



Government of Jammu & Kashmir  
**PUBLIC WORKS (R&B) DEPARTMENT**  
Civil Secretariat, Jammu

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**Subject:- COA(s) No. 273/2009 in SWP No. 2199/2003 titled  
Sukhvinder Singh Behal V/s State & Ors.**

**Government Order No:- 95 -PW(R&B) of 2021**

**Dated:- 26 -02-2021**

1. Whereas, Deputy Commissioner Rajouri, invited application from eligible candidates for selection and appointment on contractual basis for various posts including Junior Engineer (Mech.) vide notification NO.PS/2003-04/3109-24 dated: 31.07.2003, on the basis of GAD letter No. GAD (Admin)/86/2003/V dated: 25.08.2003; and
2. Whereas, District Selection Committee under the Chairmanship of Deputy Commissioner, Rajouri was the selection cum recommending authority for the appointment of eligible candidates; and
3. Whereas, PW(R&B)D on the recommendation of District Selection Committee headed by the Deputy Commissioner, Rajouri, accorded sanction to the appointment of Junior Engineer Civil as well as Mechanical on contract basis for a period of one year vide Govt. Order No: 164-PW of 2003 dated 24.09.2003; and
4. Whereas, failing to make merit and consequently not finding place in the selection list, one candidate namely Sh. Sukhvinder Singh Behal, filed a petition in the Hon'ble High Court registered as SWP No. 2199/03 titled Sh. Sukhvinder Singh Behal Vs Ors with the plea to quash Government Order No. 164-PW of 2003 dated 24.09.2003 on the grounds that the selection of candidates under Reserved Category is in excess of the quota provided under Section 126 and that some candidate Mr. Nirmal Singh who belongs to Village Chinta of District Bhaderwah has been selected in Rajouri District which is bad in law, as the selection was a District Wise Recruitment and persons from the same district were required to be selected against these contractual posts and the petitioner be selected as Junior Engineer Mechanical in District Rajouri; and
5. Whereas, the Hon'ble High Court vide Judgment dated 19.11.2008, disposed of the petition along with connected CMP with the following directions:

**"I accordingly direct the respondents may consider the  
case of the petitioner against any available vacancy in**

In District Rajouri on the post of Junior Engineer (Mechanical) within a period of two months from the date copy of this order is received by the respondents. This direction has been given only to avoid possibility of quashing the selection of respondent 14, who admittedly was not eligible to be considered for the post of Junior Engineer (Mechanical) In District Rajouri. Since the Respondent 14 has been working for the last four years, this court is inclined not to disturb his selection. It is reported that petitioner has crossed the upper age limit. This bar should not come in the way of respondents while considering the case of petitioner for the post of Junior Engineer (Mechanical)."

6. Whereas, Deputy Commissioner, Rajouri vide communication No. PS/DDCR/208-09/6176-80, dated: 13.02.2009, submitted that as reported by the Executive Engineer, Mechanical Engineering Division, Rajouri three posts of Jr. Engineer are lying vacant and in view of the Hon'ble Court Decisions, requested to kindly issue necessary orders for engagement of petitioner as Jr. Engineer on contractual basis in Mechanical Engineering Department; and
7. Whereas, the case was taken up with the General Administration Department, who vide OM No. GAD(L)F-162-2008 dated 25.03.2010 advised the department to immediately take up matter with the Law Department and dispose of the case by passing a speaking order within week's time as the petitioner has filed a contempt petition; and
8. Whereas, Department filed an application in the Hon'ble High Court Jammu registered as CPSW No. 273/2009 in SWP No. 2199/2003, to grant some reasonable time to file compliance report in the matter.
9. Whereas, the case of the petitioner was examined in the deptt. and found that the vacancies which were existing/available in the year 2008 and 2009 have been filled up by appointment of the candidates on the basis of the selection made by the J&K SSB. In the year 2010, the policy of the Govt. to make appointments on contractual basis has changed and a complete ban/restriction has been imposed on making any appointment on adhoc, contractual, consolidated or temporary basis. Section 14 of the said policy issued vide the Jammu & Kashmir Civil Services (Special Provisions) Act, 2010 provides as under:-

**"With effect from the commencement of this Act, no appointment shall be made by any department**



against any post on adhoc or contractual or consolidated or temporary basis and all vacant posts shall be filled up strictly in accordance with the rules governing the recruitment to the respective services or posts. And

10. Whereas, it is further provided by the above said act that if, any appointment is made by any officer in contravention to the provisions of sub-section(1) of Section 14, he shall be liable to disciplinary action under rules and the salary drawn by such appointee shall be recoverable from the defaulting officer as arrears of land revenue; and
11. Whereas, since as per section 14 of J&K Civil Services (Special Provisions) Act, 2010 reproduced above, no appointment can be made by any department against any post on adhoc or contractual or consolidated or temporary basis and that all the vacant posts have to be filled up strictly in accordance with the rules governing the recruitment to the respective services or posts, the claim of the petitioner lacks merit.
12. Now, therefore, in view of the above facts and position, the claim of the petitioner having been examined and considered pursuant to Order of the Hon'ble High Court is found devoid of merit.

**By order of the Government of Jammu & Kashmir.**

**Sd/-**  
**(Shailendra Kumar) IAS**  
Principal Secretary to the Government  
Public Works (R&B) Department.  
Dated: - 26-02-2021

No:-PW(R&B)/Legal/31/2020

Copy to the:-

1. Principal Secretary to Hon'ble Lieutenant Governor.
2. Joint Secretary (JK), Ministry of Home Affairs, GoI.
3. Commissioner/Secretary to Government, General Administration Department.
4. Secretary LJ&PA, Department.
5. Director, Archives & Archeology & Museums J&K, Jammu.
6. Chief Engineers PW(R&B) Department, Jammu.
7. OSD to Hon'ble Advisor(B) for information of Hon'ble Advisor.
8. Private Secretary to Principal Secretary to Government, PW(R&B) Department.
9. Incharge Website, PW(R&B) Department.
10. Government Order/ Stock file (w.s.2.c).
11. Monday Return.

  
**(Naseema Nazir)**

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