

Government of Jammu and Kashmir
Floriculture, Gardens & Parks Department
Civil Secretariat Jammu/Kashmir.

Subject: OA No. 61/382/2023 titled Bilal Hussain Vs UT of J&K through
Commissioner Secretary to Govt. Floriculture and Others.
Reference: Hon'ble Central Administrative Tribunal Order dated 17-04-2023.

Government Order No: 20 - JK (Flori) of 2023
Dated: 22-08-2023

Whereas, Petitioner Shri. Bilal Hussain S/o Abdul Latief R/o: Masjid Mahalla, Baderwah among others was appointed as Gardener (Mallie) on contractual basis on consolidated pay vide Order No. DF-137 of 2004 dated 30-12-2004 by Director Floriculture J&K, Jammu on the same pattern adopted by the Education Department for appointment of Teachers as Rehbar-E-Taleem against the post created vide Govt. Order No. 249-TSM of 2004 dated 06-12-2004; and,

Whereas, Shri. Bilal Hussain filed Original Application (OA) No. 61/382/2023 titled Bilal Hussain V/s Union Territory of J&K and Others before the Hon'ble Central Administrative Tribunal, Jammu and the Hon'ble Central Administrative Tribunal (Jammu) vide order dated 17-04-2023 was pleased to dispose of the Original Application No. 61/383/2023 as under:

"Accordingly, the original application is disposed of with a direction to the Secretary to Government, Department of Floriculture, Gardens and Parks UT of J&K (Respondent No. 1 herein) to consider the applicant's case for regularization of his services while keeping in view the aforesaid recommendations made by the Empowered Committee and issue appropriate orders in accordance with law within a period of six weeks from the date of receipt of certified copy of said order" and,

Whereas in compliance to order dated 17.04.2023 passed by Hon'ble Central Administrative Tribunal, Jammu the case of the petitioner/applicant was examined in the department and on examination it was found that the department had submitted the cases of 47 contractual Gardeners (Mallies) which include petitioner to Finance Department (Empowered Committee) and the Empowered Committee in its 38th meeting which was held on 29.01.2014 & 30.01.2014 cleared/found eligible only 41 cases which include petitioner as well.

Whereas, the Director Floriculture, Jammu has intimated that petitioner was arrested on **16.07.2014** in case FIR No. 70/2014 Police Station Batote under Section 8/21/22 NDPS Act **and** was placed under suspension w.e.f **17.07.2014** and his contract was put on hold and,

Whereas, the petitioner Mr. Bilal Hussain remained in jail/under arrest for almost two years, as such his case was not submitted under section 10 (5) of Jammu

and Kashmir Civil services (Special Provision) Act, 2010 to the Hon'ble Chief Minister through Chief Secretary in coordination for his regularization and,

Whereas, Mr. Bilal Hussain was acquitted by the Hon'ble Court of Principal Sessions Judge, Ramban vide judgement dated 05.09.2016, and submitted his joining on 01.11.2016 (F/N).

Whereas, petitioner Mr. Bilal Hussain was reinstated w.e.f 01.11.2016 by Director Floriculture, Jammu vide Order No. 50 of **2018 dated 17.05.2018** and his suspension period was treated as period spend on duty.

Whereas, the case file of petitioner Mr. Bilal Hussain was referred to the General Administration Department and General Administration Department returned the departmental file with the advice as:-

Returned. The Department is advised to take further necessary action in light of the opinion of the Department of Law, Justice & Parliamentary Affairs conveyed vide U.O No. Law-Ser1/7/2021-10 dated 07.09.2021 reproduced as under:-

"The department may clarify on what basis he was suspended (not discharged) and reinstated by the department thereafter, it is however, clarified that the Jammu and Kashmir Civil Services (Special Provisions) Act, 2010 has long been repealed now. No action can be taken on the basis of re-appealed Act, Department as such is advised to proceed accordingly" and,

Whereas, the Jammu and Kashmir Civil Services (Special Provisions) Act, 2010 was repealed by J&K reorganization Act, 2019 and no action can be taken under repealed Act. And,

Now therefore, in view of the above mentioned position the case of the applicant/petitioner was considered for regularization of his services in view of the recommendations made by the Empowered Committee and was found devoid of any merit and accordingly rejected.

By order of the Government of Jammu and Kashmir.

Sd/-

(Sheikh Fayaz Ahmad)KAS

Commissioner/Secretary to Government,
Floriculture, Gardens & Parks Deptt.

No: FLORI-LEG/1/2021-09(CC -722940)


Dated: 22-08-2023

Copy to the:-

1. Joint Secretary, (J&K) Ministry of Home Affairs, Government, of India New Delhi.
2. Director General Floriculture, Jammu



3. Director Finance, Agriculture Production/Floriculture, Gardens & Parks Department.
4. Director, Archives, Archaeology and Museums, J&K Srinagar.
5. Additional Secretary to Government, Floriculture, Gardens & Parks Department.
6. Private Secretary to Chief Secretary, UT of J&K.
7. Private Secretary to Secretary to Government, Floriculture, Gardens & Parks Department.
8. Concerned.
9. In-charge website, Department of Floriculture, Gardens and Parks.
10. Govt. Order file/Stock file.


(Sat Paul) 22/8/23

Under Secretary to Government,
Floriculture, Gardens & Parks Deptt