

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

Subject: SLP No. 6161/2022 in SWP No 2319/2015, IA No's 2/2015-1/2016 - titled Abdul Majid Bhat and Others V/s UT of J&K & Ors-regularization.

Refer: U.O. No. GAD-CORD/140/2022-09 dated: 28-02-2023 of General Administration Department.

**Government order: 24-JK (TR) of 2023**  
**Dated: 09-03-2023**

**WHEREAS**, an Empowered Committee (EC) under Section 10 of the Jammu and Kashmir Civil Service (Special Provision), Act, 2010 was constituted in the Finance Department to scrutinize the cases of such employees who had been appointed on Adhoc/Contractual and Consolidated basis against clear vacancy and recommend them to the concerned Department for regularization;

**WHEREAS**, the Department referred 91 cases of the employees of the Motor Vehicle Department to the Empowered Committee for scrutiny and consideration. The Empowered Committee (12<sup>th</sup> meeting 13-06-2011) vide endorsement No. A/105 (10)-746 dated 27-06-2011 returned back 83 cases including the cases of petitioners with the remarks that "**does not fall within the purview of EC being paid out of contingencies**;

**WHEREAS**, aggrieved by the decision of the Empowered Committee, the petitioner(s) filed a writ petition before Hon'ble High Court vide SWP No. 250/2013 titled Abdul Majid V/s and Ors. for their regularization against the Class-IV posts in the Motor Vehicles Department. The Hon'ble High Court vide order dated 12-09-2014 disposed of the above writ petition with the following directions:-

"a. Respondents are directed to consider the cases of petitioners for the purpose of regularization strictly in accordance with J&K Civil Services Special Provisions Act, 2010.

b. The grounds that the petitioners were being paid out of the contingent funds would not be a ground for refusal of consideration for regularization nor would they be considered as disqualified for such regularization.

c. The case of the petitioners will be considered for grant of Minimum Wages Act 1948 w.e.f. the date of their initial appointment as such consolidated workers and arrears shall be paid accordingly.

d. The order of consideration would be passed in respect of the petitioners within a period of two months from the date of copy of this order is served upon them ."







**WHEREAS**, in compliance to the directions of the Hon'ble High court dated 12-09-2014, the cases of the seven (07) petitioners were again forwarded to the Empowered committee for reconsideration of their cases. The Empowered committee in its 47<sup>th</sup> meeting which was held on 18-05-2015 decided as under:-

<b>List of consolidated workers found eligible/deficient pertaining to Transport Department as decided in the 47<sup>th</sup> ECM held on 18.05.2015</b>				
<b>S.No</b>	<b>12ECM S.No.</b>	<b>Name of the Petitioners/incumbents</b>	<b>Desgn.</b>	<b>Decision</b>
1	6	Rakesh Kumar S/o Krishan Chand R/o Tilla Deoli, Kathua		<p>The Cases from S.No. 1 to 7 consolidated workers of Transport Department were placed before the EC for review of the decision taken by the EC in 12<sup>th</sup> meeting dated 13.06.2011, in view of orders of the Hon'ble High Court, issued on 12.09.2014 as under:-</p> <p>a)"Respondents are directed to consider cases of petitioners for the purpose of regularization strictly in accordance with the Jammu &amp; Kashmir Civil Services (Special Provisions) Act, 2010."</p> <p>b) The ground that the petitioners were being paid out of the contingent funds would not be a ground for refusal of consideration for regularization nor would they be considered as disqualified for such regularization."</p> <p>The cases of these persons were examined as per provisions of J&amp;K Civil Services (Special Provisions) Act, 2010 and not found eligible on the following grounds:-</p> <ol style="list-style-type: none"> <li>1. These persons have not been engaged against any clear vacancy or a post, as such, do not fulfil the criterion laid down under section 5 (i) of Jammu &amp; Kashmir Civil Services Special Provision Act, 2010.</li> <li>2. Since, they have not been engaged against any post, hence it is not possible to ascertain whether they fulfil the eligibility criteria as laid down under section 5 (iii) of the Act.</li> </ol> <p>In compliance with the directions of Hon'ble High Court, the fact that the petitioners were being paid out of the contingent funds was not invoked as a reason for deciding the matter although Section 3(d) of the Act provides that the Act shall not apply to employees paid out of contingent grants, which fact has not been brought by the Transport Department to the notice of the Hon'ble Court.</p>
2	7	Shamsher Singh S/o Ragvir Singh R/o Maha, Kathua		
3	8	Ashwani Kumar S/o Chuni Lal R/o Muthi, Jammu		
4	17	Sunny Sawhney S/o Girish Chander R/o H. No. 67-A, Bikram Chowk Jammu. (Deceased)		
5	18	Abdul Majid S/o Soni Mohd R/o Khara, Madana Samba		
6	19	Aman Kumar S/o Chuni Lal R/o Akal Pur, Jammu		
7	22	Kashav Singh S/o Tabiat Singh R/o Sadyal, Khara Madana Samba		

**WHEREAS**, the Empowered Committee rejected the cases of the petitioners on both the occasions owing to the fact that they were not engaged against the clear cut vacancies, which was one of the pre-requisite condition under section 5 (1) the said Act 2010;

**WHEREAS**, the petitioners challenged the order of the Empowered committee by way of filing SWP No 2319 of 2015 and same was disposed of by the Hon'ble High Court vide its order 22.11.2018, the operative part of which reads as:-

**"Be that as it may, this petition is allowed, order impugned dated 18-05-2015 is hereby quashed. The petitioners are held entitled to regularization in terms of Jammu and Kashmir civil services (special Provisions) Act, 2010. An appropriate order**