

I/20197/2024



वसुधैव कुटुम्बकम्

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संघ राज्य प्रशासन, लद्दाख

THE ADMINISTRATION OF
UNION TERRITORY OF LADAKH

जन स्वास्थ्य अभियांत्रिकी/
सींचाई एवं बाढ़ नियंत्रण विभाग

PHE/I&FC DEPARTMENT

F. No. M/190/2024-PHE SEC/564-78

ई-मेल/email: pstocomsecutl@gmail.com

यूटी सचिवालय, लेह /UT Secretariat, Leh,

Dated:27.03.2024.

Subject: O.A. No. 1149/2022 titled Ahmad Ali v/s PHE Department read with Order dated: 30.12.2014 of Hon'ble High Court of Jammu & Kashmir in SWP No.2382/2014 titled Irshad Ahmad Mir and ors. v/s State of JK & ors.

**Order No.25-LA (PHE/I&FC) of 2024,
Dated:27.03.2024.**

WHEREAS, the applicants (Draftsman) have filed the Original Application No.1149 of 2022 before the Hon'ble Court of Central Administrative Tribunal at Srinagar, seeking directions to the respondent No.1 to 3 to decide the claim of the applicant as per the order of Hon'ble High Court dated: 30.12.2021 passed in WP (C) No.2383 of 2013 titled *Irshad Ali Mir v/s UT of JK*, within a stipulated time;

WHEREAS, the Hon'ble Central Administrative Tribunal, Srinagar has disposed of the O.A. No. 1149/2022 *vide* its Order dated: 02.12.2022, the operative part whereof reads as under:

"In view of the limited prayer made by the learned counsel for the applicants, respondent No.1 to 3 are directed to consider the claim of the applicants in view of the order passed by Hon'ble High Court dated: 30.12.2021 passed in WP (C) No. 2383 of 2013 titled Irshad Ali Mir v/s UT of JK within 06 weeks from today as per rules and communicate the decision to the applicants";

WHEREAS, the petitioners in the aforementioned WP (C) of 2383 of 2013 titled *Irshad Ali Mir v/s UT of JK*, have claimed their placement in the higher grade of Rs. 5150-8300 (now revised 35400-112400-level-6), on the analogy of the

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directions passed in SWP No. 2047 of 2003 titled *Sham Paul Randhawa and others v/s State of J&K and others*;

WHEREAS, in the year 2003, one Sham Paul Randhawa along with others filed SWP No. 2047 / 2003 titled *Sham Paul Randhawa & ors v/s. State of J&K & ors* in the Hon'ble High Court of Jammu and Kashmir, seeking direction to the official respondents to release grade of Rs. 1600-2660 (Pre-revised) *inter-alia* on the grounds that pursuant to common advertisement notification, for the post of Draftsman for Jammu as well as Kashmir Division, the selection process for both the Divisions were carried out simultaneously, but the selection list as well as appointment orders to the candidates/selectees belonging to the Kashmir Division were issued prior to the issuance of SRO-75 dated 30.03.1992 and the SRO-174 dated 30.07.1992, because of which such Draftsmen belonging to the Kashmir Division were initially placed in the Grade Pay of Rs. 1200-2170 and after the issuance of SRO-174 of 1992 placed in the Grade pay of Rs. 1600-2660. It was submitted in the writ petition that the select list and the subsequent appointment of Draftsman pertaining to the Jammu Division were issued after the issuance of the said SROs, as a result of which the Draftsmen belonging to the Jammu Division were placed in the Grade pay of Rs. 1200-2040; lower to that of allowed in favour of appointees of Kashmir Division;

WHEREAS, the case of the petitioners has been examined in the Department in light of the Hon'ble High Court of Jammu & Kashmir Judgment as referred above and in light of the relevant Recruitment Rules and Government Order dated: 22.09.2022 of the Jal Shakti Department of the erstwhile State of J&K in similar cases;

WHEREAS, the applicants in the instant case cannot seek parity with the case referred above, as the said case was related to the application of the provision of the revised pay rules of the erstwhile State of Jammu and Kashmir, as notified vide SRO-75 dated: 30.03.1992 and SRO-174 dated: 30.07.1992 and the relief in the said case to the petitioners in that particular case only;

WHEREAS, the petitioners had applied to the post of Draftsman in response to the advertisement notification No. 01 of 2011 dated: 31.01.2011 and were subsequently appointed as Draftsman vide appointment Order No. 108-PW(Hyd) of

2014 dated: 04.03.2014 of the PHE/I&FC Department of the erstwhile State of J&K, after having accepted the terms and conditions of the selection and appointment, which among others also contained the pay scale of the post which was (₹ 5200-20200 + Grade Pay of ₹ 2400) , now pay level-4 as per 7th Pay Commission , against which the petitioners were appointed to the post;

WHEREAS, the said advertisement notification was based on the extant recruitment rules governing the selection of the post of Draftsman, which among others also contained the pay scale of the post in pay scale-4000-6000 (pre-revised), for which recruitment was to be made and the petitioners were appointed after selection subsequently. The said rules cannot be relaxed in view of the law laid down by the Hon'ble Supreme Court of India in the case titled Suraj Parkash Gupta V/s State of J&K;

WHEREAS, in the year 2021 and 2022, in similarly placed petitions filed in erstwhile State of Jammu & Kashmir, the Government of J&K in terms of Govt. Order No.206-JK(JSD) of 2022 dated:29.09.2022, Govt. Order No. 214-PW(R&B) of 2021 dated: 28.06.2021 and Govt. Order No. 166-PW(R&B) of 2022 dated: 12.05.2022, has not extended the relief, as was granted to the petitioners in Sham Paul Randhawa and others V/s State of J&K and others matter;

NOW THEREFORE, in view of the factual position coupled with legal aspects, the claim of the applicants has been considered with due reference to the Order dated 02.12.2022 passed by the Hon'ble Central Administrative Tribunal, Srinagar in O.A. No. 1149 / 2022 titled *Ahmad Ali v/s PHE Department, UT Ladakh* and the claim of the applicants has been found devoid of any merit and is accordingly rejected.

By order of the Administration of UT, Ladakh.

Sd/-

(माइकल एम. डिसूज़ा / Michael M. D'Souza) IAS

सचिव /Secretary,

PHE / I&FC Department.

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Copy to the:

1. Joint Secretary (Jammu, Kashmir & Ladakh), Ministry of Home Affairs, Government of India.
2. Secretary to Hon'ble Lieutenant Governor.
3. Administrative Secretary, General Administration Department.

4. Deputy Commissioners/CEOs, LAHDC, Leh/Kargil.
5. Chief Engineer, PHE/I&FC.
6. Superintending Engineers, PHE/I&FC, Circles, Leh/Kargil.
7. State Informatics Officer, NIC, Ladakh.
8. OSD to Lieutenant Governor for information of the Hon'ble Lieutenant Governor.
9. DIO, NIC Leh.
10. Pvt. Secretary to Advisor, Ladakh for information of the Advisor.
11. Superintendent, Archives, Archaeology & Museums.
12. **Public Law Officer /Legal Assistant, PHE/I&FC Department for further necessary action.**
13. Pvt. Secretary to Administrative Secretary, PHE/I&FC Department for information of the Secretary.
14. Order/Stock file (w.2.s.c)/e-file No.19497.

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(जाकिर हुसैन/Zakir Hussain), JKAS

प्रशासन के उप सचिव/Deputy Secretary to the Administration.

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