

GOVERNMENT OF JAMMU AND KASHMIR  
DEPARTMENT OF FOREST, ECOLOGY & ENVIRONMENT  
CIVIL SECRETARIAT, J&K, SRINAGAR/JAMMU

\*\*\*\*\*

**Subject:** Consideration of the claim of Shri Harbans Singh S/o Joginder Singh R/o H. No. 603, Nai Basti, Jammu in compliance with the order dated 06.07.2018 passed by the Hon'ble Court in SWP No. 107/2018 titled Harbans Singh vs State of J&K and others.

**Reference:** U. O. No. GAD-CORD/27/2023, dated: 21.11.2024 from the General Administration Department.

**Government Order No:** 285-JK(FST) of 2024

**Dated:** 05.12.2024

**Whereas,** Shri Harbans Singh S/o Joginder Singh R/o H. No. 603, Nai Basti, Jammu who was engaged as casual labour in July, 1994, had filed a writ petition numbered as SWP No. 107/2018 titled Harbans Singh Vs. State of J&K and others, seeking therein, *inter alia*, direction upon the respondents, for regularization of his services under SRO-64 of 1994;

**Whereas,** the writ petitioner (supra) came to be disposed of by the Hon'ble Court vide its order dated 06.07.2018, operative part whereof reads as under:-

*" ....The respondents are directed to consider the case of the petitioner for regularization in terms of the provisions of SRO-64 of 1994 read with Government Order No. 1285-GAD of 2001 dated 06.11.2001 and also in light of the judgement passed by the Division Bench in Mushtaq Ahmad Sohail's case (supra). Let a decision in this regard be taken within six weeks from the date certified copy of this order is made available to the respondents. It is made clear that the petitioner shall be entitled to be regularized w.e.f the date he completed seven years of service with all consequential benefits."*

**Whereas,** against the aforesaid order dated 06.07.2018, the department had preferred an appeal numbered as LPA No. 66/2021 titled Union Territory of J&K and others Vs. Harbans Singh, which was, however, dismissed by the Division Bench of Hon'ble High Court of J&K at Jammu vide its order dated 09.07.2021, operative part whereof reads as under:-

*"... For the aforementioned reasons, we do not find it a good case for condoning the delay of 990 days in preferring the Letters Patent Appeal. The application is, accordingly, dismissed along-with accompanied appeal."*

**Whereas,** subsequently, the department had also filed SLP in the matter numbered as SLP No. 20493/2021 titled Union territory of J&K and others Vs.

*Sham*

Harbans Singh, which was dismissed by the Hon'ble Supreme Court vide its order dated 03.01.2022 that reads as under:

*"We do not find any good ground to interfere with the impugned judgment and order passed by the High Court.*

*The special leave petition is dismissed.*

*Pending applications(s), if any, shall stand disposed of";*

**Whereas**, thereafter, a review petition numbered as (Civil) Diary No. 7077/2022 titled Union Territory of J&K and others Vs. Harbans Singh was filed against the order dated 03.01.2022 passed by the Hon'ble Supreme Court in SLP filed on the subject. However, the Hon'ble Supreme Court vide its order dated 21.09.2022 dismissed the review petition as under: -

*"Delay condoned.*

*We have carefully perused the review petition as also the grounds in support thereof. In our opinion, no case for review of order dated 03.01.2022 is made out.*

*The review petition is, accordingly, dismissed.*

*All pending applications also stand disposed of.";*

**Whereas**, thereafter vide Government Order No. 23-JK(FST) of 2024, dated 25.01.2024, sanction was accorded to the creation of one supernumerary post of Helper in the pay scale of Rs. 4440-7440 + 1300 (PR), for regularization of the petitioner namely Shri. Harban Singh S/o Joginder Singh R/o H. No. 603, Nai Basti, Jammu, notionally w.e.f. July, 2001 and with monetary benefits prospectively, in compliance with the order dated: 06.07.2018 passed by the Hon'ble High Court in SWP No. 107/2017 titled Harbans Singh Vs. State of J&K & Others;

**Whereas**, the compliance report was filed in the Hon'ble Court on 29.01.2024, however, but the Hon'ble Court passed following orders in the matter;

*"Order dated 06.07.2018 passed by this Court in SWP No. 107/2017 is yet to be complied with in letter and spirit.*

*Mr. Amit Gupta, learned AAG has passed on fresh compliance report accompanied by Government Order bearing No. 23-JK(FST) of 2024 dated 25.01.2024 which is taken on record.*

*From perusal of the compliance report and Government Order dated 25.01.2024 appended therewith, it clearly transpires that the judgment passed by this Court has been partially complied with.*

*The respondents have held the petitioner entitled to the regularization as Helper effect from July, 2001 but have denied him the consequential benefits despite the fact that judgment passed by this Court dated 06.07.2018 clearly directs to provide such consequential benefits to the petitioner.*

*ey*  
*Harban*

*In view of the above and also with a view to provide one more opportunity to the respondents to come up with the compliance report, four weeks further time is granted.*

*Let it be made clear to the Financial Commissioner (Additional Chief Secretary) concerned that the order passed by him on 25.01.2024, denying consequential benefits to the petitioner is, on the face of it, contempt of the order of this Court".*

**Whereas**, the matter was thereafter taken up with the Law, Justice & Parliamentary Affairs Department, who in turn, vide U. O. No. LAW-SC/330/2024-10, Dated: 15.10.2024, returned the file with the following opinion: -

*Returned: Department is advised to file an SLP against judgment/order dated 29.01.2024 r/w orders dated 09.10.2024 and 11.10.2024 passed by Hon'ble High Court of J&K and Ladakh at Jammu in CPSW No. 578/2018 in SWP No. 107/2017 titled Harbans Singh Vs. Saurabh Bhagat, Secy. Forest and Anr through Sh. Parth Awasthi, Standing Counsel, Supreme Court of India. Besides, in view of the coercive orders passed by the Hon'ble High Court, the department may take steps for grant of monetary benefits and same be subject to outcome of SLP.*

*The Department is also advised to forward all the relevant records of the case to the Ld. Counsel and also book the virtual conference of the officers who are well versed with the case with him/her, if required, for preparation and filing of Special Leave Petition in the matter."*

**Whereas**, subsequently, the matter was taken up with the Finance Department for advice, who in turn, vide U. O. No. FD-Code/290/2021-02-Part (2)-434, dated: 16.10.2024, returned the file:

*Returned: Finance Department conveys concurrence to the departmental proposal in order to implement the court order dated 06.07.2018. This would, however, be subject to the outcome of the SLP as advice by the Law Department vide its U.O. dated 15.10.2024. The orders shall be issued with the approval of the competent Authority.*

*Also this order will have massive financial implications which go beyond the extant rule position of J&K Civil Service regulations. As such, the Department is advised to capture all the arguments and case law in its note before the competent authority, its compliance report and its legal position."*

**Whereas**, after obtaining financial concurrence, the following draft resolution was submitted to the Hon'ble Chief Minister through Chief Secretary in coordination for consideration/approval:-

*Chabmu*

"Sanction is hereby accorded to the grant of monetary benefits w.e.f. July, 2001, to Mr. Harbans Singh S/o Joginder Singh, R/O 603, Nai Basti Satwari, Jammu to implement the order dated 06.07.2018 passed by the Hon'ble Court in SWP No. 107/2018 titled Harbans Singh Vs. State of J&K and others read with orders dated 09.10.2024 and 11.10.2024 passed by the contempt Court in CPSW No. 578/2018 titled Harbans Singh Vs. Saurabh Bhagat and others, in relaxation of rules.

This would, however, be subject to the outcome of SLP as advised by the Department of Law, J & PA vide its U.O. dated 15. 10.2024."

**Whereas**, in response, the General Administration Department vide U. O. No. GAD-CORD/27/2023, dated: 21.11.2024, returned the file and conveyed as under:-

**Returned:** The opinion of the Department of Law, Justice & Parliamentary Affairs was sought in the instant case who vide U.O No. LAW-SER/15/2023-10 dated: 18.11.2024 opined as under:

Petitioner's services were already regularized by relaxation of rules in terms of Government Order No. 23-JK (FST) of 2024 with effect from the notional completion of seven years of service as of July 2001, and the only issue pertains to grant of monetary benefits to Mr. Harbans Singh, effective from July 2001, so as to fully comply with the Hon'ble Court's order dated: 06.07.2018 in SWP No. 107/2018 (Harbans Singh Vs State of J&K and Others) read with subsequent directives issued by the contempt Court in CPSW No. 578/2018. It may be appreciated that no further relaxation of rules may be necessary now to grant such a monetary benefit, as the provisions and procedure for relaxation of rule has already been invoked at the time of regularization of the petitioner vide above referenced Government Order. It is also apposite to state that the Finance Department has already conveyed concurrence to the proposal for grant of the monetary benefit. As such, in view of the Court order and the concurrence of the Finance department, the department is advised to make necessary changes in the Government Order No. 23-JK (FST) of 2024 dated: 25.01.2024, so as to ensure complete deference and implementation of the court orders passed from time to time. However, the same may be made expressly contingent and subject to the outcome of the SLP.

Accordingly, the Department of Forest, Ecology & Environment is advised to take further necessary action as per the above opinion tendered by the Department of Law, Justice & Parliamentary Affairs.

**Now therefore**, in partial modification to Government Order No. 23-JK(FST) of 2024, dated: 25.01.2024, sanction is hereby accorded to the grant of monetary benefits w.e.f. July, 2001, in favour of Mr. Harbans Singh S/o Joginder Singh R/O 603, Nai Basti Satwari, Jammu, to implement the order dated 06.07.2018 passed by the Hon'ble Court in SWP No. 107/2018 titled Harbans Singh Vs. State of J&K and others read with orders dated 09.10.2024 and dated 11.10.2024 passed by the contempt Court in CPSW No. 578/2018 titled Harbans Singh Vs. Saurabh Bhagat and

CG

Sharma

others, in relaxation of rules. However, the same shall be subject to the outcome of SLP as advised by the Department of Law, Justice and PA vide its U. O. dated 15.10.2024.

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

**Sd/-**

(Shailendra Kumar) IAS

**Principal Secretary to the Government**

Dated: 05.12.2024

No: FST-Lit/98/2021-02

**Copy to the: -**

1. Additional Chief Secretary to the Hon'ble Chief Minister.
2. Principal Secretary to the Hon'ble Lieutenant Governor, J&K.
3. Principal Secretary to the Government, Finance Department.
4. Pr. Chief Conservator of Forests/Hoff, J&K.
5. Commissioner/Secretary to the Government, General Administration Department.
6. Secretary to the Government, Department of Law, Justice & Parliamentary Affairs.
7. Joint Secretary (J&K), Ministry of Home Affairs, Government of India.
8. Director, Archives, Archaeology and Museums, J&K.
9. OSD to Hon'ble Minister for Forest, Ecology and Environment Department.
10. Pvt. Secretary to Principal Secretary to the Government, Forest, Ecology and Environment Department, for information of Principal Secretary.
11. I/c Website/Government Order file (w.3.s.c)/Stock file.

*Raj Kumar*  
(Raj Kumar) 05.12.24

*9* **Under Secretary to the Government**