



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

Subject: Implementation of the judgement/ order dated 30.09.2016 passed by the Hon'ble High Court, Srinagar in SWP No. 1387/2008 titled Shabir Ahmad Khan & Ors. V/s State & Ors.

Government Order No. 07 -Coop of 2017
Dated: 09 -02 - 2017

Whereas, vide Cabinet Decision No.109/12 dated 15.07.1999, J&K Cooperative Consumer Federation Ltd; (CONFED) was ordered to be wound up with the stipulation that the employees of the erstwhile CONFED will be suitably adjusted and;

Whereas, after abolition of CONFED a writ petition bearing SWP No. 1839/1999 was filed by the erstwhile employees of the CONFED titled Mohd Yousuf Magrey and Others V/s State and Others, which was decided vide judgement dated 30.09.2005 with the following direction:-

- a. **The Government shall implement the Cabinet Decision No.109/12 dated 15.07.1999 and for that purpose should constitute a committee of officers within a period of one month.**
- b. **The committee so constituted shall look into the suitability of the petitioners for their permanent adjustment in the Government Department. The committee shall find out as to whether the petitioners were suitable for their adjustment in the Government Department i.e. whether they fulfill the other conditions such as qualification, health condition, permanent resident etc. for Government employment. Those who are found suitable should be offered posts commensurate with their qualification and the pay scale which they were holding in the CONFED. Those not found suitable for Government job due to lack of qualification or any other reasonable clause shall be offered the Golden Handshakes and;**

Whereas, vide Government Order No. 37-Coop of 2006 dated 21.01.2006 a committee was constituted in compliance to the said directions of the Hon'ble High Court, which finalized its finding and thereafter initially ten employees of the erstwhile CONFED were adjusted in the Cooperative Department vide Government Order No. 26-Coop of 2007 dated 26.10.2007 and;

Whereas, out of above said ten employees, five employees filed writ petition bearing SWP No. 812/2008 titled Ghulam Ahmad Reshi and Ors. V/s State and Ors. and remaining five employees have also filed instant writ petition i.e. SWP No. 1387/2008 titled Shabir Ahmad Khan and Ors. V/s State and Ors. and;

Whereas, the writ petition bearing SWP No. 812/2008 titled Ghulam Ahmad Reshi and Ors. V/s State & Ors. was disposed of by the Hon'ble High Court on 22.04.2011 with the following directions:

"For the reasons discussed, the writ petition is disposed of with a direction to the respondents to place the petitioners in the grade in which they were working in CONFED, release annual increments in said pay scales and pay arrears, if any, accruing to them in wake of such placement. The respondents are further directed to count the services of the petitioners rendered by them, in the CONFED towards their total period of service, which they will spend in the Cooperative Department, after their permanent absorption and on that basis, consider their cases for time bound promotion and pensionary benefits".

Whereas, the said judgement dated 22.04.2011 was challenged in LPA No. 202/2011 titled State of J&K & Ors. v/s Ghulam Ahmed Reshi & Ors. and the same was disposed of by the Hon'ble Division Bench on 06.08.2015 with following observations:-

"In the aforementioned backdrop, the impugned judgment cannot be said to be flawed, warranting any interference. We, therefore, find that the appeal in hand lacks merit, which is, accordingly, dismissed along with CMP. Interim direction, if any, shall stand vacated forthwith."

Whereas, an SLP No. (C)17801/2016 titled State of J&K and others v/s Ghulam Ahmed Reshi and Others was filed before the Hon'ble Apex Court, against the order dated 06.08.2015 passed in LPA No 202/2011 and the Hon'ble Apex Court vide order dated 26.09.2016 has been pleased to dismiss the said SLP, and;

Whereas, the matter was submitted to the Chief Secretary, J&K for orders, the same has returned by the General Administration Department with the following advice:-

"The Cooperative Department is advised to implement the judgement passed in SWP No. 812/2008 titled Ghulam Ahmad Reshi & Others v/s State of J&K & Others, in totality. The Department is further advised to seek reasonable time from the Hon'ble High Court for implementation of the judgement in its totality, as the implementation of the judgement would involve determination of the promotion of the petitioners against various posts vis-à-vis their immediate senior/junior in the said service/department."



+Whereas, the Hon'ble High Court, Srinagar on 30.09.2016 has disposed of instant writ petition bearing SWP No. 1387/2008 with the directions as under:

"In light of the said stand taken by the respondents that the applicants case is similar to SWP No.812/2008 and the said writ petition having been allowed, affirmed in LP appeal and SLP having been dismissed, this application is also ordered in terms of the order made in SWP No.812/2008 dated 22.04.2011 affirmed in LPA No.202/2011 dated 06.08.2015."

Whereas, the matter was taken up with the General Administration Department vide U.O. No. Coop/Legal/99/2015 dated 06.12.2016 for advice with regard to implementation of the above said judgement dated 30.09.2016 and vide U.O. No. Coop/Legal/10/2016 dated 19.12.2016 for implementation of judgments passed by the Hon'ble High Court in different six writ petitions, which have been decided on the analogy of SWP No. 812/2008 i.e. SWP No's. 1205/2011, 2723/2012, 905/2013, 1849/2010, 2678/2011 & 2687/2015, which were upheld by the Hon'ble Division Bench, J&K High Court, in LPA's No.131/2016, 22/2016, 23/2016, 24/2016 & 25/2016 and;

Whereas, the General Administration Department vide its U.O No. GAD (Adm) 15/2007-V dated 31.01.2017 advised as under:

"The Department is advised to implement the judgement passed by the Hon'ble Division Bench in respect of all the surplus employees of CONFED, who were absorbed in the Government Departments, pursuant to the Cabinet Decisions, to avoid any further litigation."

Now, therefore, in view of the above and in compliance to the order/judgement dated 30.09.2016 passed by the Hon'ble High Court, Srinagar in SWP No.1387/2008, coupled with the advice of General Administration Department, the Registrar, Cooperative Societies, J&K is hereby directed, that the Government Order No.29 Coop of 2016 dated 16-8-2016 issued for the implementation of order made in SWP No.812/2008 dated 22-10-2011 affirmed in LPA No. 202/2011 dated 06.08.2015 be similarly complied with, and to implement the judgement dated 22.04.2011 passed in SWP No. 812/2008 in totality in respect of petitioners in SWP No.1387/2008.

 **By Order of the Government of Jammu and Kashmir.**


Sd/-
(Hemant Kumar Sharma)IAS
Secretary to Government,
Cooperatives Department

No: - Coop/Legal/99/2015
Copy to the:

1. Chief Secretary, J&K Government, Jammu.
2. Principal Accountant General, J&K.

Dated 09 -02-2017

3. Commissioner/Secretary to Government, Finance Department.
4. Commissioner/Secretary to Government, General Administration Department.
5. Secretary to Government, Department of Law, Justice and Parliamentary Affairs.
6. Registrar Cooperative Societies, J&K for implementation and to file the compliance report in the Hon'ble High Court.
7. Director, Archives, Archaeology and Museums, J&K, Jammu.
8. OSD to Hon'ble Deputy Chief Minister, J&K for information of the Hon'ble Deputy Chief Minister.
9. Additional Advocate General (Cooperatives Department) J&K High Court, Srinagar for information and necessary action.
10. All concerned DDO's (Cooperative Societies) for information.
11. Private Secretary to Hon'ble Minister for Ladakh Affairs and Cooperatives for information of Hon'ble Minister.
12. Private Secretary to Hon'ble Minister of State for Cooperatives for information of Hon'ble Minister of State.
13. Private Secretary to Secretary to Government, Cooperatives Department for information of Secretary.
14. P.A to Additional Secretary to Government, Cooperatives Department for information of Additional Secretary.
15. Concerned file.
16. I/C Website for uploading of Government Order on the Departmental Website.
17. Government order files(w.3.s.c)


(Qadir Hussain)

Under Secretary to Government,
Cooperatives Department

