

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

Subject:- O.A No.1219/2022 titled Yameen Kinah Vs UT of J&K & others.

Government Order No. 77-JK(DSD) of 2024
Dated:-07.11.2024

Whereas, on the recommendations of J&K Public Service Commission, Mr. Yameen Kinah S/o Ghulam Hassan Kinah was appointed as Lecturer-I, Automobile Engineering in the pay scale of Rs. 9300-34800 with grade pay 5200 vide Government Order No. 47-Edu (Tech) of 2013 dated 01.03.2013; and

Whereas, as per seniority list of various streams/discipline notified by the Department vide Circular No. 03-JK(DSD) of 2023 dated 15.09.2023, the officer is figuring at S.No. 01 in the Lecturer-I, Automobile Engineering discipline; and

Whereas, aggrieved by the non-consideration of promotion to the post of Workshop Superintendent as per his seniority and the recruitment rules i.e, Jammu and Kashmir Technical Education (Gazetted) Service Recruitment Rules, 2002, which are in vogue, the applicant approached before the Hon'ble Central Administrative Tribunal (CAT) at Srinagar Bench through the medium of OA No.1219/2022 titled Yameen Kinah Vs UT of J& & others; and

Whereas, the Hon'ble Central Administrative Tribunal vide interim order dated 04.01.2023, directed as under:-

"Learned counsel for the applicant submits that the applicant was appointed initially in the year 2013 as Lecturer Grade I. He further submits that the post of Foreman and Lecturer Grade I are for combined seniority list of Workshop Supervisor. He also submits that the respondents are not considering his claim for the said post. He also submits that the respondents are likely to convene a DPC for the next promotion to the post of Workshop Supervisor. He submits that he apprehends that he may not be considered for the said post. Issue notice. Mr. Waseem Gul, GA vice Mr. H.A Ali, DAG accepts notice for the respondents. He seeks and is granted six weeks time to take necessary instruction and file necessary affidavit.

H. Waseem Gul
07/11/2024

In the meantime the respondents are directed to consider the claim of the applicant for the promotion to the post of Workshop Supervisor, as per rules governing the field"; and

Whereas, the case of the applicant was examined and it emerged that applicant is working as Lecturer-I (Automobile) in the Skill Development and there is no specific stream/trade which can be considered for the promotion against the post of Workshop Superintendent. If Lecturers from other branches are kept eligible for the post of Workshop Superintendent, the process would be skewed towards the lecturers only and this in turn will lead to stagnation of Foreman (Engineering); and

Whereas, the post of Foreman (Engineering) has been proposed as a lone stream for the promotion against the post of Workshop Superintendent in updated draft recruitment rules (Gazetted) as per job requirement which are presently with ARI & Trainings Department. Therefore, the demand/grievance of applicant for his promotion against post of Workshop Superintendent is not feasible as other incumbents from different engineering trades would also claim for their promotion against post of Workshop Superintendent; and

Whereas, accordingly the claim of the applicant seeking promotion to the post of Workshop Superintendent was examined and considered, in the Department, in compliance to the interim order dated: 04-01-2023, passed by the Hon'ble Central Administrative Tribunal Bench at Srinagar viz-a-viz the existing rules governing the subject and seniority position thereof and the same was found devoid of any merit, hence, rejected vide Government Order No. 55-JK(DSD) of 2023 dated 12.05.2023; and

Whereas, the Hon'ble CAT has now finally decided the matter and disposed of the O.A No.:- 1219 of 2022 vide Order dated 13.06.2024 with following directions:-

"However, we find force in the argument of the applicant that it is also well settled in law that promotions are to be considered and granted in terms of the existing rules governing such promotions and not on the future course of action of formulating rules, hypothetical situations which may arise or will be created in future.

Accordingly, this case is taken for its final disposal. The respondents are directed to consider the case of the applicant, along with all other eligible persons, for next higher promotion subject to his seniority and eligibility and as per rules in vogue. It is also provided that the respondents will go ahead and make promotions as per rules."

H. S. [Signature]
07/11/2024

Whereas, the case of the applicant has again been examined and considered in the Department for next higher promotion subject to his seniority and eligibility as per Rules in vogue in light of above quoted judgment and found devoid of any merits as per the following provision of existing recruitment rules notified 328 of 2002 dated 29.08.2022 and hence rejected.

"By promotion from class-IV category-A viz (Lecturer/Foreman) possessing degree in appropriate branch of Engineering or equivalent with 05 years of experience as such in the respective discipline,"

By order of the Government of Jammu and Kashmir.

Sd/-

(Kumar Rajeev Ranjan), IAS


Administrative Secretary to the Government

No:-DSD-lgl/165/2022

Dated:-07.11.2024

Copy to the:-

1. Joint Secretary (J&K), Ministry of Home Affairs, Government of India.
2. Commissioner/Secretary to the Government, General Administration Department.
3. Secretary to the Government, Department of Law, Justice and Parliamentary Affairs.
4. Director, Skill Development, J&K.
5. Director, Archives, Archaeology & Museums, J&K Jammu.
6. Special Secretary to the Government, Department of Skill Development.
7. Director Finance, Department of Skill Development
8. Special Assistant to the Hon'ble Deputy Chief Minister, I/c Department of Skill Development.
9. Private Secretary to Secretary to the Government, Department of Skill Development.
10. Principal, Kashmir Government Polytechnic, Srinagar.
11. Concerned officer (Petitioner).
12. Government Order/Stock file/Incharge website, DSD.


(Harjinder Singh),
07/11/2024

Under Secretary to the Government.