



GOVERNMENT OF JAMMU AND KASHMIR
FINANCE DEPARTMENT
Civil Secretariat, Jammu/Srinagar

Subject: Implementation of Court order, dated 16-05-2008, in SWP No. 89/1999, titled Bashir Ahmad Mantoo Vs State and Others.

Government Order No:- 217 -FD of 2017
Dated:- 27 -07 - 2017

Whereas, (05) posts of Programmers (OM -03, RBA-01 & SC-01) were referred by the Finance Department to the Service Selection Board (SSB), vide No. ET/DE/23/96-FD, dated 22-12-1996, for selection of the eligible candidates.

02- Whereas, the J&K Service Selection Board recommended five candidates for appointment as Programmers in the department vide No. SSB/PS/1640-44/98, dated 10-12-1998;

03- Whereas, one Mr. Bashir Ahmad Mantoo (Petitioner in SEP 89/1999), also participated in the said selection process under the open Merit Category, but, on account of low merit, did not figure in the select list, recommended by SSB to the Finance Department;

04- Whereas, aggrieved on not being selected for appointment, Mr. Bashir Ahmad Mantoo filed SWP No. 87/99, titled Bashir Ahmad Mantoo Vs State and Others, before the Hon'ble High Court, which was disposed of by an order, dated 16-05-2008. The operative part of the said order reads as under:-

(.... The selection has been made in the year 1998 and the private respondents are working in the post for the last 10 years. I do not find it just and proper to disturb their appointment. As such by allowing the present petition I direct the respondents to consider the appointment of the petitioner against one post of

Programmer which may be available with the respondents. Let the consideration be accorded and order in this behalf be passed within a period of three months from the date this order is served on the respondents);

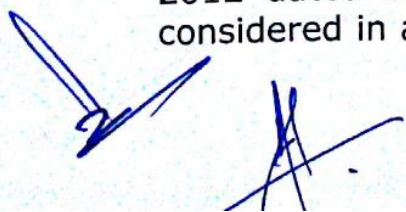
05- Whereas, the Service Selection Board in consultation with the department of Law, Justice and Parliamentary Affairs, filed an LPA bearing No. LPA/44 of 2009, against the judgement, dated 16-05-2008 which was disposed of vide order dated 20-07-2011 by Division Bench of the J&K High Court. The operative part of the order of the Hon'ble Division Bench reads as under:-

*"..... We do not find any justifiable ground to interfere with the order of the learned Single Judge. The appeal, therefore fails and the same is dismissed.
The appellants are directed to comply with the order of the learned Single Judge within a period of 3 months from the date of production of copy of this order.
LPA No. 44/09 stands dismissed along with connected applications."*

06- Whereas, the Finance Department took up the matter with the SSB in the light of the orders of the Hon'ble High Court, referred to above, and the SSB, in response, vide No. SSB/B-4/99/2680-83/11 dated 10-10-2011, informed the department that, after completing the selection process, the status of SSB was functus-officio and competence for making appointments rests with the State Government, and not with the Board. It, accordingly, took the position that the petitioner may be considered against a post of Programmer, which may be available in the Finance Department, and pass appropriate orders in the matter;

07- Whereas, the Finance Department, with the objective of complying the orders of the Hon'ble High Court in letter and spirit, found from the records that no vacancy is, presently, available in the department, against which the petitioner could be appointed as Programmer, as all the (5) posts of Programmer were filled up by making appointments of candidates as per the select list, recommended by the SSB;

08- Whereas vide Government order No. 14-F of 2012 dated 09-01-2012 the case of the petitioner was considered in accordance with the directions dated 16-06-



2008, of the Hon'ble High Court in SWP No. 89/99 and the claim of the petitioner for appointment as Programmer was rejected;

09- Whereas, the petitioner filed contempt petition No 329/2008 in SWP No. 87/1999 titled Bashir Ahmad Mantoo Vs State and others in the Hon'ble High Court J&K at Srinagar. The Hon'ble Court disposed of the said contempt petition on 11-09-2012 with the following directions to the respondents:-

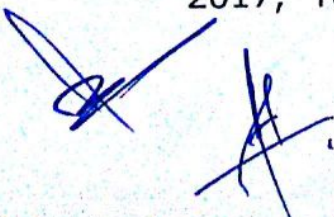
"In the given circumstances, I deem it proper to direct respondents 1,2 and 3 to examine the case of petitioner afresh in light of the representation of the petitioner, particularly paragraph 6 thereof, keeping in view the judgement of the learned Single Judge read with Judgement of Division Bench of this Court, within one month from the date a copy of this order is served on them".

10- Whereas, the petitioner filed another contempt petition No: 682/2012 which was disposed of by the Hon'ble High Court on 15-12-2015. The operative part of the order of the Hon'ble Division Bench reads as under:-

"....whereas, the Government had gone to the extent of downgrading an existing post of Programmer to accommodate a person who was appointed on contractual basis against a lower post, no serious effort seems to have been made to implement the Court Judgement even after dismissal of the LPA with specific direction to implement the writ court judgment within three months.

Question regarding framing of rule against the concerned authority would call for consideration in backdrop of above chronological events. However, before consideration to that aspect is accorded, I feel it apt to provide an opportunity to the respondents, in particular respondent No: 01, the Chief Secretary, to accord re-look to the entire matter and take appropriate administrative action so that judgment of the court is implemented in its letter and spirit. Fresh report be submitted by the next date."

11- Whereas, respondent No. 3 i.e; Commissioner Secretary to Government, General Administration Department, with concurrence of Codes Section of Finance Department vide UO No: A/12(2001)-920 dated 14-02-2017, restored one post of Programmer, which was

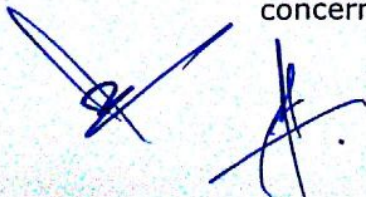


withdrawn from Accounts and Treasury Organization vide Government order No.1094-GAD of 2016 dated 14-10-2016 read with Government Order No. 129-PD of 1996 dated 04-12-1996, to the Finance Department vide Government Order No.350-GAD of 2017 dated 16-03-2017; and

12- Whereas, while endorsing the Government Order No. 350-GAD of 2017 dated 16-03-2017, the General Administration Department advised Finance Department to implement the Judgement of the Hon'ble Court by way of utilising the post of Programmer restored vide Government Order No.350-GAD of 2017 dated 16-03-2017 for appointment of Mr. Bashir Ahmad Mantoo.

Now in pursuant of the above directions of the Hon'ble High Court and advise of the General Administration Department, sanction is hereby accorded to the appointment of Mr. Bashir Ahmad Mantoo S/o Ghulam Qadir Mantoo R/o Panzuiullah, Anantnag Kashmir as Programmer in the pay scale of 2100-3600 (Pre revised) in Accounts and Treasuries Department against the post of Programmer created vide Government Order No.129-PD of 1996 dated 04-12-1996 notionally w.e.f. 16-05-2008 and monetary with immediate effect subject to the following conditions:-

1. The appointee shall be allowed to join only on production/ checking/verification of the following certificates in original:-
 - a) Academic/Technical Qualification Certificate.
 - b) Matriculation / Date of Birth Certificate.
 - c) Health Certificate issued by Chief Medical Officer.
 - d) Permanent Resident Certificate issued by the Competent Authority.
 - e) Certificate from the concerned authorities to the effect that no loan under self employment scheme has been taken by the appointee concerned.
2. The appointment of the above candidate shall further be subject to the following conditions that:-
 - I. The appointee shall give an undertaking duly attested by First Class Magistrate in the shape of an affidavit to the effect that in case any adverse report about his character and antecedents is received from Inspector General of Police, (CID) to whom a reference shall be made by the concerned HoD, the candidate shall have no right to claim



his appointment as Programmer and his appointment as such shall be deemed to have been cancelled ab-initio.

- II. If on verification, the certificate(s) produced by the appointee are proved to be fake or forged, the appointment shall be cancelled ab-initio.
- III. The salary of the appointee shall not be drawn and disbursed to him until and unless satisfactory report in respect of (I) & (II) above are received in his favour.
- IV. The appointee shall be on probation for a period of 02 years.
- V. The seniority of the appointee shall be considered as per merit / Rules in vogue.

The above appointee shall report to the Director General Accounts and Treasuries, J&K Srinagar within a period of 21 days from the date of issuance of this order for his further posting. In case the appointee does not join within the said period, his appointment shall be deemed to have been cancelled ab-initio without any further notice.

By order of the Government of Jammu and Kashmir.

Sd/-

(Navin K. Choudhary) IAS

Commissioner/Secretary to the Government,
Finance Department.

No: Estt-ET/110/99

Dated: 17 -07-2017

Copy to the:-

1. Commissioner/Secretary to the Government, General Administration Department
2. Secretary, Department of Law, Justice and Parliamentary Affairs.
3. Director General, Accounts and Treasuries, J&K Srinagar
4. Secretary, J&K Service Selection Board, Srinagar
5. OSD to Hon'ble Finance Minister.
6. Pvt. Secretary to Hon'ble Minister of State for Finance.
7. Pvt. Secretary to Commissioner/Secretary to the Government, Finance Department.
8. Pvt. Secy. to Ld. Advocate General J&K High Court Srinagar
10. I/C Website Finance Department
11. Concerned Appointee _____
12. Government Order file w.2.s.c.

(Aadil Fareed)

Under Secretary to the Government,
Finance Department