

Government of Jammu and Kashmir
Forest, Ecology and Environment Department
Civil Secretariat, Jammu/Srinagar

Subject: Consideration of the claim of Shri Mushtaq Ahmad Khan S/O Shri Abdul Aziz Khan R/O Village Tethar, Tehsil Banihal District Ramban in compliance with the order dated 26.02.2014 passed by the Hon'ble Court in SWP No. 2202/2012 titled Mushtaq Ahmed Khan Vs. State of J&K and others.

Reference: (i) U.O No. FD-Code/290/2021-02-553 dated 10.07.2023 received from the Finance Department.
(ii) U.O. No. GAD-CORD/136/2023 dated 27-06-2024 received from General Administration Department.

Government Order No: 138- JK(FST) of 2024
Dated: 28.06.2024

Whereas, Shri Mushtaq Ahmad Khan S/O Shri Abdul Aziz Khan R/O Village Tethar, Tehsil Banihal, District Ramban had approached the Hon'ble Court through the medium of the writ petition that was numbered as SWP No. 22.02.2012 titled Mushtaq Ahmad Khan Vs. State of J&K and others, seeking therein, inter alia, direction upon the respondent department, for regularization of his service under SRO 64 of 1994;

Whereas, the writ petition (Supra) came to be disposed of by the Hon'ble Court vide its order dated 26.02.2014, operative part whereof reads as under:-

".... For the aforesaid reasons writ petition is allowed. Impugned order dated 02.07.2012 issued by respondent No 2 Director Department of Social Forestry is quashed. Respondent No 2 is directed to reconsider the representation of the petitioner in light of law laid down by Hon'ble Division Bench of this Court in LPA (SW) 33/2010 and pass appropriate orders in regard to the claim of the petitioner for regularization of his service. Let this exercise be initiated and concluded within a period of six weeks from the

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date a copy of this order is made available to the respondent by the petitioner."

Whereas, against the aforesaid order dated 26.02.2014, the department had preferred an appeal numbered as LPASW No. 84.2016 titled State of J&K and others Vs. Mushtaq Ahmad Khan, which was dismissed by the Hon'ble Division Bench vide its order dated 27.05.2016, with a direction to the appellants, to consider the case of the respondent (writ petitioner) in light of the judgment passed in SWP No. 2202/2012;

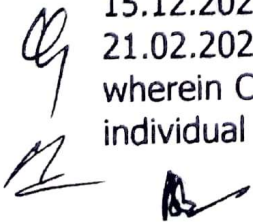
Whereas, this was followed by filing of SLP in the matter, which came to be dismissed by the Hon'ble Supreme Court vide its order dated 20.07.2017;

Whereas, subsequently, the matter was taken-up with the Department of Law, Justice & PA for advice. Department of Law, Justice and PA vide its U.O No. LAW-Lit/358/2022-10 dated 08.12.2022 advised as under:-

"Returned. Since all the available remedies have been exhausted, department is left with no option but to implement the writ court judgment and in compliance thereto take steps including the initiation for process of pre-appointment verification."

Whereas, in deference to the aforesaid advice received from the Department of Law, Justice and PA, the matter was taken up with the Director, Department of Social Forestry vide this department's communication dated 15.12.2022 with a request to approach the character antecedent verifying agency (CID, J&K) to verify the petitioner's pre-appointment character antecedents as per the requirements of law in terms of Government Order No. 528-JK(GAD) of 2021 dated 21.06.2021 read with circular instructions issued in this regard and thereafter forward the requisite report to this department, for further appropriate action;

Whereas, in response to the aforesaid communication dated 15.12.2022, Director, Department of Social Forestry vide letter dated 21.02.2023 furnished the requisite report in respect of the petitioner wherein CID, J&K had reported that there is nothing adverse against the individual as per the Index Check/report of field agencies;



Whereas, the matter was thereafter referred to the Finance Department, for its concurrence to the creation of one (01) supernumerary post of Helper in appropriate scale of pay, for regularization of services of the petitioner. In response, Finance Department vide its U.O No. FD-Code/290/2021-02-553 dated 10.07.2023 conveyed as under:-

"Returned. Finance Department conveys concurrence to creation of one (01) Supernumerary post of Helper in the pay scale of 4440-7440+1300 (pre-revised) for regularization of service of the petitioner, to implement the orders of the Hon'ble Court. The department shall obtain the approval of the competent authority before issuing any orders. This shall, however, not form any precedence for other similarly situated cases."

Whereas, the matter was then taken up with the General Administration Department, on 28.05.2024 in the shape of a Coordination Note, for approval of the Competent Authority to the creation of one supernumerary post of Helper, for the regularization of the services of the petitioner under SRO 64 of 1994. In response, General Administration Department vide U.O. No. GAD-COORD/136/2023 dated 27.06.2024 conveyed as under:

"Returned: The approval of the Competent Authority (Hon'ble Lieutenant Governor) is hereby conveyed to the Departmental proposals regarding "Creation of one (01) supernumerary post of Helper for regularization of the service of Shri Mushtaq Ahmad Khan S/O Shri Abdul Aziz Khan R/O Village Tethar, Tehsil Banihal District Ramban, in relaxation of rules" submitted in the file bearing No. FST-Lit/103/2021-02-Forest Department (C.No. 53074) for further necessary action."

Now therefore, in compliance with the order dated 26.02.20214 passed by the Hon'ble Court in SWP No. 2202/2012, titled Mushtaq Ahmad Khan Vs. State of J&K and Others, sanction is hereby accorded to the creation of one (01) supernumerary post of Helper in the Pay scale of Rs. 4440-7440 (GP-1300) (PR), for regularization of services of Shri Mushtaq Ahmad Khan S/O Shri Abdul Aziz Khan R/O Village Tethar,

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Tehsil Banihal District Ramban, in relaxation of rules. This shall, however, not from precedence for other similarly situated cases.

By order of the Government of Jammu & Kashmir.

Sd/-

(Dheeraj Gupta), IAS

Financial Commissioner (Additional Chief Secretary)

Dated: 28.06.2024

FST-Lit/103/2021-02

Copy to the

1. Principal Secretary to the Hon'ble Lieutenant Governor, J&K
2. Principal Secretary to the Government, Finance Department.
3. Commissioner Secretary to the Government, General Administration Department.
4. Secretary to the Government, Department of Law, Justice and PA.
5. PCCF/Director, Department of Social Forestry, J&K.
6. Private Secretary to Financial Commissioner (Additional Chief Secretary) Forest, Ecology and Environment Department.
7. Government Order File.
8. Stock File.


(Raj Kumar Sharma)

Under Secretary to the Government

