

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

Subject: - Consideration of claim of Shri Ghulam Nabi Bhat S/O Khazir Mohammad Bhat R/O Bomai, Sopore, District Baramulla in compliance with the order dated 04.04.2017 passed by the Hon'ble Court in SWP No. 2858/2015 titled Ghulam Nabi Bhat Vs. State of J&K and others read with order dated 01.06.2022 passed by the Hon'ble Court in LPA No. 112/2020 titled Union Territory of J&K and others Vs. Ghulam Nabi Bhat.

**Government Order No: 179-JK (FST) of 2023**

**Dated: 15 .09.2023**

Whereas, Shri Ghulam Nabi Bhat S/O Khazir Mohammad Bhat R/O Bomai, Sopore, District Baramulla (hereinafter referred to as 'petitioner') had approached the Hon'ble Court through the medium of writ petition numbered as SWP No. 2858/2015 titled Ghulam Nabi Bhat Vs. State of J&K and others, which came to be disposed of by the Hon'ble Court vide its order dated 04.04.2017, operative part whereof reads as under: -

*"...This petition is disposed of with a direction to respondent to determine the eligibility of petitioner under SRO 64 of 1994 and pass orders within six weeks from today.";*

2. Whereas, the petitioner had filed a contempt petition that was numbered as CPSW No. 583/2017 titled Ghulam Nabi Bhat Vs. Mohammad Afzal Bhat and others, wherein the Hon'ble Court was pleased to pass, *inter alia*, an order dated 03.09.2019, operative part whereof reads as under: -

*"...Before proceeding further, the Court feels it necessary to give one more opportunity to the respondents for considering the matter for regularization of services of the petitioner in tune with the mandate of judgment of Division Bench (supra) and provisions of SRO 64 of 1994...";*

3. Whereas, against the aforesaid order dated 03.09.2019, the department had preferred an appeal that was numbered as LPA No. 112/2020 titled Union Territory of J&K and others Vs. Ghulam Nabi Bhat, which came to be disposed of by the Hon'ble Court vide its order dated 01.06.2022, operative part whereof reads as under:

*"...Accordingly, we do not find any substance in this appeal and the same is dismissed with the direction to the appellants to accord*

consideration to regularization case of Shri Ghulam Nabi Bhat as directed vide order dated 04.04.2017, keeping in mind case law on the subject...";

4. Whereas, determination of the eligibility of the petitioner under the provisions of SRO 64 of 1994 and consideration of his case for regularization has been undertaken as per the directions of the Hon'ble High Court;

5. Whereas, rule 4 of the Jammu and Kashmir Daily Rated Workers/Work Charged Employees (Regularization) Rules, 1994 [ SRO 64 of 1994], stipulates the following pre-conditions, *inter alia*, to be fulfilled in order to make a person eligible for regularization: -

- (a) that on the date of his initial appointment, his age was within the minimum and maximum age limit as prescribed for appointment in government service; and
- (b) that his work and conduct has remained satisfactory during the period he worked as Daily Rated Worker or Work Charged Employee and no disciplinary proceedings are pending against him;

6. Whereas, the petitioner has claimed to have been engaged in the department on 01.09.1993 and the petitioner's date of birth as shown in the relevant documents submitted by the petitioner himself is 15.10.1977, meaning thereby, that the petitioner was of 15-years-10 months-17 days of age at his alleged date of engagement;

7. Whereas, 15-years – 10-months – 17-days of age at his alleged date of engagement, being less than 18 years, the petitioner is ineligible for appointment in government service under Rule 4 of the SRO 64, being below the prescribed minimum eligibility age.;

8. Whereas, keeping in view the fact that the petitioner claimed before the writ Court to have been engaged in the year 1993 and also contended before the department, on asking, to have appeared in the Matric and 10+2 examination in the years 1994 and 1997, respectively, as a private candidate, the matter was taken up by the Divisional Forest Officer, Kamraj Forestry Division, Kupwara with the Jammu & Kashmir Board of School Education vide communication No. DI/O/Kmj/216-18/Legal dated 05.09.2023, followed by another communication No. 06.09.2023DI/O/Kmj/219-21/Legal dated 06.09.2023, for furnishing a report regarding the genuineness of documents submitted by the petitioner as also to inform whether the petitioner had appeared as a regular or a private candidate so as to obviate the possibility of any fraud or wrongdoing in the present case;

9. Whereas, in response to the above referred to communication dated 05.09.2023, the Jammu & Kashmir Board of School Education vide its communication

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No. F((JSE-KD.)B/2023 dated 12.09.2023 furnished a Verification Report, relevant extract whereof is reproduced verbatim as under: -

"Shri Ghulam Nabi Bhat S/O Khazir Mohd. Bhat who stands registered with the Board under Registration No. 23046-BMS-IX-92, has appeared in Secondary School Examination (Class 10<sup>th</sup>) Annual Regular 1993 (Oct-Nov) through Government Higher Secondary Bomai, Sopore as a regular candidate under Roll No. 320219. A copy of Registration Return (RR) is enclosed as Annexure P1 and particulars as per RR is reflected as under:

Reg. No. 23046-BMS-IX-92  
Gh. Nabi Bhat  
S/O Khazir Mohd. Bhat  
D.O.B.: 15.10.1997  
School: GISS Bomai Sopore

The instant candidate had appeared in secondary School Examination (Class 10<sup>th</sup>) examination as a regular candidate and his result had been declared as Re-appear in English, Science & Social Science. Copies of admission-cum-permission form duly attested by the concerned institution and copy of result register are enclosed as Annexure P2 and P3. Since the candidate had failed in three subjects, accordingly appeared again in failed subjects as private candidate in Nov-Dec, 1994 under Roll No. 333432 and declared passed with 175 marks (Grade II). Copies of admission-cum-permission form of the candidate and result register are also enclosed as Annexure P4 and P5.

The instant candidate has accordingly appeared in HSE Part 1<sup>st</sup> (Class 11<sup>th</sup>) as a regular candidate through Government IISS Bomai Sopore under Class Roll No. 192 in the year 1995 under CCE Scheme. Thereafter, candidate had appeared in HSE Part II (Class 12<sup>th</sup>) in Annual Regular 1996 under Roll No. 322250 through Government HSS Bomai as a regular candidate and his result declared as Re-appear in English and Chemistry. Copies of admission-cum-permission form and result register are enclosed as Annexure P6 and P7. Thereafter, candidate had again appeared in private capacity under Roll No. 364459 in HSE Part II in Annual Private 1997 and declared as passed with 234 marks. Copies of enrolment and result register are also enclosed as Annexure P8 and P10...";

10. Whereas, the aforesaid report received from the Jammu and Kashmir Board of School Education clearly establishes that while purportedly having been engaged as a CL from 1/9/1993 onwards and performing active watch and ward duties in Co. 27/K, Range Kandi, for a considerable period between 1993 and 1997, Shri Ghulam Nabi

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 ● at actually attended Govt. Higher Secondary School Bomai, and cleared different exams with multiple papers in 10th, 11th and HSE Part II through J&K State Board of School Education, Srinagar and otherwise as well, as a regular candidate. It further revealed that the petitioner has apparently not only played fraud with the department but also with the Hon'ble Court by falsely claiming to have been engaged and on the rolls of the department from the year 1993 onwards when, as a matter of fact, the petitioner was a regular candidate/student in the years 1994, 1995 and 1996.

The petitioner has received wages for 73 months, to the tune of Rs 68422/-, claiming to have worked from Sept 1993 to Sept 1999, in November 2008, after 15 years, when all his dues till March 2008, stood settled in March 2008 itself, as per details given below:

S.No.	Wages for the period	Wages Release Date	Amount	DFO
1	Sept 1993 to Sept 1999 (73 months)	Nov. 2008	68422/=	Manzoor Ahmed Monga, ACF
2	Oct 1999 to Dec 2000 (15 months)	Oct 2002	19980/=	Gul Mohammad Naik, DCF
3	Jan 2001 to Sept 2001 (9 months)	Oct 2005	14805/=	Mohd Shafi Wani, DCF
4	Oct 2001 to May 2006 (56 months)	Aug 2007	105000/=	Mohd Maqbool Rather, ACF
5	June 2006 to Oct 2007 (17 months)	Dec 2007	31360/=	Mohd Maqbool Rather, ACF
6	Nov 2007 to Mar 2008 (5 months)	Mar 2008	10430/=	Mohd Maqbool Rather, ACF

11. *Whereas*, in order to comply with the principles of natural justice, despite the urgency in the matter, a reasonable opportunity of being heard was given to the petitioner and was asked by the Divisional Forest Officer concerned vide Notice No. DFO/Kmj/1437-40/l:st. dated 12.09.2023 to clarify his position before 14.09.2023.

12. *Whereas*, in response to aforesaid Notice dated 12.09.2023, the petitioner while submitting his response on 14.09.2023 and accepting that he was a regular student as reported by the J&K BOSI, has stated, *inter alia*, that he was performing his

duties during night hours from 09/1993 and has further pleaded in his response that department is at liberty to count his service from the year 1997 or 1998 for the purpose of regularization:

13. *Whereas*, the reply of the petitioner has been examined with respect to the available documents and the facts of the case;

14. *Whereas*, based on the examination of the reply of Mr Ghulam Nabi Bhat and the entire material on record it is apparent that:

1. Mr Ghulam Nabi Bhat was not a CL with the Department, at least for the period between Sept 1993 and Sept 1999, when he was a regular student, as per the report of the J&K BOSE.
2. Mr Ghulam Nabi Bhat has forged the documents, defrauded the exchequer and claimed wages illegally, at least for the period he was a regular student, as per the report of the J&K BOSE.

15. *Whereas*, in view of the seriousness of the matter involving forgery of documents, fraud and misappropriation of public funds committed by Mr Ghulam Nabi Bhat, S/o Khazir Mohd Bhat, R/o Bomai, Sopore, the matter has been referred to the Crime Branch of J&K Police for registering an FIR and investigation;

16. *Whereas*, in view of the above forgery committed and fraud committed by Mr Ghulam Nabi Bhat, S/o Khazir Mohd Bhat, R/o Bomai, Sopore, it cannot be said that his work and conduct has remained satisfactory during the period he worked as Daily Rated Worker or Work Charged Employee and no disciplinary proceedings are pending against him, rendering him ineligible under Rule 4 of SRO 64.

17. *Whereas*, on a plain reading of rule 4 of the SRO 64 of 1994, it is axiomatic that all the conditions stipulated therein are mandatorily required to be fulfilled, so as to make a person eligible for claiming regularization under the provisions of SRO 64 of 1994. Non-fulfillment of any of the stipulated pre-conditions would render a person ineligible for regularization. However, even in case the petitioner would have fulfilled all the stipulated conditions provided under SRO 64 of 1994, in that eventuality as well the petitioner would not be entitled to any relief for the sole reason that the petitioner has based his claim on fraud, which vitiates everything.

18. Now, therefore, keeping in view the afore-stated position, eligibility of Shri Ghulam Nabi Bhat having been determined and his claim having been considered in compliance with the orders dated 04.04.2017 passed by the Hon'ble High Court in SWP No. 2858/2015 titled Ghulam Nabi Bhat Vs. State of J&K and others read with the order dated 01.06.2022 passed by the Hon'ble High Court in LPA No. 112/2020 titled Union Territory of J&K and others Vs. Ghulam Nabi Bhat, the same is found not

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eligible under SRO 64 of 1994. Accordingly, the claim of the petitioner for regularization is rejected.

By Order of the Government of Jammu and Kashmir.


Sd/  
(Dheeraj Gupta) IAS  
Principal Secretary to the Government  
Forest, Ecology & Environment Department

Dated: - 15.09.2023

No: - FST-Lit/92/2022-02

Copy to the: -

1. Pr. Secretary to the Hon'ble Lieutenant Governor, J&K.
2. Commissioner Secretary to Government, General Administration Department, J&K.
3. Joint Secretary (J&K), Ministry of Home Affairs, Government of India.
4. Secretary to the Government, Department of Law, J & PA.
5. Pr. Chief Conservator of Forests (HoFF), J&K.
6. Director, Archives, Archaeology and Museums, J&K.
7. Pvt. Secretary to Chief Secretary, J&K.
8. Private Secretary to Principal Secretary to Government, Forest, Ecology & Environment Department.
9. Government Order file (w.2.s.c.)/ Stock file/In-charge Website.

  
(Mohammad Arshad Jan)  
Under Secretary to Government