

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

Subject: OA No.61/1364/2022 titled Mubashir Hussain Agoo V/s UT of J&K and Ors.

Refer: U.O. No. GAD-ADM0IV/253/2022-09-GAD dated 30-12-2022 of General Administration Department.

Government Order No. 25 -JK(TR) of 2023
Dated: 15 -03-2023

WHEREAS, Sh. Mubashir Hussain Agoo was engaged/appointed as Junior Assistant on Adhoc basis in the Motor Vehicles Department vide Order No. 45/TC of 1999 dated: 20-01-2021, issued by the Transport Commissioner, J&K,

WHEREAS, the Government of Jammu and Kashmir had notified the Jammu and Kashmir Civil Services (Special Provisions) Act, 2010 for regularization of employees who were engaged/appointed on Adhoc/Contractual and Consolidated basis;

WHEREAS, among others, the regularization case of Mr. Mubashir Hussain Agoo, Junior Assistant, Motor Vehicles Department was sent to the Finance Department for placing the same before the Empowered Committee constituted for the purpose;

WHEREAS, the Empowered Committee in its 50th meeting held on 19-08-2015, inter-alia has cleared the regularization case of Mr. Mubashir Hussain S/o Abdul Rashid Agoo R/o Kishtwar for the post of Junior Assistant.

WHEREAS, the case was examined in the Department and vide this Department's O.M. dated: 01-09-2017, the matter was taken up with the General Administration Department (Vig.) to furnish the vigilance clearance in favour of the following six (06) eligible candidates whose regularization case have been cleared by the Empowered Committee in its 50th meeting held on 19-08-2015 for regularization in terms of J&K, Special Provision Act, 2020:-

S/Shri

1. Manoj Nargotra
2. Mubashir Hussain
3. Vikramjeet Mengi
4. Rajesh Jamwal
5. Hafiz-UL-Rehman
6. Sajjad Hyder Beigh



WHEREAS, the General Administration Department vide O.M. No. GAD(Vig) 21-NOC/2017-TPT dated: 05-10-2017 has intimated that the incumbent was involved in case FIR No. 13/2002 PS VOJ in the capacity of I/c Record Keeper, in the office of Regional Transport Officer, Jammu;

WHEREAS, Sh. Mubashir Hussain Agoo, Junior Assistant approached this Department through a medium of representation for Vigilance Clearance. After examination and vide this Department's letter dated: 24-12-2020, the matter was taken up with the Transport Commissioner, J&K to furnish his comments/views with regard to involvement of Sh. Mubashir Hussain Agoo in case FIR No. 13/2002 PS VOJ, when he was Record Keeper in the office of RTO, Jammu, enabling the Department to proceed further;

WHEREAS, in turn, the Transport Commissioner, J&K, vide communication dated: 26-08-2021 has furnished the enquiry report conducted against the official in-question, which is as under:-

"The investigation of the above subjected case was concluded as departmental enquiry and the matter was referred to the Commissioner Secretary to Government Transport Department vide letter No. CV-FIR-13/2002-10964 dated 23.03.2005. The enquiry stands conducted by the Regional Transport officer Jammu though Assistant Regional Transport Officer Jammu Mr. V.K. Duggal, who conducted the enquiry minutely and also enquired the matter from each and every official of the RTO office who were directly or indirectly linked with the process of registration upkeep of record. The officer concluded the inquiry with the remarks that the interested party might have misplaced the records which were not traceable at the time of investigation and also has revealed that the volume of records, paucity of space and lack of maintenance of paper inventories has also paved way for the misplacement of records. He also has made some suggestions upkeep of record and also to avoid such mis-happening in future.

The suggestions made by the enquiry officer were also enacted by way of shifting the RTO office to the newly constructed building from Ware House to Transport Nagar Narwal and proper security arrangements were put in place. Separate rooms for record keeping have been made available to the registration section, inventories have been prepared and record is properly registered. Computerization of all sections has taken place and digitization of old records is also under process. Since the shifting of RTO office and above changes in the record keeping system, nothing like the instant case has been heard.



Regarding Mr. Mubashir Hussain Agoo, Jr. Assistant whose regularization under Special Provision Act 2010 has been kept withheld for want of Vigilance clearance. The said Jr. Assistant was at that time posted in RTO Office Jammu and was investigated for the misplacement of records, has already been exonerated by the Hon'ble Special Court Anti Corruption Jammu with the view as per the report of the Chief Prosecuting Officers bears testimony to the fact that the whole case revolves round the seizure and perusal of documents which are neither in the custody nor within the control of the accused petitioner (Mr. Mubashir Hussain who sought intervention of the Hon'ble Court).

WHEREAS, Mr. Mubashir Hussain Agoo has approached the Hon'ble Central Administrative Tribunal with the prayer for his regularization. The Hon'ble CAT vide Order dated 26-09-2022, which is reproduced as under: -

"Pending final adjudication of the application the Hon'ble Tribunal may be pleased to direct the respondents to process the case of applicant for seeking vigilance clearance from the vigilance section of General Administration Department."

WHEREAS, as per the directions of Hon'ble CAT, the posting details Mr. Mubashir Hussain Agoo, Junior Assistant, working in the office of ARTO, Kishtwar was sent to the General Administration Department through e-portal (online) for obtaining Vigilance Clearance or otherwise in his favour;

WHEREAS, in response, the General Administration Department vide communication dated: 25-04-2022 has intimated that there is nothing adverse against Mr. Mubashir Hussain Agoo, S/o Sh. Abdul Rashid CPIS No. /Emp. Code DODTPT00010003, designation Junior Assistant/Store Keeper;

WHEREAS, the Ministry of Home Affairs (Department of Jammu, Kashmir and Ladakh Affairs) vide ORDER issued under S.O. 1229 (E) dated: 31st March, 2020, inter-alia, has repealed the Jammu and Kashmir Civil Services (Special Provisions Act), Act (Act. No. XIV of 2010 as a whole and

WHEREAS, the case of the petitioner was again examined in the Department and vide this Department's U.O. No. TRPT-MVD0LEG/69/2022-02-TPT dated 23-11-2022, the case was sent to the



General Administration Department for advise/opinion in the matter, who vide U.O. No. GAD-ADM0IV/253/2022-09-GAD dated 30-12-2022 has opined as under: -

"The Department of Law, Justice & Parliamentary Affairs was earlier consulted in relation to regularization and the said Department has opined that the policy of regularization in terms of executive orders, statutory rules and legislative enactments are violative of Article 14, 15 and 16 of the Constitution of India in view of the law laid down by the Hon'ble Supreme Court in a Constitutional Bench judgment rendered in Secretary, State of Karnatak-2006-SC-1806." Vs Umadevi AIR."

Now, therefore, in view of the facts elucidated above and as per the opinion of the General Administration Department, the case of the incumbent has been examined by the department and found devoid of merit and hence rejected.

By Order of the Government of Jammu and Kashmir.

Sd/-

(G. Prasanna Ramaswamy) IAS

Secretary to the Government
Transport Department.

No. TRPT-MVD0LEG/69/2022-02-TPT
Copy to the:-

Dated: **15**-03-2023.

1. Commissioner/Secretary to the Government, General Administration Department.
2. Joint Secretary (J&K), Ministry of Home Affairs, Government of India.
3. Transport Commissioner, J&K Jammu.
4. Private Secretary to Secretary to the Government, Transport Department.
5. Advocate, Hon'ble CAT, Jammu for information.
6. Concerned officials for information.
7. Incharge Website.
8. Govt. order/Stock file.



(Manik Singh Rathore)

Under Secretary to the Government,
Transport Department.