

Government of Jammu and Kashmir  
Transport Department, Civil Secretariat, J&K, Jammu.

*Subject: - Appointment of Shri Taramani S/o late Shri Tridoo Ram R/o Ward No.5, Near Kohli Arms India, Kathua.*

*Reference: - Hon'ble High Court Order dated: 02-02-2018 passed in SWP No. 629/2008 c/w SWP No. 110/2007 titled Taramani vs State of J&K and others read with order dated 19-11-2018 passed in LPA No. 153/2018 titled State of J&K & Anr. V/s Taramani.*

Government Order No. **74**-TR OF 2019  
Dated: - **03** -12-2019

**Whereas**, J&K Service Selection Board advertised 20 posts of Motor Vehicle Inspector (Survey) and (Technical) under State cadre/Division cadre vide Advertisement Notice No. 10 of 2005 dated 29.05.2005. The minimum qualification prescribed was diploma in Automobile Engineering from any recognized Institution having at least 5 years experience from any recognized institute or state transport undertaking. The cut of date for submission of application form was 31-01-2006 and horizontal reservation for ex-servicemen (with age limit of 48 years as on 01-01-2005) to the extent of 6% was notified.

**Whereas**, Service Selection Board issued corrigendum to afore mentioned advertisement notice on 21-02-2006 wherein, the prescribed qualification was revised as below:-

1. *Minimum general qualification of pass in 10<sup>th</sup> standard and;*
2. *(i) a diploma in Automobile Engineering (3 years Course)  
Or  
(ii) a diploma in Mechanical Engineering awarded by the State Board of Technical Education (3 years).  
Or  
(iii) any qualification in either of the above disciplines declared equivalent by the Central Government of State Government.*
3. *Working Experience of at least one year in a reputed automobile workshop[p which undertakes repairs of both light motor vehicles, heavy goods vehicles and heavy passenger motor vehicles fitted with diesel and petrol engine, and*
4. *Must hold a driving license authorizing him to drive motor cycle, heavy goods vehicles and heavy passenger motor vehicle.*

**Whereas**, J&K SSB vide letter No. SSB-T3/08/Secy/3256-57 dated 26-03-2018 intimated to Transport

Department that petitioner (Taramani) had applied in response to above mentioned notification under the Ex-servicemen category and was not allowed to participate in the interview owing to the fact that he had not retired from the services.

**Whereas**, J&K SSB also mentioned in above said letter that petitioners' interview was conducted pursuant to directions of Hon'ble Court in SWP No. 110/2007 but was not recommended/selected for said post.

**Whereas**, JKSSB also intimated vide above said communication that aggrieved of non selection under Ex-Servicemen category the petitioner filed a writ petition bearing number SWP 629/2008 which was clubbed with SWP No. 110/2007 and above said case was decided by Hon'ble Court vide judgment dated 02-02-2018. The operative part of which is reproduced as under:-

*"Therefore, in view of what has been discussed above, I deem it proper to allow the writ petition. Accordingly, the writ petition is allowed. Respondents are directed to treat the petitioner to have been **selected/appointed** against the post of Motor Vehicle Inspector (Survey) and (Technical) pursuant to Advertisement Notice No. 10 of 2005 dated 29.12.2005 under the category of Ex-servicemen and he shall be allowed all consequential benefits including promotion, seniority etc. with effect from the date of respondent No. 4 came to be appointed as such. However, petitioner shall not be entitled to monetary benefits till he is actually appointed against the post in-question. In case there is no post of Motor Vehicle Inspector (Survey) and (Technical) available as on date, respondents are directed to create a supernumerary post for the petitioner. Let relevant order(s) in this regard be issued within a period of two months from today. Concerned miscellaneous petition(s), accordingly, stands disposed off."*

**Whereas**, vide aforementioned communication JKSSB intimated that judgment dated 2-02-2018 involves issue related to appointment and not selection and requested Transport Department to take decision regarding implementation of court Judgment.

**Whereas**, Transport Department filed LPA bearing No. 153/2018 titled State of Jammu and Kashmir and anr. Vs Taramani before Hon'ble Division Bench of High Court at Jammu, which came to be disposed off vide order dated 19-11-2018 with following directions:-

*"in view of the above, the order impugned dated 2<sup>nd</sup> February, 2018 passed by the learned single Judge cannot be assailed on any legally tenable grounds."*

We find no merit in this appeal and the same is, therefore, dismissed.

The appellants shall ensure compliance with the impugned order within a period of six weeks from today.

The private respondent shall also be entitled to costs of present litigation which are quantified at Rs. 25,000/- these costs shall be paid to the private respondent No. 1 within a period of six weeks from today".

**Whereas**, after receiving the judgment of Division Bench of Hon'ble High Court the matter was taken up with Department of Law, Justice and parliamentary Affairs, who intern advised Department to implement orders of Hon'ble Court as the matter was not fit for filing of SLP. Accordingly the matter was taken up with Finance Department for its Concurrence. Finance Department concurred as:-

"Returned. Finance department conveys its concurrence to the departmental proposal of creation of one post of Motor Vehicle Inspector on Supernumerary basis in favour of Shri Taramani (petitioner), in Pay Band of Rs. 9300-34800 + 4280 (G.P) w.e.f 01-04-2008 to 25-02-2014 on notional basis subject to the following conditions :-

- The post is created in the applicable Pay Band as prescribed in the Service (Subordinate) Recruitment Rules of the department.
- The post shall cease to exist immediately on 25-02-2014 and no arrears shall be paid strictly as per the Hon'ble Court orders in the matter.
- Orders are issued with prior approval of the competent authority.

**Whereas**, the case was submitted for the approval of Hon'ble Lieutenant Governor through Chief Secretary in coordination. The approval of Hon'ble Lieutenant Governor was received vide OM No. GDC-121/CM/2019 dated 29-11-2019 same is reproduced as under:-

"in compliance with the judgment dated 02-02-2018 passed in SWP No. 629/2008 c/w SWP No. 110/2007 read with order dated 19-11-2018 passed in LPA No. 153/2018 titled State of Jammu and Kashmir & Anr. Vs Taramani, sanction is hereby accorded to the creation of one supernumerary post of Motor Vehicle Inspector in the pay scale of Rs. 9300-34800+4280 (GP) with effect from 01-04-2008 to 25-02-2014 on notional basis for the purpose of appointment of Shri Taramani (petitioner) s/o Late Shri Tridoo Ram R/o Ward No.5, Near Kohli Arms India, Kathua.

Consequent to the above, sanction in relaxation of the Jammu and Kashmir Motor Vehicles Department (Subordinate) Service Recruitment Rules, 1974 to the temporary appointment of Shri Taramani s/o Late Shri Tridoo Ram R/o Ward No.5, Near Kohli Arms India, Kathua as Motor Vehicle Inspector in the pay Scale

of Rs. 9300-34800+4280 (GP) notionally w.e.f. 01-04-2008 and regularly with immediate effect.  
The notional appointment shall be for the purposes of fixation of seniority and promotion and pay without payment of arrears on this account. This shall, however, not form precedence for any similarly situated cases(s) in future".

**Whereas**, Transport Commissioner, J&K is appointing authority for Motor Vehicle Inspectors in Motor Vehicles Department.

Now, in view of above, sanction is accorded to the Transport Commissioner J&K to issue temporary appointment orders in favour of Shri Taramani s/o Late Shri Tridoo Ram R/o Ward No.5, Near Kohli Arms India, Kathua as Motor Vehicle Inspector in the pay Scale of Rs. 9300-34800+4280 (GP in relaxation to the Jammu and Kashmir Motor Vehicles Department (Subordinate) Service Recruitment Rules, 1974) notionally w.e.f. 01-04-2008 and regularly with immediate effect subject to fulfillment of all the terms and conditions specified in the advertisement notice viz-a-viz other requisite conditions required for initial appointment to the services as per CSR. The notional appointment shall be for the purpose of fixation of seniority, promotion and pay without payment of arrears on this account. This shall, however, not form precedence for any similarly situated cases(s) in future.

By order of the Government of Jammu & Kashmir.

Sd/

(Dr. Asgar Hassan Samoon) IAS  
Principal Secretary to Government,  
Transport Department

No: TR-21/MVD/Legal/2018


Dated: 03-12-2019

Copy to the:-

1. Financial Commissioner, Finance Department.
2. Secretary to Government, General Administration Department
3. Secretary to Govt. Law, Justice and Parliamentary Affairs.
4. Transport Commissioner, J&K Jammu.
5. Secretary J&K Service Selection Board with request to provide application form of the petitioner along with certified copy of all the documents appended with application form

and all the terms and conditions of the notice to be satisfied by the applicants to be eligible for the post to Transport Commissioner J&K.

6. Shri Arshid Majeed Malik, Deputy Advocate General J&K High Court Jammu.
7. Pvt. Secretary to the Principal Secretary, Transport Department for information of Principal Secretary.
8. Shri Taramani s/o Late Shri Tridoo Ram R/o Ward No.5, Near Kohli Arms India, Kathua
9. Government order file / Stock file.

  
Chand Singh(KAS)  
Under Secretary to Government  
Transport Department