

Government of Jammu and Kashmir
Skill Development Department
Civil Secretariat, J&K.

Subject: O. A No. 61/81/2022 titled Abdul Majid Zargar Vs Union Territory of J&K & others.

Government Order: 98-JK(DSD) of 2022

Dated: 01.12.2022

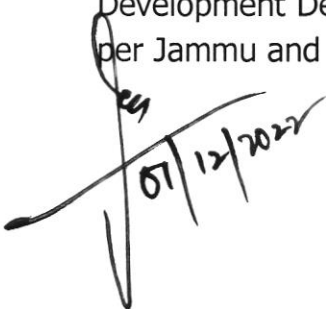
Whereas, Mr. Abdul Majid Zargar was initially engaged on consolidated basis to conduct the drawing classes against the clear vacancy vide Order No. 312 of 1993 dated 12.04.1993 with the consolidated pay of Rs. 1400/- per month plus allowances for a period of 89 days which was further extended from time to time up to 06/1995; and

Whereas, vide Order No. 514 of 1995 dated 23.08.1995, the engagement of the incumbent was continued till further orders on adhoc basis being degree holder without against any post till 10.04.2002 as per J&K Technical Education (Subordinate) Rules, 1979 dated 17.04.1979; and

Whereas, vide letter No. DTE/Est/1956-57 dated 04.08.1997 followed by letter No. DTE/Estt/98/1142-43 dated 29.04.1999, Directorate had referred various posts to SSB which include Drawing Instructor for which qualification was mentioned as 3 years diploma/2 years draftsmanship in any branch of engineering; and

Whereas, as per SRO-145 dated 10.04.2002 the method of recruitment for the said post is 1st class graduation with Social Science from a recognized University. Since the incumbent had been engaged prior to the issuance of said SRO and has requisite qualification for the said post; and

Whereas, the various cases of Adhoc/Contractual/Consolidated employees of the Directorate of Technical Education including the case of applicant were referred by the then Technical Education Department (Now Skill Development Department) to the Empowered Committee for consideration, as per Jammu and Kashmir Civil Services (Special Provisions) Act, 2010; and


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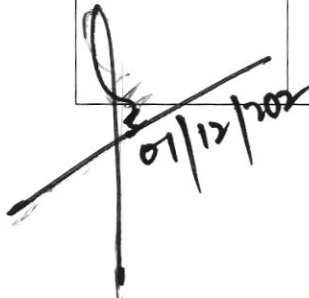
Whereas, the case of Mr. Abdul Majid Zargar (applicant) among others were cleared by Empowered Committee in the 46th meeting held on 22-04-2015 & 23-04-2015 conveyed vide O.M No. PS/DC/Misc/364/14 dated 13.08.2015, mentioned there that the applicant among others have been found eligible for regularization in accordance with the Provisions of J&K Civil Services (Special Provisions) Act, 2010 subject to certain conditions which were fulfilled later on, as certified by the then Director Technical Education; and

Whereas, the vigilance clearance was received from General Administration Department (Vigilance) in favour of applicant among others vide O.M. No. GAD(Vig)OB-NOC/2016-Tech-Edu dated 03.03.2016, wherein it was conveyed that there is no FIR or PE pending against them in the records of State Vigilance Organization and no disciplinary or criminal proceeding are pending against them; and

Whereas, vide U.O No. Edu/Tech/Gen/05/2007-III dated 15.02.2018, the case of applicant among others was referred to the General Administration Department for placing the same before the then Hon'ble Chief Minister through Chief Secretary in co-ordination for approval; and

Whereas, the General Administration Department vide OM No. GDC-98/CM/2016 dated 10.05.2018 had conveyed approval of the then Hon'ble Chief Minister in favour of two employees with the advised to examined the case of applicant among others further, in light of the deficiency as indicated against each:

S. No in the list	Name	Deficiency
8	Mr. Abdul Majid Zargar	The incumbent is 10+2 with degree in Electronic and Communication Engineering through ANNA University Madras having 53.40% marks as required for the post of Drawing instructor against which he has been proposed to be regularized as per existing departmental recruitment rules.

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Whereas, the case of the applicant among others was again referred to General Administration Department for regularization, however, the said department raised the various observations which the department had clarified to department in consultation with Director, Skill Development J&K; and

Whereas, the General Administration Department vide OM No. GDC-265/CM/2017 dated 23-02-2021 returned all such cases including the case of the incumbent (applicant) to this department with the following advice:

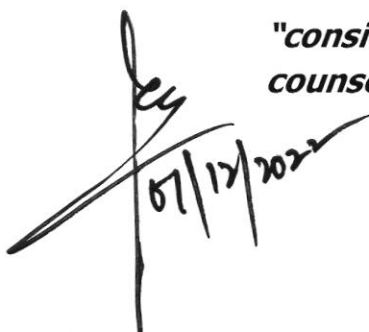
"Regularization scheme namely Jammu and Kashmir Daily Rated Workers/work Charged Employees (Regularization) Rules, 1994 were notified vide SRO-64 of 1994 and repealed J&K Civil Services (Special Provisions) Act, 2010 are under administrative scrutiny and a considerate and informed decision on the issue is to be taken in the matter. The issue is required to be placed before the Establishment-cum-Selection Committee". and

Whereas, the General Administration Department previously requested to furnish the information in the matter as per devised format, enabling them to place the matter before the Establishment-cum-Selection-committee; and

Whereas, the matter was taken up with the Director, Skill Development, J&K for furnishing the requisite information who provided the same as per the devised format and the same was also submitted/provided to the General Administration Department vide OM No. DSD-Gen/26/2021-02 dated 21-06-2021; and

Whereas, in the meantime Mr. Abdul Majid Zargar, has filed a O. A No. 61/81/2022 titled Abdul Majid Zargar Vs Union Territory of J&K & others before the Hon'ble Central Administrative Tribunal, Jammu bench and the Hon'ble Central Administrative Tribunal while disposing of the case vide 31.01.2022, directed as under: -

"considering the submissions of the applicant's counsel, without expressing any opinion on merits of

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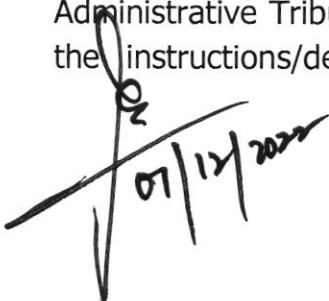
***the case, this O.A is disposed of at admission stage by directing the respondents to consider the appellants case for regularization as Drawing Instructor as per recommendation of the Empowered Committee on 23.04.2015 as per provisions of relevant rules and binding instructions on the subject and decide it with a reasoned and speaking order within one month from the date of receipt of a copy of this order and within one week thereafter communicate it to the applicant."* and**

Whereas, in pursuance of Order dated 31.01.2022 passed by the Hon'ble CAT, the case of the applicant was referred to the General Administration Department with the request to furnish status/action taken in respect of officials of the skill Development Department whose cases have been cleared by the empowered committee, for regularization under the provisions of J&K Civil Services (Special Provisions) Act, 2010; and

Whereas, General Administration Department vide O.M No. GAD-Cord/106/2022-09 dated 10.10.2022 forwarded a minute of the meeting of the Establishment-cum-Selection Committee held on 05.08.2022, for favour of information and necessary action. The decision of the committee reads as under;

"the committee observed that all the provisions under SRO of 64 of 1964 and the Jammu and Kashmir Civil Services (Special Provisions) Act, 2010 have lost the relevance and validity in present times especially in view of illegality that exist in promulgation of these Acts/Rules as per the various judgements of the Hon'ble Court from time to time. The Committee, accordingly, decided to maintain the present stance of the Government and deferred consideration to the proposal for the time being".

Now therefore, the claim of the applicant has been examined and considered in light of order dated 31.01.2022, passed by the Hon'ble Central Administrative Tribunal (CAT) Jammu Bench in the above titled case viz-a-viz the instructions/decision of the Government conveyed by the General

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Administration Department vide OM dated: 10.10.2022 and found that the claim of the applicant is without any merit and may be deferred for the time being in view of facts and legal position enumerated hereinabove.

By order of the Government of Jammu and Kashmir.

Sd/-

(Dr. Asgar Hassan Samoon), IAS


Principal Secretary to the Government

No. DSD/Igl0ITI/03/2022-02

Dated:01.12.2022

Copy to:

1. Secretary to the Government, General Administration Department for information.
2. Secretary to the Government, Department of Law Justice and PA.
3. Director, Skill Development, J&K for information.
4. Mr. Rajesh Thappa, Additional Advocate General, Central Administrative Tribunal (CAT) Jammu Bench for information and necessary action.
5. OSD to Advisor (B) to the Hon'ble Lieutenant Governor.
6. Private Secretary to the Principal Secretary to the Government for information of the Principal Secretary.
7. Senior Law officer of Skill Development Department.
8. PA to the Special Secretary to the Government for information
9. I/c Website.
10. Government Order file (w.2.s.c)


(Harjinder Singh) 01/12/2022

Under Secretary to Government

