



Government of Jammu and Kashmir
Office of the Financial Commissioner (Revenue) Jammu and Kashmir
Srinagar/Jammu

ORDER NO : FCR (Writ) 138 of 2015
DATED : 06 - 04 - 2015

Whereas the Divisional Commissioner Jammu vide letter No. 101/2866/660-61 dated 18-06-2011, submitted the compassionate appointment case of Mr. Asif Rashid Bhat S/o Ab. Rashid Bhat, Tehsildar (Deceased) for appointment in terms of SRO-43 of 1994 for the post of Naib Tehsildar with the submission that his academic qualification is B.A.,L.L.B ;

Whereas this office vide letter No.FC(A)90/Misc/SRO/2011 dated 06/07/2011 forwarded the case of Mr. Asif Rashid Bhat to Commissioner/ Secretary to Govt. Revenue Department for further necessary action ;

Whereas the Administrative Department vide letter No. Rev/NG/68/2011, dated 06-01-2012 requested this office for furnishing the list of vacant posts of Naib Tehsildar under direct quota as on date, enabling them to proceed further in the matter.

Whereas this office vide letter No.FC(A) 90/Misc/SRO/2011 dated 17/02/2012 informed the Administration Department that eighteen posts of (Naib Tehsildar) direct requirement quota are available in this office, but as per the orders of Hon'ble High Court Srinagar, twenty three posts of direct requirement are to be kept reserved ;

Whereas the Administrative Department vide its letter No. Rev/NG/68/2011, Dated 14-03-2012 again requested this office to intimate as to how many posts of Naib Tehsildar are expected to become available during the next three months ; to which this office vide letter No. FC(A) 90/Misc/SRO/2011 dated 28-05-2012 replied that no post will accrue due to retirement /promotion amongst the Naib Tehsildar during the next three months ;

Whereas the Administrative Department vide its letter No. Rev/NG/68/2011, dated 30-8-2012 conveyed the approval of the Hon'ble Minister of Revenue, Relief and Rehabilitation for issuance of appointment order in terms of SRO 43 of 1994 in favour of Mr. Asif Rashid Bhat S/o Late Mr. Ab. Rashid Bhat R/o Village Pochhal Tehsil and District Kishtwar as Patwari, being lowest rank in the Non-Gazetted Cadre in the Revenue Services with the request that appointment Order in

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avour of the beneficiaries may be issued "only after authenticating the genuineness of all certificates requiring for the post as per Revenue (Subordinate) Service rules" and further ordered that the circular instructions issued by General Administration Department vide circular No. 17-GAD of 2012 dated 07-06-2012, shall also be strictly adhered to which provides that candidature of appointee may be cancelled without any notice if any testimonials/certificates are found fake or forged;

Whereas in pursuance of these directions sanction was accorded in terms of SRO-43 of 1994 to the temporary appointment of Mr. Asif Rashid Bhat S/O Late Mr. Ab.Rashid Bhat R/o Village Pochhal Tehsil and District Kishtwar as Patwari against an available post in District Kishtwar in the pay band of Rs. 5200-20200+ Grade pay of Rs. 2400 (Revised) vide this office Order No. FC(Adm) 195 of 2012, Dated 15-10-2012, and accordingly the appointee joined his duties and was deputed for Patwar Training to R.T.I Jammu;

Whereas after completion of 9 months Patwar Training in R.T.I Jammu, petitioner was relieved by Principal R.T.I, Jammu vide his No. RTI/1/541-47, dated 02-09-2013 and was directed to report to Deputy Commissioner Kishtwar for further duties ;

Whereas Mr. Asif Rashid Bhat filed SWP No. 1070/2013 before the Hon'ble High Court of J & K, Srinagar. The Hon'ble High Court issued an order dated 06-06-2013 which is reproduced hereunder as

" Notice to other side returnable within four weeks. Case of the petitioner is that his father was working as Tehsildar, Kishtwar with the respondent department and died in harness on 23-05-2011. Case of the petitioner was processed for appointment on compassionate grounds against the post of Patwari. Petitioner claims appointment against the higher post i. e. Naib Tehsildar on the ground that he being possessed of LLB (5 years). Learned counsel for the petitioner states that similarly situated persons have also in the past appointed with the same qualification or less against the post of Naib Tehsildar. He has placed on record appointment order forming annexure-J bearing order No. Rev (GR) 216 of 2002 dated 25-10-2002.

Notice in CMP also returnable within the same period. In the meanwhile, respondents are directed to consider the case of the petitioner for appointment against the post of Naib Tehsildar. This order is subject to objections of other side.

Whereas the Divisional Commissioner Jammu vide his letter No. 101/2866/1047-49 dated 24-06-2013 forwarded the Hon'ble Court Order dated 06-06-2013 passed in SWP No. 1070/2013, IA No. 1718/2013 titled Asif Rashid Bhat v/s State of J&K and Ors. with the request to accord consideration to the case in accordance with the order of Hon'ble High Court dated 06-06-2013 ;

Whereas this office vide No. FCR/Writ/2036/13/K dated 04-07-2013 forwarded the same recommendation of the Divisional Commissioner alongwith the Hon'ble High Court order dated 06-06-2013 to the Administrative Department for necessary action ;

Whereas the Administrative Department vide its letter No: Rev/NG/174/2013 dated 21-10-2013 requested this office for furnishing of the full factual/ detailed report along with relevant records pertaining to the case enabling them to file objections and to proceed further in pursuance of the interim order dated 06-06-2013 passed by the Hon'ble High Court ;

Whereas this office vide letter No. FCR/Writ/2036/ 13/K dated 19-11-2013 provided the information to Administrative Deptt. regarding the case as desired ;

Whereas the Administrative Department again vide their letter No. Rev/NG/174/2013 dated 01-01-2014 directed this office to intimate whether any post of Naib Tehsildar is vacant against which appointment of the petitioner can be considered;

Whereas this office vide letter No. FCR/2036/Writ/2013/K dated 20-11-2014 informed the Administrative Department that this office vide letter No.FC(A) 84-II/Misc/2013 dated 11-07-2014 and No. FC(A) 84-II/Misc/2014 dated 28-08-2014 had already requested to refer the vacant posts of Naib Tehsildar to Jammu and Kashmir Service Selection Board for further appropriate action as per rules. In addition , 22 post of Naib Tehsildar have been kept reserved on the directions of the High Court of J&K Srinagar/Jammu ;

Whereas this office received a communication from Administrative Department Vide their No. Rev/LAK/43/2014 -Writ dated. 27-02-2015 informing that the matter was taken up with General Administration Department who vide its U.O. No. GAD(Legal) F-633/2014/09 dated 05-01-2015 advised as under :-

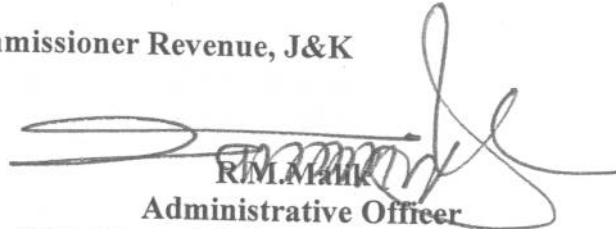
" The Department is advised to consider the claim of the petitioner under rules and accordingly issue a speaking order and file objections to the writ petitioner, as the petitioner can not claim higher post or post of his choice. If he is not satisfied with the job on which he stands appointed on compassionate grounds, he may approach the concerned recruitment agency for selection against higher post."

Whereas in compliance with the directions of the Hon'ble High Court of J&K, Srinagar dated 06-06-2013 passed in SWP No. 1070/2013 titled Mr. Asif Rashid Bhat v/s State and other was once again examined thoroughly and determined that the petitioner does not have any locus standi with regard to his appointment as Naib Tehsildar in accordance with SRO-43, as the compassionate appointment is just to provide succour to the family of the deceased and is with the objective of alleviating the economic distress of the family, which is caused due to the sudden death of the bread earner and does not entail any right to the post of the choice of the dependent of deceased;

Whereas the petitioner is free to approach the concerned recruitment agency for selection against a higher post if he is not satisfied with the post that he has been appointed to on compassionate grounds;

Now therefore the claim of the petitioner being devoid of any merit is hereby rejected

By order of the Financial Commissioner Revenue, J&K


R.M. MALIK
Administrative Officer
With Financial Commissioner (Revenue)

No: FCR/Writ/ 2036 / 13 /K

Dated: 07 .04.2015

Copy to the:

1. Commissioner/Secretary to Govt. Revenue Deptt. J&K, Jammu.
2. Divisional Commissioner, Jammu/Kashmir,
3. Commissioner, Survey & Land Records, J&K, Jammu.
4. Deputy Commissioner, Kishtwar.

for information.

5. Mr. N. H. Shah, Deputy. Advocate General, High Court of J&K, Srinagar for information with the request to appraise the Hon'ble High Court of J&K, Srinagar accordingly.

6. Mr. Arif Rashid Bhat s/o. Abdul Rashid Bhat R/O. Pochhal Tehsil & Distt. Kishtwar for information.

7. I/C NIC for uploading the same in the official website of this office.

8. Office Record file w.2.s.c's