

Government of Jammu and Kashmir
Department of Food, Civil Supplies & Consumer Affairs
Civil Secretariat, Srinagar/Jammu.

Subject:- CCP(S) No.196/2022 in SWP No. 1261/2017, titled
Mohammad Iqbal Ganai and Others Vs State of J&K
and Ors.

Government Order No:- 107-JK(FCS&CA) of 2023
Dated: 21.09.2023

WHEREAS, the Directorate of FCS&CA Kashmir in the year 2013 in terms of Directorate's Order No. 75-DCA&DK of 2013 dated 30.05.2013 had allocated Class IV posts to various districts in Kashmir Division quoting reference to SRO-375 of 2010 dated 21.10.2010 (Jammu & Kashmir Civil Services Decentralization and Recruitment Rules) 2010;

AND WHEREAS, Assistant Director FCS&CA, Pulwama had issued an Advertisement Notice dated 3rd July 2013 for filling up 61 Class IV posts of Watchman, Kandaman & Depot Assistant and the criteria adopted for short listing & making selection was as under:-

Matric= 70 Points
10+2=10 Points
Viva= 20 Points

AND WHEREAS, selection process was initiated by the Selection Committee at the District level wherein some candidates including the petitioners who have applied against the advertised vacancies had found place in the shortlist prepared for conducting interview/viva;

AND WHEREAS, selection process has been reviewed by the Department in the year 2017 and a decision has then been taken to scrap the whole process in view of occurrence of inordinate delay in concluding the selection process and ordered for conducting the recruitment afresh;



AND WHEREAS, the AD FCS&CA, Pulwama readvertised 41 posts of Class IV vide Notification dated 16.09.2017 and in the meantime, the candidates (petitioners) who had applied and participated in the earlier process approached the Hon'ble Court by filling 03 writ petitions as below:-

1. **SWP No. 693/2017** (Seeking directions against the respondents for concluding the selection process in terms of advertisement dated 03.07.2013).
2. **SWP No. 1261/2017** (Seeking quashing of decision dated 13.06.2017 whereby earlier selection process was scraped)
3. **SWP No. 1951/2017** (Challenging Advertisement notice dated 16.09.2017 whereby 41 posts of watchman/kandaman & Depot Assistant were advertised).

AND WHEREAS, the Hon'ble Court has decided all the above referred writ petitions by a single order dated 30.01.2020, the operative part of which is reproduced as under:

12. Having considered the matter in its entirety, in my opinion, the official respondents could not have abandoned the process of selection once initiated vide notification dated 3rd July, 2013. The decision dated 13/7/2017 and the subsequent advertisement notice dated 16th September, 2017 to that extent cannot be upheld, the same are accordingly quashed. The official respondents are directed to complete the process of selection initiated vide Notification dated 3rd July, 2013. Let the said process be taken to its logical conclusion within a period of five months.

AND WHEREAS, the petitioners on not being satisfied with the order passed by the Hon'ble Court had preferred a Review Petition RP No. 55/2021 against order dated 30.01.2020,



which later on came to be dismissed as withdrawn by the petitioners on 30.03.2022;

AND WHEREAS, the petitioners thereafter filed a Contempt Petition CCP(S) No. 196/2022 titled Mohd Iqbal Ganie V/s Zubair Ahmad & Ors, before the Hon'ble Court and pursuant to which the matter came before the Administrative Department for examination;

AND WHEREAS, the case of the petitioners has been examined in the Department in consultation with Director FCS&CA Kashmir and the General Administration Department.

AND WHEREAS, the General Administration vide No. GAD- MTGORBIV/200/2021-09-GAD Dated 03-02-2022 has forwarded the Administrative Council Decision No.01-01-2022 dated 29-01 2022 which is reproduced as under:

"All posts referred to JKPS/JSKB prior to 31.10.2019, which selection have not been Finalized till date, as also the posts in which there are litigation and the cases are pending in Hon'ble Courts, shall be deemed to have been withdrawn with immediate effect"

AND WHEREAS, the GAD vide OM No. GAD-MTGORBIV/35/2022-09-GAD- Part(3) dated 03.08.2023 further clarified regarding withdrawal of posts and also advised all the Administrative Department as under:-

- a. That the post for which selections have not been finalized and also the posts in respect of which there were litigation's have been withdrawn. These posts are to be treated available with the respective Departments and not with the respective recruiting agencies from the date 03.02.2022 on which Administrative council decision was conveyed to the Departments/PSC/SSB with further advice that they may urgently undertake reconciliation with J&K PSC and SSB in reference to all posts, which are hit by the***



above said AC decision, particularly such posts for which selections have not been finalized and also the posts in which the Departments are facing litigation.

b. All the Administrative Department shall, take steps to refer such posts again to J&K PSC and J&K SSB as the case may be , under norms, after consulting Finance Department, with the approval of Competent Authority.

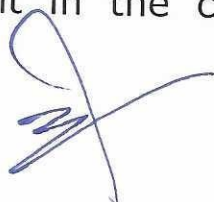
AND WHEREAS, despite the above policy decision of the Government, the Department in order to bring more clarity relating to this particular case, took it up with GAD for advice which vide their U.O No. GAD-MTG0RBIV/129/2023-09 GAD(7265781) returned the case with following observations/advice:-

"Returned: The matter was placed before the Authorities and the latter have desired as under:-

"No recruitment can take place on the basis of reference in 2013 and all such references stand withdrawn. The Department may ensure that all these cases are properly handled. Action may be taken against those who mishandled."

The department is advised to take further action accordingly in the matter.

AND WHEREAS, it is well settled law that the Advertisement Notice does not confer any right on a candidate who responds to the notice, to be considered for advertised post or to ask for finalization of the selection process or a right to oppose withdrawal of the post advertised, or resist the abandonment of the selection process. The advertisement is nothing but a notice to the general public regarding availability of advertised vacancies so as to enable the candidates satisfying the eligibility criteria to submit their applications. It signifies the intention of the Selection Body to receive applications for the advertised post and initiate the selection process. It does not vest right for appointment in the candidates, who respond to the



Advertisement Notice. It is equally well settled that the Government can at any time withdraw the Advertisement Notice or abandon the selection process or withdraw some of the advertised posts and decide to restrict selection to only some of such posts. A candidate applying for the advertised post is not clothed with right to restrain the Government from withdrawal of Advertisement Notice or abandonment of the selection process;

AND WHEREAS, in view of the notification of the above policy decision the Department cannot process the case further for finalizing the selection process.

Now, therefore, in view of the policy decision of the Government conveyed by the GAD vide No. GAD-MTGORBIV/200/2021-09-GAD Dated 03-02-2022, the recruitment process initiated in pursuance to Advertisement Notice dated 03.07.2013 r/w dated 16.09.2017, relevant to the instant case does not sustain and as such, shall have to be treated as abandoned and no further action can be taken to take the process forward.

By order of the Government of Jammu and Kashmir.

(Rajinder Kumar)

Under Secretary to the Government

No:- FCS&CA/Estt/7113301/2023

Dated:- 21.09.2023

Copy to the:-

1. Commissioner/Secretary to the Government, General Administration Department.
2. Director, Department of Archives, Archeology and Museums, J&K.
3. Director, Food, Civil Supplies & Consumer Affairs, Kashmir.
4. Special Secretary to the Government, Department of FCS&CA.
5. Public Law Officer, Department of FCS&CA.
6. Private Secretary to Commissioner/Secretary to the Government, Department of FCS&CA, J&K.
7. Government Order file/Stock file.
8. In-charge Website.