



Government of Jammu and Kashmir
Power Development Department
Civil Secretariat, Jammu

Subject: LPA No. 28/2016 titled as Mohad Maqbool Rather & Ors Vs State & Ors arising out of SWP No.1034/2015 titled as Hamid Rouf Ganie & ors Vs State & ors.

Corrigendum to Government Order No: 12-PDD of 2017
D a t e d : 16.01.2017

In partial modification of the Government Order No. 12-PDD of 2017 dated:16.01.2017 issued by this Department vide endorsement No. PDD/Legal/105/2015 dated: 16.01.2017 please read the pay scale of "Rs 5200-20200 with GP 1900" instead of "Rs 5830-20200 with GP 1900".

By Order of the Government of Jammu and Kashmir.

Sd/-
(Dheeraj Gupta) IAS
Commissioner Secretary to Government
Power Development Department

No:- PDD/Legal/105/2015

Dated:- 19 -01-2017

Copy to the:-

1. Principal Secretary to Hon'ble Chief Minister
2. Commissioner/Secretary to Government, General Administration Department for information.
3. Development Commissioner (Power), J&K Jammu for information and necessary action.
4. Director, Archives, Archaeology and Museums J&K, Jammu.
5. OSD to Deputy Chief Minister (Minister Incharge Power).
6. P.S to Hon'ble Minister of State for Power
7. P.S to Commissioner Secretary to Government, PDD
8. Nodal Officer (website) PDD.
9. Concerned
10. Government Order file (w.3.s.c)/ Stock file.

(Umesh Sharma)
Under Secretary to Government
Power Development Department



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Government Order No: 12 -PDD of 2017
Dated : 16 -01-2017

Whereas, selection list for the post of Technician-III of different districts was received from J&K SSB vide letter No. SSB/Sel/Secy/2015/4338-44 dated 07.05.2015, wherein one Ms. Fozia Ali Gurah D/o Ali Mohd Gurah R/o Hazratbal Payeen, District Anantnag was selected under OM Category at S No. 7 in the selection list for District Anantnag, but her selection was withheld by the SSB due to some clarification with regard to the relevance of Trade, and one Mohd Maqbool Rather S/o Mohd Sultan Rather R/o Wagam Chadoora, Budgam was also selected under RBA Category at Sr. No. 6 in the selection list for District Budgam.

Whereas, J&K SSB vide letter No. SSB/Sel/Secy/2015/7025-28 dated 31.07.2015, recommended the name of Ms. Fozia Ali Gurah against the vacancy in the Technician-III post for District Anantnag. The case was examined by the department and the recommendations of SSB in favour of Ms. Fozia Ali Gurah was forwarded to Development Commissioner (Power) J&K for appointment, vide letter No PDD/VI/K/22/2015 dated 10.09.2015. Moreover the SSB also recommended the name of Mohd Mabool Rather at merit list No. 41 of letter No. SSB/SEI/Secy/10/2015/9875 dated 18.04.2016 for the post of Technician-III in District Budgam.

Whereas, in the meantime, a Writ Petition bearing SWP No. 1034/2015 was filed by one Hamid Rouf Ganie S/o Ab. Rahim Ganie R/o Shangus Anantnag and Ab. Rashid Sofi S/o Gh. Mohd Sofi R/o Gund-e-Archana, Budgam before the Hon'ble High Court, which while considering the matter on dated 27.05.2015 directed as under:-

"In the meantime, subject to the outcome of the CMP, the respondent No. 1&2 are directed to reserve one post of Tech-III under RBA category in District Budgam and one post of Tech-III under OM category in District Anantnag."

Whereas, in pursuance to the said direction of the Hon'ble High Court, the appointment order of Ms Fozia Ali Gurah was put on hold and one post was left unfilled each in District Budgam and Anantnag respectively resulting in unfilled one vacancy each in District Budgam and Anantnag.

Whereas, the said writ petition was finally disposed of by the Hon'ble High Court vide judgment dated 01.02.2016, the operative part of which is reproduced as under:-

"in my opinion , no . Because the respondent board, firstly entertained the application forms of the petitioners, then issued the list of disqualified candidates wherein petitioners did not figure, subsequently petitioners were allowed to compete in the written test and were called for interview. For all these occasions it was quit fine with respondent board but on 31st January, 2015, they changed their mind and debarred them as per their own whims and caprice.

Merit secured by the petitioners does carry weight to earn consideration and submission made by Mr. Shah, Learned Senior Counsel, that respondents are not justified in changing the rules after the selection process has begun surely carries weight, for the Rules of the Game cannot be changed when the Game has begun. Moreso for the reason that the exclusion of the petitioners with reference to not being possessed of the qualification in the relevant trade is not based on any material supplied by the requisitioning department. If at all the respondent board had any confusion about the technical qualification of the petitioners they were require to seek clarification from the intending department and as already stated hereinabove M. Shah, has supplied the particulars of the persons with similar technical qualification who are working in the department on the same post over the years, therefore, even in that case the opinion would surely have favoured the petitioners.

Having regarded to above narration the writ petition succeeds and is allowed as such. The impugned decision dated 31st January, 2015, being bad in law, is quashed as far as it puts a restraint on the petitioners to be selected for the post of Technician-III District Anantnag and Budgam. Respondent Board is directed to recommend the names of petitioners for appointment against the post in question, in their respective categories, on the basis of merit secured by them in the selection process in place of respondents 3 and 4."

Whereas, the Judgment of the Hon'ble Single Bench dated 01.02.2016 was challenged by private respondents before the Division Bench in LPA No. 28/2016, which disposed of the said appeal vide judgment dated 31.03.2016, as under:-

"The respondent-J&K SSB Srinagar shall recommend the appellants who were private respondents in the writ petition, for being appointed on the posts of Tech-III in the Power Development Department. The said respondent shall also select the private respondent's writ petitioners and recommend their names for being appointed on the available posts of Tech-III in PDD. The respondent Board to prepare selection list and make recommendations in the manner provided in this order. If two posts will not be available with the respondent Board, then the Appointment Authority (respondents) without seeking recommendations from the J&K SSB shall also appoint private respondent writ petitioners on the posts of Tech-III available them."

Whereas, in pursuance to the said judgment of Hon'ble Division Bench dated 01.02.2016, the SSB vide letter No. SSB/H-2/15/1294-98/2016 dated 2.06.2016 recommended the case as per the Hon'ble Division Bench judgment dated 31.03.2016, the conclusive part of the recommendation is reproduced as under:-

"We are conscious of the fact that in view of our aforesaid finding, the entire selection process would come under cloud. But since the selection process takes long time in its completion and only two persons, viz the private respondents writ petitioners felt

