

Government of Jammu and Kashmir.
Jal Shakti Department
Civil Secretariat, Jammu/Srinagar

Subject: LPA No. 18/2021 in SWP No. 486/2017 titled U.T of J&K and Ors
V/sNeelam Koul.

Government Order No. 114 -JK (JSD) of 2025.

Dated: 01-05-2025

1. Whereas, Smt. Neelam Koul (hereinafter referred to as "the petitioner") filed a writ petition before the Hon'ble High Court of Jammu & Kashmir at Jammu bearing SWP No. 486/2017, along with MP No. 01/2017, titled Neelam Koul vs. State of J&K through Commissioner/Secretary to Government, PHE Department & Ors. In the said petition, the petitioner sought the following reliefs:

"For issuance of appropriate directions to the respondents, particularly respondent No. 01, to consider and decide the case of the petitioner for her regularization in terms of the J&K Civil Services (Special Provisions) Act, 2010, keeping in view the recommendations made by respondents No. 03 to 05, and by applying the same analogy as adopted in the case of similarly situated persons. Further, to command the respondents to regularize the services of the petitioner with effect from the date she completed seven years of service on a consolidated basis, along with all consequential benefits accruing therefrom."

2. Whereas, the Hon'ble High Court vide order dated 29.04.2017 disposed of the writ petition with the following direction:

"With the consensus of learned counsel for the parties, this petition is disposed of with a direction to respondent No. 1 - Commissioner/Secretary to Government, PHE, FC Department to accord approval for regularization of petitioner's service against the vacant post of Junior Assistant in River Tawi Irrigation Complex, Jammu, under the provisions of the Jammu & Kashmir Civil Services (Special Provisions) Act, 2010, and having regard to the recommendations made in her favour vide communication dated 24.01.2017. Let the needful be done within a period of two



months from the date a copy of this order along with complete set of paper-book is made available to the respondents by the petitioner."

3. Whereas, in pursuance of the directions passed by the Hon'ble Court, the matter was duly examined in the Department. Upon examination, it was found that the Chief Engineer, Ravi Tawi Irrigation Complex (RTIC), Jammu, vide Communication No. 614-16 dated 28.04.2005, had engaged the petitioner as a Typist for a period of three months on a consolidated remuneration of ₹3,000/- per month, on a purely temporary and contractual basis in the first instance. This engagement was made on the instructions of the then Hon'ble Minister for the erstwhile Jammu & Kashmir PHE, Irrigation & Flood Control Department. Pursuant to the said engagement, the petitioner was posted in the office of the Ravi Tawi Construction Circle for further assignment of duties.
4. Whereas, subsequently, the Chief Engineer, Ravi Tawi Irrigation Complex (RTIC), Jammu, vide Communication No. RCP/E-7/2691-93 dated 02.08.2005, re-engaged the petitioner as a Typist purely on a casual basis for a period of 89 days, on the same consolidated remuneration of ₹3,000/- per month. The petitioner continued her assignment within the Ravi Tawi Construction Circle, Jammu. Thereafter, the Chief Engineer, RTIC Jammu, vide Communication No. RCP/E-7/6880-84 dated 13.03.2006, engaged the petitioner—Ms. Neelam Koul—as a Typist on a consolidated remuneration of ₹3,500/- per month for duties in the Circle Office. Since this engagement, the petitioner has been continuously serving in the department without interruption.
5. Whereas, the petitioner submitted a representation before the Chief Engineer, Ravi Tawi Irrigation Complex (RTIC), Jammu, on 01.06.2012, asserting that she had completed seven years of continuous service as of 28.04.2012, and accordingly requested for her regularization in the department. The said representation was subsequently examined and forwarded by the Chief Engineer, RTIC Jammu, to the Commissioner/Secretary to Government, PHE, Irrigation & Flood Control Department, vide Communication No. CE/RTIC/2039-40 dated 14.08.2012, for further necessary instructions.
6. Whereas, the Chief Engineer, RTIC Jammu, while forwarding the case of the petitioner in compliance with the directions of the Hon'ble High Court in SWP No. 486/2017, MP No. 01/2017 titled Neelam Koul vs. State of J&K & Ors., vide letter No. RTIC/J/PS/1173-75 dated 12.06.2017, stated that the petitioner had initially been engaged by the Chief Engineer, RTIC Jammu, vide Communication No. 614-16 dated 28.04.2005, as a Typist for a period of three months on a consolidated remuneration of Rs. 3000/- per month on a purely temporary basis. However, it was further clarified that no order pertaining to



her appointment as a Computer Operator or Junior Assistant against a post falling under the direct recruitment quota was available in the office records. Additionally, it was observed that the petitioner's wages were drawn and disbursed from 28.04.2005 to June 2016 under the "Maintenance" budget and under the Detailed Head 363 - Outsourcing of Upkeep. Subsequently, in his communication vide letter No. RTIC/J/PS/4489-91 dated 16.12.2017, the Chief Engineer further clarified that it could not be conclusively established that the petitioner had been appointed against a clear post of Junior Assistant. Accordingly, it was opined that the case of the petitioner did not fulfill the conditions prescribed under SRO-255 and Rules 3 and 5 of the J&K Civil Services (Special Provisions) Act, 2010.

7. Whereas, since the petitioner did not fulfill the requisite conditions for regularization as laid down under the J&K Civil Services (Special Provisions) Act, 2010, the matter was referred to the Department of Law, Justice, and Parliamentary Affairs for their considered opinion. The Department was specifically requested to advise whether the appropriate legal recourse in the matter would be to file a Review Petition or to prefer a Letters Patent Appeal (LPA) against the judgment dated 29.04.2017, as per U.O. No. PW/PHEJ/85/2017-WP dated 11.04.2018. The file was re-submitted to the Department of Law, Justice & P.A; and
8. Whereas, the Department of Law, Justice, and Parliamentary Affairs, upon examination of the matter, returned the case vide U.O. No. LD (Lit) 2017/599-PHE dated 30.05.2018 with the following advice:

"Returned. The Department is advised to conduct an enquiry into the contradictory reports that have resulted in the present precarious situation. Additionally, the Department is advised to file an appeal against the judgment dated 29.04.2017 before the Hon'ble Division Bench of the J&K High Court at Jammu through Shri Ranjit Singh Jamwal, Deputy Advocate General, Jammu, who has been engaged for this purpose as per this Department's Letter No. LD (Lit) 2017/599-PHE dated 30.05.2018."

9. Whereas, the Department filed an appeal against the writ court Judgment based on the reasoning that the petitioner was not considered for regularization, as she was not appointed against a clear post of Junior Assistant. Consequently, all the conditions stipulated under SRO-255 and Rules 3 & 5 of the J&K Civil Services (Special Provisions) Act, 2010, were not fulfilled, as informed by the Chief Engineer, RTIC Jammu, vide letter dated 16.12.2017; and



10. Whereas, the said Letters Patent Appeal (LPA) was listed on 01.09.2023, wherein the Hon'ble Court ordered:


"Mr. Gupta, learned AAG appearing for the appellant, shall seek instructions as to whether the order passed by the Writ Court has been complied with or not. He shall also seek instructions as to how respondent No. 1 is dissimilarly situated from Ms. Yogeeta D/o Sh. J.L. Khar, whose services were regularized on 25.09.2014. List on 06.09.2023."

11. Whereas, pursuant to the directions of the Hon'ble Court, the matter was examined in the Department, and it was found that the key difference between the engagements of Ms. Yogeeta and Ms. Neelam Koul lies in the nature of their appointments. Ms. Yogeeta was engaged on a consolidated basis, while Ms. Neelam Koul was engaged on a casual basis. The J&K Civil Services (Special Provisions) Act, 2010, pertained to the regularization of Adhoc, Contractual, and Consolidated employees. However, this Special Provisions Act, 2010, has since been repealed as per the J&K Reorganization (Adaptation of State Laws) Order, 2020. The Hon'ble Division Bench has been apprised of these facts accordingly.
12. Whereas, the Hon'ble Division Bench, while considering the case on 06.09.2023, dismissed the LPA with further directions. The operative portion of the judgment reads as under:

"For the foregoing reasons and also on the ground that the writ petitioner could not have been discriminated vis-à-vis Miss Yogeeta, who was similarly situated with the writ petitioner, we find no merit in this appeal and the same is, accordingly, dismissed. Respondents shall comply with the writ court judgment and issue formal order of regularization of the writ petitioner within a period of two months. We make it clear that regularization of the writ petitioner shall take effect from the date of regularization of Miss Yogeeta. This, however, shall be purely on notional basis and without any monetary benefit."

13. Whereas, following the dismissal of the LPA, petitioner has also contempt petition bearing CCP (D) No. 09/2024 against the respondents for non-implementation of the Division Bench's order dated 06.09.2023. The matter was again referred to the Department of Law, Justice, and Parliamentary Affairs for advice and consultation, vide U.O. No. dated 18.03.2024; and
14. Whereas, subsequently, the Department of Law, Justice, and Parliamentary Affairs, vide U.O. dated 27.03.2024, advised filing a Special Leave Petition (SLP) against the judgment dated 06.09.2023 passed by the Division Bench of the Hon'ble High Court.
15. Whereas, on the above advice, the SLP was filed before the Hon'ble Apex Court, and the Hon'ble Apex Court dismissed the appeal vide order dated 14.10.2024, which reads as under:

"Delay condoned. We are not inclined to interfere with the impugned judgment and order passed by the High Court. The special leave petition is, accordingly, dismissed."



16. Whereas, the case was referred again to the Department of Law, Justice & Parliamentary Affairs for their opinion/advice on 30.10.2024 and the Department of Law, Justice & Parliamentary Affairs returned the departmental file vide U.O. dated 07.11.2024 with the following advice:


"Returned. As the SLP stands dismissed, the Department is advised to take up the matter with the Finance Department in the first instance and thereafter place the matter before the competent authority so that the judgment of the writ court passed in SWP No. 486/2017 is implemented in letter and spirit and any adverse orders from the Hon'ble Court in the contempt petition are avoided."

17. Whereas, following the advice of the Department of Law, Justice & Parliamentary Affairs, the department, vide letter No. JSD-LS02(1)275/2023-JSD dated 11.11.2024, directed the Chief Engineer RTIC Jammu to identify the post against which the petitioner could be regularized. In response, the Chief Engineer RTIC Jammu, vide letter No. RTIC/Estt/2629 dated 17.11.2024, intimated that one post of Junior Assistant at Tawi Canal Construction Division Jammu is lying vacant. Accordingly, the department referred the file to the Finance Department on 18.11.2024 for concurrence/approval.
18. Whereas, the Finance Department, vide their U.O. No. FD-Code/75/2024-02-523 dated 13.12.2024, returned the file with the following advice:

"J&K Civil Services (Special Provisions) Act, 2010 has been repealed in terms of J&K Re-organization (Adaptation of State Laws) Order, 2020 issued vide S.O. 1229 (E) dated 31.03.2020. With the dismissal of the SLP, the court orders have attained finality. The Department may place the matter before the Competent Authority for consideration for implementing the judgment of the writ court passed in SWP No. 486/2017 in letter and spirit, as advised by the Law Department."

19. Whereas, in view of the advice of the Finance Department followed by the advice of the Department of Law, Justice & P.A, the Financial Commissioner (ACS), Jal Shakti Department, with the approval of the Hon'ble Minister for Jal Shakti Department, submits the following resolution for placing the case before the competent authority through the Chief Secretary in coordination for approval of the following:

"In compliance with the judgment/order dated 29.04.2017 passed by the Hon'ble High Court in SWP No. 486/2017, read with judgment/order dated 06.09.2023 passed in LPA No. 18/2021, sanction is hereby accorded to the regularization of Ms. Neelam Koul, D/o Lt. Bal Krishan Koul, R/o Sundar Nagar Talib Tillo, Jammu, as Junior Assistant in Tawi Canal Construction Division Jammu (RTIC), against the available post with effect from the date of regularization of Ms. Yogeeta Khar (Junior Assistant of I&FC Department Jammu) on notional basis, and monetarily with immediate effect in relaxation of the J&K Civil Services (Special Provisions) Act, 2010."



20. Whereas, in the meanwhile case was listed before the Hon'ble Court on 16.12.2024, whereby the following order was passed:

"It appears that there is some confusion as to which is the competent authority to pass such orders pending finalization of the Business Rules. With a view to obviate this difficulty, we provide that since the matter has been cleared by the Finance Department, Principal Secretary to Govt. Financial Commissioner, Jal Shakti Department shall be the competent authority to pass the order of regularization of the contempt petitioner. Let the formal order of regularization of the petitioner in terms of the judgment passed by this Court be passed and placed on record on or before the next date of hearing."

21. Whereas, pursuant to the directions/order dated 16.12.2024 passed by the Hon'ble High Court in the contempt petition, the department carried out inter-departmental consultation with the Department of Law, Justice & P.A. Accordingly, as per the advice of the Department of Law, Justice & P.A. the department filed Special Leave Petition (SLP) against the order 16.12.2024 passed in CCP (D) No. 09/2024 before the Hon'ble Supreme Court of India, bearing Diary No. 61240/2024, in the case titled SHALEEN KABRA VS. NEELAM KOUL.
22. whereas, the contempt was listed again before the Hon'ble Court on 11.04.2025 and was pleased to pass an order given as under:

It is submitted by the Mrs. Monika Kohli, learned Sr, AAG that the file presently under consideration with the Chief Secretary of the UT and would be placed before the competent authority for further orders. She prays for and is granted two weeks time as last and final opportunity to do the needful and submit fresh compliance report, failing which Chief Secretary shall remain present before this Court on the next date of hearing."

23. Whereas a Special Leave Petition (SLP) filed by the department against the order dated 16.12.2024, passed in CC(D) No. 9/2024, which was dismissed by the Hon'ble Supreme Court on 28.04.2025 The order dated 28.04.2025 reads as under:-

"Delay condoned

***We are not inclined to interfere with the impugned judgment and order passed by the High Court. The special leave petition is accordingly, dismissed.
Pending application (s), if any, shall stand deposed of."***

24. Whereas, the General Administration Department (GAD), which, vide their U.O. No. GAD-CORD/170/2024-09-GAD-Part(1) dated 30.04.2025, returned the case with the following advice:

"The Department is advised to file a fresh compliance report prior to the next date of hearing, i.e., 02.05.2025, to avoid the necessity of the personal appearance of the Worthy Chief Secretary. The Department is also advised to treat the matter as most urgent and to ensure that the fresh compliance report is

filed well within the stipulated time to avert any adverse directions from the Hon'ble High Court."

Now, therefore, having considered the claim of the petitioner with due deference to the judgment dated 29.04.2017 passed by the Hon'ble High Court in SWP No. 486/2017, read with judgment dated 06.09.2023 passed in the LPA No. 18/2021, sanction is hereby accorded to the regularization of Ms. Neelam Koul, D/o Lt. Bal Krishan Koul, R/o Sundar Nagar Talib Tillo, Jammu, as Junior Assistant in Tawi Canal Construction Division Jammu (RTIC), against the identified post of Junior Assistant in Chief Engineer RTIC Jammu with effect from the date of regularization of Ms. Yogeeta Kharon notional basis, and monetarily with immediate effect in relaxation of the J&K Civil Services (Special Provisions) Act, 2010 subject to the following conditions:

1. The regularization shall be against an available clear vacancy of Junior Assistant in the Ravi Tawi Irrigation Complex (RTIC), Jammu.
2. The petitioner shall fulfill all other service requirements, including verification of character and antecedents and qualification certificates.
3. The Chief Engineer shall take necessary steps to issue formal appointment orders and ensure compliance with all codal formalities.

By order of the Government of Jammu and Kashmir.

Sd/-

(Shaleen Kabra) IAS
Financial Commissioner (ACS),
Jal Shakti Department.

Computer No. 7282035

Dated: 07-05-2025

Copy to the:-

1. Joint Secretary (J&K), Ministry of Home Affairs, Government of India, New Delhi
2. Commissioner Secretary General Administration Department, for information and confirmation of action.
3. Chief Engineer, (RTIC) Jal Shakti Department, Jammu for information and necessary action.
4. Ld. Sr. Additional Advocate General, J&K High Court, Jammu for information and for filing of compliance before the Hon'ble Court.
5. Private Secretary to the Financial Commissioner (ACS) Jal Shakti Department for information of the Financial Commissioner (ACS)



6. Private Secretary to the Principal Secretary to Finance Department for information of the Principal Secretary
7. Additional Secretary to Government, Jal Shakti Department for information.
8. Petitioner.
9. Incharge website, Jal Shakti Department.
10. Monday Return file (w.2.s.c).
11. Government order file.

Anjali Kaul
(Anjali Kaul) 01/08/20
Under Secretary to Government,
Jal Shakti Department