

**Government of Jammu and Kashmir
Department of Mining
Civil Secretariat, J&K**

Subject: OA No. 9/2022 Titled Syed Masood Ahmad Vs Union Territory of J&K & others.

Ref:

- i) Order dated: 06.12.2022 passed by Hon'ble Central Administrative Tribunal (CAT), Srinagar.
- ii) Letter No. 491/C-Adm/DGM/Prop-ME/22-23/1090 dated: 11.02.2023 received from Director, Geology and Mining, J&K.

**Government Order No: 07-JK(MNG) of 2023
Dated: 24.02.2023**

Whereas, Sh. Syed Masood Ahmad (Petitioner) was appointed as Ore Dressing Officer vide Government Order No. 170-IND of 2001 dated: 20.07.2001 on the recommendation of J&K Public Service Commission; and

Whereas, erstwhile Administrative Department i.e. Industries and Commerce Department issued final seniority list of Officers of Mining, Workshop / Mineral Concession Wing(s) of Geology and Mining Department vide Government Order No. 211-IND of 2008 dated: 07.08.2008 wherein petitioner (Ore Dressing Officer) was figuring at S.No. 04 in the Mining Wing column along-with Mining Engineer and Assistant Mining Engineer; and

Whereas, petitioner is seeking promotion to the post of Mining Engineer in reference to the said seniority position allotted to him vide Government Order No. 211-IND of 2008 dated: 07.08.2008; and

Whereas, feeling aggrieved petitioner approached Hon'ble Central Administrative Tribunal, Srinagar seeking following relief:-

1. An order or direction, seeking quashment of Government Order No. 32-MNG of 2021 dated: 22.12.2021.
2. An order or direction, directing the respondents to promote/ post the applicant as Mining Engineer, strictly on the basis of final seniority issued vide Government Order No. 211-IND of 2008 dated: 07.08.2008.
3. An order or direction, directing the respondents to refrain from posting the ineligible candidates over the higher assignments in the Department.

4. Any other order or direction which the Hon'ble Court may deem it and proper in the given facts and circumstances of this case may also be issued in favour of the applicant and against the respondents, the same would be in consonance with Law and Justice.

Whereas, Hon'ble Central Administrative Tribunal (CAT) vide its order dated: 06.12.2022 in O.A No. 09/2022 titled Sh. Syed Masood Ahmad V/s JKPSA and others was pleased to pass the following directions:-

" Ld. Counsel for the respondents seeks four weeks time to file counter. The same is granted. Ld. Counsel for the applicant submits that the private respondents whose order of promotion as I/c Mining Engineer, was challenged has superannuated, during the pendency of the petition. The applicant claim that he is senior most in the seniority list of Mining Wing maintained by the Department, therefore may be considered for promotion against the post of Mining Engineer on I/c basis. Till the applicant is considered for the regular promotion. Respondents are directed to consider the applicant for promotion as Mining Engineer on I/c basis on the basis of seniority."

Whereas, the order passed by Hon'ble Central Administrative Tribunal was forwarded to Director, Geology and Mining, J&K with the request to furnish detailed report in the matter; and

Whereas, on the basis of report submitted by Director, Geology and Mining, J&K vide his letter No. 491/C-Adm/DGM/Prop-ME/22-23/1090 dated: 11.02.2023 and after examining the case, it has been found that the Department of Geology and Mining, J&K has one post of Mining Engineer sanctioned in establishment carrying pay-scale of level-12(78800-209200)(Rs.15600-39100+7600(GP) pre-revised). The promotion to the post of Mining Engineer is made from the feeding categories of Assistant Mining Engineer and Mineral Officer carrying pay-scale of leve-10 A (56600-179800) in accordance with the Geology and Mining Gazetted Service Recruitment Rules, 1992 which reads as under:-

"100% by promotion from Class-V category "D" (Mineral Officer) and "G" (Assistant Mining Engineer) from amongst persons possessing atleast 10 years experience in J&K, Geology and Mining Gazetted Service including 07 years Service in category "D" or "G" of Class-V. In case of category "D" only person of Mining Discipline is eligible, the ratio of selection between category "D" and "G" will be 50:50, if eligible persons are not available in category "D" with Mining Degree or Diploma then promotion will be from Existing Mining Engineer in the cadre".

Whereas, as per the above rule position the vacancy of Mining Engineers is to be filled from the post of Assistant Mining Engineers and Mineral Officers; and

Whereas, in view of the vacancy position accrued due to retirement of Sh. Imtyaz Ahmad Khan on 31.05.2021, Sh. Mukhtar Ahmad Wani, Assistant Mining Engineer was placed as I/c Mining Engineer in his own pay and grade vide Government Order No. 32-MNG of 2021 dated: 22.12.2021, by taking all the eligibility conditions into consideration including APRs, Integrity Certificate and Vigilance Clearance; and

Whereas, Ore Dressing Officer is not feeding cadre for promotion to the post of Mining Engineer in accordance with the existing J&K Gazetted Recruitment Rules of the Geology and Mining Department notified vide SRO-142 dated: 19.06.1992 presently in vogue; and

Whereas, merely the name of petitioner i.e. Sh. Syed Masood Ahmad figuring in the final seniority list among the Officers of Mining / Workshop / Mineral Concession Wings issued vide Government Order No. 211-IND of 2008 dated: 07.08.2008 cannot be considered for his promotion against the post of Mining Engineer as per the Recruitment Rules governing the subject.

Now, therefore the promotion of the petitioner against the post of Mining Engineer as a sequel to vacancy accrued due to retirement of Sh. Imtyaz Ahmad Khan cannot be considered without taking cognizance of the Recruitment Rules as the Ore Dressing Officer is not feeding cadre for promotion to the post of Mining Engineer in terms of J&K Gazetted Service Recruitment

Rules, of Geology and Mining Department notified vide SRO-142 of 1992 dated: 19.06.1992. Thus the case of the petitioner has been examined / considered in the Department and has been found devoid of merits. Hence rejected.

By Order of the Government of Jammu and Kashmir.

Sd/-

(Amit Sharma) IAS


Secretary to the Government

Dated:24.02.2023

No: GM-LEG/10/2022-07

Copy to the:-

1. Joint Secretary (Jammu, Kashmir and Ladakh), Ministry of Home Affairs, Government of India.
2. Director, Geology & Mining, J&K, Jammu.
3. Director Archives, Archeology and Museums, J&K.
4. Private Secretary to Secretary to the Government, Mining Department.
5. In charge website, Mining Department.
6. Government Order file (w.3.s.c).


24/02

Under Secretary to the Government