

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

**Subject: Order dated 01.04.2024 passed by the Hon'ble Central
Administrative Tribunal, Bench Jammu in O.A No.
61/203/2024 titled Krishan Kumar vs. UT of J&K and Ors.**


**Government Order No: 70-JK(APD) of 2025
Dated: 04.02.2025**

Whereas, a writ petition came to be filed by Sh. Krishan Kumar before the Hon'ble High Court bearing SWP No. 2433/2019 titled Krishan Kumar V/s State of J&K & Ors, claiming therein for correction of his name recorded in Government Order No. 279-Agri of 2008 dated 07.10.2008 as Kishore Kumar instead of Krishan Kumar, so that he may take the benefit of the aforesaid Government Order; and

2. Whereas, the Hon'ble High Court was pleased to dispose of the aforetitled writ petition on 03.07.2019, the operative part of the said judgement reads as under:

"Keeping in view the submission made by the learned counsel for the petitioner as also the nature of relief prayed for in this petition, this writ petition is disposed of by directing respondent No. 1 to consider the grievance of the petitioner, as projected by him in his representations made from time to time in light of the latest communication of the Director of Agriculture Jammu dated 16.05.2019 and take a decision with regard to issuance of necessary corrigendum to the Government Order dated 07.10.2008 within a period of six weeks from the date certified copy of this judgment is made available to him by the petitioner. Needless to say that upon effecting necessary correction, the revised pension papers of the petitioner shall be prepared by the Directorate of Agriculture Jammu without any further delay."

3. Whereas, the case was examined in the department in pursuance to the above judgement passed by the Hon'ble High Court and the communication dated 16.05.2019 of the Director Agriculture, Jammu wherein he had requested for providing a copy of corrigendum to the Government Order No. 279-Agri of 2008 dated 07.10.2008 issued, if any, so that papers could accordingly be processed for revision of the pension of Shri Krishan Kumar, under rules; and


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4. Whereas, upon examination of the matter, it transpired that after commencement of the Jammu and Kashmir Agriculture (Gazetted) Service Recruitment Rules notified vide SRO-179 dated 02.06.1988, many attempts were made to notify list of the members of the service as its initial constitution in accordance with Rule-3 of SRO-179 of 1988 but the attempts could not fructify. During the year 2005, a Government Order No. 31- Agri of 2005 dated 18.02.2005 came to be issued wherein the seniority list of Class VII was notified; and

5. Whereas, after the issuance of Government Order No. 31-Agri of 2005, another Government Order No. 38-Agri of 2005 dated 18.02.2005 was issued, wherein placements/stop gap arrangements of officers of the Agriculture Production Department were made against Class V posts, however, both the above Government Orders came to be challenged in a writ petition bearing SWP No. 184/2005 titled Mohammad Qasim Ganie & Others V/s State of J&K & Others which was disposed of by the Hon'ble High Court on 19.02.2007. The operative part of the judgment ibid reads as under:-

"Under the 1978 rules, the post of AAs were meant only for direct recruits. Since no quota was fixed for the in-service candidates, appointment by promotion on these posts was not permissible under the rules. Thus, the promotion and posting of the respondents against such post was de hors the rules. This being the position they cannot be treated to have been validly appointed against the posts. In such circumstances, it cannot be said that the respondents were holding the posts validly and they cannot be treated to form the initial constitution of the service. Their appointment to the post shall take place from the date the posts became available for them.

Since, they claim the promotional posts they shall get substantive appointment on the posts when such posts became available for them. Official respondents action in this behalf cannot be justified amounts to clear violation of the Rules and settled legal position in this behalf. Such an action if allowed will defeat not only the rights of the petitioner but will amount to gross violation of 1978 rules.

In such circumstances, I find force in the petition, the same is allowed and the impugned orders/ seniority list are hereby quashed. The official respondents are directed to reconsider the matter and re-fix the seniority of the petitioners and private respondents in accordance with the rules and observations made above".

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6. Whereas, in pursuance of the above judgement, the Government Order No. 279-Agri of 2008 dated 07.10.2008 was issued. The said order was, however, also challenged in a host of writ petitions in both the wings of Hon'ble High Court at Jammu as well as Srinagar, wherein interim directions were passed by the Hon'ble Court and accordingly, the Government Order No. 279-Agri of 2008-dated 07.10.2008 was kept in abeyance, vide Government Order No. 14-Agri of 2010-dated 29.01.2010. The order dated 29.01.2010 reads as under:

"In deference to the orders of the Hon'ble High Court of Jammu and Kashmir in a slew of writ petitions tiled Ved Raj Parihar vs. State & others in SWP No. 728/09, charan Jeevan Razdan vs. State & others in SWP No. 44/09 and Gh. Mohammad Dhand vs. State & others in SWP No. 135/09, Government Order No. 279-Agri of 2008 dated 07.10.2008, is hereby put in abeyance.

It is further ordered that status quo ante, as it obtained on 07-10-2008 is restored. All the officers figuring in Government Order No. 279-Agri of 2008 dated 07.10.2008, will report back to their duties at their places of posting as on 07.10.2008.

All the Heads of Department, under whose administrative control the officers, figuring in Government order No. 279-Agri of 2008 dated 07.10.2008, are presently working, shall ensure that they are relieved to join at their original place of posting as on 07.10.2008, within one week. Compliance report to this effect may be sent to the Agriculture Production Department by the 5th of February, 2010."

7. Whereas, a bunch of writ petitions filed before the Hon'ble High Court at Jammu were decided by a common judgment in clubbed writ petitions titled Chiran Jivan Razdan V/s State & others, vide judgment dated 08.04.2010, the operative part of the said judgment is reproduced as under:-

"In these circumstances, I find it just and proper to direct the Administrative Department to place the matter before the PSC/DPC for its examination and final orders. Accordingly all these petitions are disposed of on the consensus of learned counsel for the parties, with the directions to the official respondents to place matter along with final seniority list of all Gazetted Officers prepared by the official respondents who are in the zone of consideration before the State PSC/DPC within a period of two weeks from the date copy of this order is served upon them. The State PSC/DPC shall finalize the matter within a period of six weeks from the date it is placed before it. The state PSC/DPC shall on





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finalization make recommendation to the Government for appropriate orders. Meanwhile, Govt. Order No. 279-Agri of 2008 dated 07.10.2008 impugned in these petitions shall remain subject to outcome of the finalization of the matter by the PSC/DPC."

8. Whereas, the Government Order No. 279-Agri of 2008 dated 07.10.2008 was also challenged in a bunch of writ petitions filed before the Hon'ble Court at Srinagar and the Hon'ble Court vide its judgment dated 29.04.2011 passed in clubbed writ petitions titled Parvaiz Ahmad Kirmani & others V/s State of J&K & Ors, directed as under:

- a. Respondent Principal Secretary Agriculture Production Department shall refer the matter to the State PSC within two weeks from the date copy of this order is served on the respondents.
- b. The Commission shall consider the matter. The matter shall be taken up on priority basis and shall be finalized within a period of four weeks from the date it is received by the commission. Recommendations in this behalf shall be made by the Commission within the said period.
- c. The Government shall on receipt of the matter from the Commission pass appropriate orders in terms of the recommendation within two weeks from the date recommendation in this behalf is received from the Commission.
- d. Govt. Order No. 279-Agri of 2008 dated: 07-10-2008 shall remain in force subject to outcome of the final decision to be taken by the Govt. as above.

"This however, shall not give/confer any benefit to/on the beneficiaries of the order. It shall remain as an interim arrangement only.

Petitions/CMPs disposed of accordingly."

9. Whereas, feeling aggrieved of the above judgement, some stakeholders filed LPA bearing No. 141/2011 titled Mubarak Reshi & others V/s State & others against the aforesaid judgment dated 29.04.2011 before the Hon'ble Division Bench, Srinagar. The department has also challenged the judgment in so far it directed for continuation of Government order No. 279-Agri of 2018 dated 07.10.2008; and

10. Whereas, the matter relating to regularization of Non-Gazetted officials as Gazetted Officers in the Class VII Category was referred to the Public Service Commission (PSC) and on the recommendations of DPC/PSC, Government Order NO. 113-Agri of 2013 dated 19.03.2013,

was issued, wherein number of Officers were regularized. Thereafter, the department notified the final seniority list of the Gazetted Officers in Class VII vide Government Order No. 277-Agri of 2015 dated 11.09.2015 and 278-Agri of 2015 dated 11.09.2015; and

11. Whereas, the applicant namely, Shri Krishan Kumar represented before the department requesting therein for correction of his name as Krishan Kumar instead of Kishore Kumar reflected in Govt. Order No 279-Agri of 2008 dated 07.10.2008; and


12. Whereas, the matter was examined in consultation with the Department of Law Justice and parliamentary Affairs, which vide U.O No. LD (Opn) 2018/166-Agri dated 18.12.2018 opined as under:

"Returned. The reasons given for non rectification of the name is pendency of litigation with respect to Govt order No. 279-Agri of 2008 dated 07.10.2008.

The department is advised to satisfy itself, whether litigation is with respect to correction of name of applicant and if not, an administrative decision may be taken as per rules in vogue."

13. Whereas, Shri Krishan Kumar also filed a contempt petition No. 551 of 2019 WP(C) 2433/19 for non implementation of the judgement dated 03.07.2019; and

14. Whereas, it is observed that Government Order No. 279-Agri of 2008 has been kept subject to the outcome of the writ petitions filed in the Hon'ble High Court. Further the Hon'ble High Court in the case titled "Qasim Ganai Vs State & ors." in SWP No. 184/2005, vide its judgment dated 19.02.2007 had quashed two impugned Government Order Nos. 31-Agri of 2005 and 38-Agri of 2005 as these were not found in accordance with the rules and directed to reconsider the matter and re-fix the seniority of the petitioners and private respondents in accordance with rules and observations made by Hon'ble High Court. The tentative seniority list, notified in 2008 vide endorsement No. Agr/E-8/2008 dated 19.08.2008 read with Notice dated 21.08.2008, which formed the basis for issuance of Government Order No. 279 of 2008, was not based on rules. The Hon'ble High Court, subsequently, in various writ petitions had directed to place the matter before the DPC/PSC for regularization of officers in accordance with rules and all these petitions were found by Hon'ble High Court to be covered under Mohd Qasim Ganai's case supra and various VEWS were regularized w.e.f. 18.10.1988 by the DPC/PSC, consequent upon which Government


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Order No. 113-Agri of 2013 dated 19.03.2013 was issued and subsequently a tentative seniority list of those appointed directly and by promotion, after the commencement of Recruitment Rules of 1988 was notified in accordance with Rule 24 of the J&K Civil Services (Classification, Control & Appeal) Rules, 1956; and


15. Whereas, the case was further examined in the department and vide this department's communication dated 10.03.2020, Shri Krishan Kumar was, inter-alia, apprised that the Government Order No. 279-Agri of 2008 dated 07.10.2008 has lost its validity after issuance of Government order No. 113-Agri of 2013 dated 19.03.2013 read with Government Order No. 348-Agri 2018 dated 28.12.2018 whereby 67 & 11 VEWs / Equivalent have been regularized as AEOs/ Equivalent; and

16. Whereas, the Director Agriculture Jammu vide communication dated 21.01.2021 informed that the officer has not been extended the benefits of promotion/ grade /pensionary benefits due to the pending rectification of his name as Krishan Kumar instead of Kishore Kumar in Class-III, as the said officer had already retired at the time of issuance of the order; and

17. Whereas, the name of the petitioner had been inadvertently mentioned as Kishore Kumar instead of Krishan Kumar in the Government Order No. 279-Agri of 2008 dated 07.10.2008, however, the said order having lost its relevance after issuance of Government Order No. 14-Agri of 2010 dated 29.01.2010 read with Government Order No. 113-Agri of 2013 dated 19.03.2013, as such, correction of name of the petitioner in an order which is non-existent as on date is not warranted; and

18. Whereas, the claim of Shri Krishan Kumar stands already rejected by virtue of a consideration/ speaking Government Order No. 46-JK(Agri) of 2021 dated 16.03.2021 in pursuance to the Judgment dated 03.07.2019, passed by the Hon'ble High Court in SWP No. 2433/2019 titled Krishan Kumar V/s State of J&K & Others being devoid of any merit as the Government Order No. 279-Agri of 2008 dated 07.10.2008 has lost its relevance after effecting regular promotions on the recommendation of the DPC/PSC in favour of various Agriculture extension officers Vide Government Order No.113-Agri of 2013 dated 19.03.2013; and

19. Whereas, Shri Krishan Kumar, approached the Hon'ble Central Administrative Tribunal (CAT) through the medium of an Original Application numbered as OA No. 61/203/2024, inter-alia, praying


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therein that the respondents may be directed to provide to the petitioner the benefit that accrues to the petitioner in accordance with the Government order No. 279-Agri of 2008 dated 07.10.2008 on the analogy and principle on which the such benefit has been provided to many other similarly circumstanced persons; and


20. Whereas, the Hon'ble Tribunal was pleased to disposed of the OA. ibid vide its order dated 01.04.2024 with the following directions:

"Accordingly, the Original Application is disposed of with a direction to respondents to treat this O.A. as representation of the applicant and decide the same by passing a reasoned and speaking order keeping view the communication dated 21.01.2021, Issued by the Directors Agriculture Production & Farmers Welfare, wherein they have admitted the error committed by the respondents by wrongly mentioned name of the applicant, i.e. Krishan Kumar(applicant herein) was wrongly mentioned as Kishore Kumar and he was the only officer who was not given the benefit of promotion/grade/pensionary benefit. Respondents are further directed to communicate the order so passed to the applicant. Before passing any order, the applicant shall also be afforded an opportunity of hearing. The whole exercise shall be undertaken expeditiously within a period of four weeks from the date of receipt of a certified copy of this order."

21. Whereas, in compliance to the directions passed by the Hon'ble Central Administrative Tribunal, on 01.03.2024, the petitioner namely, Shri Krishan Kumar was heard in person on 06.05.2024 in the office Chamber of the then Special Secretary to the Government, Agriculture Production Department; and

22. Whereas, Shri Krishan Kumar filed a contempt petition bearing No. C.P 224/2024 for alleged disobedience of order dated 01.04.2024 passed by the Hon'ble Tribunal and the Hon'ble Tribunal vide its order dated 12.08.2024, inter-alia, directed the respondents to file a compliance report.

23. Whereas, the plea of the petitioner for correction of his name is untenable for the reason that the Government Order No. 279-Agri of 2008 dated 07.10.2008 under which the applicant is claiming benefits has lost its relevance after issuance of Government Order No. 14-Agri of 2010 dated 29.01.2010 read with Government order No.113-Agri of 2013 dated 19.03.2013, as such, no corrigendum can be issued in respect of the non-existent order.


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24. Now, therefore, in compliance to the order dated 01.04.2024 passed by the Hon'ble Central Administrative Tribunal, Bench Jammu in OA 61/2023/2024, the claim of the applicant namely, Krishan Kumar (retired officer) for correction of his name in Government Order No. 279-Agri of 2008 dated 07.10.2008 after being examined in light of records/rules governing the subject and the communication dated 21.01.2021 of the Director Agriculture, Jammu is found devoid of merit and accordingly rejected for the reasons stated herein-above.

By Order of the Government of Jammu and Kashmir.

Sd/-

(Shailendra Kumar) IAS

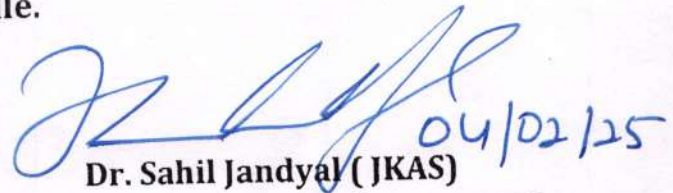
Principal Secretary to the Government

Agri-Gaz/4/2021(E11387)

Dated: 04.02.2025

Copy to the:

1. Joint Secretary (Jammu, Kashmir & Ladakh), Ministry of Home Affairs, Govt. of India, New Delhi.
2. Joint Secretary (J&K) Ministry of Home Affairs of India.
3. Director, Archives, Archaeology & Museums, J&K.
4. Director Agriculture, Kashmir / Jammu.
5. Director Command Area Development Department Jammu/ Kashmir
6. OSD to the Hon'ble Minister for Agriculture Production Department, Rural.
7. Private Secretary to Principal Secretary to the Government, Agriculture Production Department for information of Principal Secretary.
8. Private Secretary to Secretary (T), Agriculture Production Department for information.
9. Mr. Krishan Kumar, S/o Bikram Chand, R/o Hiranagar, Kathua, at present, H. No. 07, Lower Roop Nagar, Jammu.
8. I/C Website APD
9. Government Order file/ Stock file.


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Dr. Sahil Jandya (JKAS)

Additional Secretary to the Government