieves, Archaeology & Museums J&K Jammu.
5. OSD to Hon'ble Advisor (B) for information.
6. Additional Secretary (Legal) PW(R&B) Department.
7. Pvt. Secretary to Principal Secretary to Government, PW(R&B) Department.
8. Concerned Engineer.
9. Government Order file/Stock file/Monday Return (w.3.s.c).

(Rajnish Kumar)KAS

Additional Secretary to Government