



Government of Jammu and Kashmir
Agriculture Production Department
Civil Secretariat Jammu/Kashmir.

Subject:- Implementation of Order dated 13.11.2003 passed by the Hon'ble High Court at Jammu in SWP No. 2131/2003 titled Khan Mohd Khan Vs State of J&K & Others.

Government Order No. 133 -Agri of 2018
D a t e d : 22 -05- 2018

Whereas, Shri Khan Mohd Khan S/o Shri Shams Din Khan R/o Sanwara Tehsil Gandoh District Doda was appointed as Class-IV "Mali" vide Order No. Estt-17/99/1111-13 dated 10.05.1999 issued by Director Agriculture, Jammu in the pay scale of Rs. 2550-3200 against an available vacancy under the establishment of Chief Agriculture Officer, Doda; and

Whereas, the appointment orders of 81 incumbents including the petitioner were cancelled by the Directorate of Agriculture, Jammu vide Agriculture order No. 114/E of 2002 dated 05.06.2002, being in violation of Government Order No. 120-GAD of 1997 dated 24.01.1997. The said cancellation order was revoked by the Director Agriculture Jammu vide Agriculture Order No. 129/E of 2002 dated 15.07.2002; and

Whereas, all the selectees joined their duties in their respective offices except the petitioner, on the pretext that he was not in know of revocation order dated 15.07.2002 and the moment he came to know about the said revocation order he immediately approached the office of Chief Agriculture Officer, Doda for his joining number of times, but the authorities concerned have not allowed his joining; and

Whereas, the petitioner being aggrieved of not allowing his joining filed writ petition SWP No. 2131/2003 titled Khan Mohd Khan V/s State of J&K & others before the Hon'ble High Court at Jammu, inter-alia on the various grounds and prayed the following relief:-

- i. An appropriate writ, order or direction in the nature of writ of mandamus commanding the respondents to allow the petitioner to join the*

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services as Class IV employee (Mali) pursuant to his appointment made vide order dated 10.05.1999, in the office of Chief Agriculture Officer, Doda.

- ii. An appropriate writ, order or direction in the nature of writ of mandamus commanding the respondents to give effect of appointment to the petitioner w.e.f the date his appointment order was issued and grant him all consequential benefits viz seniority, promotion, arrears of salary.**

Whereas, the Hon'ble High Court at Jammu on 13.11.2003 in the said writ petition was pleased to pass the following directions:-

".....Learned Counsel for the petitioner submits that services of 81 Class IV employees were terminated and termination order, however, stands revoked and out of which 80 class IV employees have been allowed to re-join their services. He submits that respondents be directed to consider the case of the petitioner also. In this view of the matter, respondents may consider the case of the petitioner...."

Whereas, in pursuance to the above said directions, the Director Agriculture, Jammu vide Agriculture Order No. 165/E of 2017 dated 17.06.2017 considered the claim of the petitioner and rejected the same, as lacking any legal basis; and

Whereas, the petitioner made a representation dated 21.12.2017 to the Hon'ble Minister for Agriculture, with the request to intervene in the matter and may take compassionate view by directing the Directorate to allow the petitioner to join on the post on which he was appointed by taking into consideration the peculiar facts and assistance of the case; and

Whereas, taking into consideration the representation viz in compliance to the Hon'ble High Court Order dated 13.11.2003, the matter has been examined in the Department and after perusal of the record it transpires that the petitioner is a bonafide selectee amongst 81 selectees who had joined the Department consequent upon the order dated 15.07.2002. It was incumbent/statutory requirement that the Department should have served the Order No. 129/E of 2002 dated 15.07.2002 to the petitioner with the direction to join in the Department within the stipulated



period under rules but the said procedure had not been followed by the concerned authorities, as such prima-facie on the face of it the denial of the petitioner to join in the Department is per se unwarranted under rules and against the natural justice. Moreover, even though the procedure prescribed under law had not been followed by the then Chief Agriculture Officer, Doda as per the report bearing No. Agri/DAJ/Estt-99/2018/11913 dated 10.02.2018 submitted by the Director Agriculture, Jammu and the selection of the petitioner is still in-force and has not been cancelled till date; and

Now, therefore, in compliance to the Hon'ble High Court Order dated 13.11.2003 and after thoughtful consideration of the facts, records pertaining to the case and keeping in view the natural justice and the prevailing rules governing the subject, it is hereby ordered that the petitioner namely Shri Khan Mohd Khan S/o. Shamas Din R/o. Sanwara Tehsil Gandoh District Doda, shall be allowed to join his services as Mali notionally w.e.f 15.07.2002 i.e, the date, when his counterparts have been allowed to join in the Department, pursuant to the Order No. Estt-17/99/1111-13 dated 10.05.1999 read with Order No. 129/E of 2002 dated 15.07.2002 issued by Director Agriculture, Jammu, alongwith all consequential benefits derived thereof, except monetary benefits.

By Order of the Government of Jammu and Kashmir.


Sd/-
(Muhammad Mehraj-ud-din Khan)
Commissioner/Secretary to the Government,

No. Agri/NG/220/03(K) WP

Dated: 22 /05/2018

Copy to the:-

1. Shri L.K.Moza, Additional Advocate General, J&K High Court, Jammu.
2. Director Agriculture, Jammu.
3. Special Assistant to Hon'ble Minister for Agriculture.
4. Pvt. Secretary to Commissioner/Secretary, Agriculture Production Department.
5. Shri Khan Mohd Khan S/o Shri Shams Din Khan R/o Sanwara Tehsil Gandoh District Doda.
6. I/C Web Site, APD.
7. Govt. Order file/stock file.


(Gurdeep Kour)
Under Secretary to the Government,
Agriculture Production Department.
