

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

SWP No. 568/2009

Rashpal Mangotra, age 49 years S/o Sh. Ram
Rakha, R/o Village Nandpur, Tehsil R.S. Pura,
District Jammu.

...Petitioner(s)

Through :- Mr. Garima Gupta, Advocate.

V/s

1. Commissioner, Jammu Municipal Corporation, Town Hall, Jammu.
2. Joint Commissioner, Jammu Municipal Corporation, Town Hall, Jammu.
3. Secretary, Jammu Municipal Corporation, Jammu.

....Respondent(s)

Through :- Mr. S.S. Nanda, Sr. AAG.

Coram: HON'BLE MR. JUSTICE JAVED IQBAL WANI, JUDGE

ORDER
12.03.2024

(Oral)

1. The petitioner in the instant petition filed under Article 226 of the Constitution of India has prayed for the following relief:

“Writ of Mandamus, commanding the respondents to place the petitioner in the pay-scale of Rs. 4000-6000 w.e.f., 1.4.1996 which is the minimum of the grade of a Carpenter to which he was entitled on regularization of his services under SRO 64 of 1994 and consequential benefits accruing to the petitioner.”

2. The aforesaid relief has been prayed on the premise that the petitioner came to be initially engaged as a daily rated worker in the Jammu Municipal Corporation, Jammu (for short, ‘ **the Corporation**’) and in terms of Order No. MJ/Estt/S/197-200 dated 03.09.1997 came to be

regularized against the available post of Helper created in terms of Govt. Order No. 29-HUB/Acctts./97 dated 28.01.1997.

3. It is being stated that on 16.06.2001, the petitioner being a skilled labourer came to be adjusted as a Carpenter.
4. It is further stated that the petitioner on 12.09.2005 came to be placed in the pay scale of Rs. 2610-3540 in terms of SRO 311 dated 09.09.1997 w.e.f., 01.04.1996 followed by an *in situ* promotion extended to the petitioner in the pay scale of Rs. 2750-4400.
5. It is being further stated that the petitioner though have had been working as a Carpenter in the Corporation, the respondents yet placed him in the pay scale of Helper of Rs. 2750-4400 though the post of Carpenter in the Estates and Tourism Department carried the pay scale of Rs. 4000-6000.
6. It is being next stated that the petitioner represented to the respondents for grant of the same pay scale of Rs. 4000-6000 for his working as a Carpenter drawn by the Carpenters in the Estates and Tourism Department, however the respondents despite receiving the said representation did not grant the said pay scale to the petitioner.
7. It is being further stated that not only in the Estates Department but also in Sheep Husbandry Department, Rural Development Department also Higher Education Department, the pay scale attached to the post of Carpenter is higher than that being paid to the petitioner thus, infringing the rights and interests of the petitioner including the Articles 14, 16 and 39(d) of the Constitution of India

8. **Objections** to the petition have been filed by the respondents wherein it is being admitted that the petitioner came to be regularized as a Helper from a daily rated worker in terms of Govt. Order No. 29-HUB/Accts./97 dated 28.01.1997 w.e.f., 01.04.1996 on the strength of the provisions of SRO 64 of 1994 and came to be placed in a higher pay scale of Rs. 775-1025 (2750-4400 revised) than that of a Helper.
9. It is being further stated that besides regularizing the petitioner and placing him in a higher grade, in situ promotion also came to be granted to the petitioner by placing him in the grade of Rs. 2750-4400 (revised).
10. It is further stated in the objections that the petitioner-a daily rated worker initially came to be regularized along with many other daily rated workers against the post of Helpers and being a skilled labourer was placed in a higher scale of 2610-3540 (revised) besides extending him the benefit of in situ promotion in the pay scale of Rs. 2750-4400.
11. It is further stated in the objections that the case of the petitioner for grant of pay scale of Rs. 4000-6000 drawn by a Carpenter in Estates Department came to be considered, however, the Administrative department did not agree to the same on account of non-existence of the post of Carpenter in the Corporation. The said Govt. Order produced by the counsel for the respondents is taken on record.

Heard learned counsel for the parties and perused the record.

12. It is an admitted fact that the petitioner initially had been working as a daily rated worker in the Corporation and in terms of Order No. MJ/Estt/S/197-200 dated 03.09.1997 came to be regularized against the available post of Helper w.e.f., 01.01.1996 created in terms of Govt. Order No. 29-HUB/Acctts./97 dated 28.01.1997.
13. It is also not in dispute that upon his regularization as a Helper, being a skilled worker, the petitioner came to be placed in the higher pay scale of Rs. 775-1025 (revised 2610-3540).

It is also not being disputed and denied by the petitioner that during his working in the Corporation, he came to be accorded 'in situ' promotion by placing him in the pay scale of Rs. 2750-4400.

14. Perusal of the record reveals that the petitioner has availed the grant of higher scale of pay of Rs. 775-1025 being a skilled worker besides availing the benefit of '*in situ*' promotion granted to him in the year 2001.
15. The short grievance projected by the petitioner in the petition is denial of grade to him by the Corporation of the post of Carpenter held by him on account of non-existence of the post in question.
16. It is significant to note here that the counsel for the petitioner during the course of hearing of the matter in order to buttress the claim of the petitioner produced the copy of Order No. 78-HUD of 2019 dated 09.03.2019 to show that the post of Carpenter is available in the Corporation. A bare perusal of the said order however reveals that in terms of the said order a single post of the Carpenter came to be created by the Corporation only on 09.03.2019 and as such, the

prayer/claim of the petitioner for payment of the grade of the said post w.e.f., 01.04.1996 is not legally tenable.

17. Viewed thus, the petition sans merit. Resultantly, petition fails and is accordingly **dismissed** along with connected application(s), if any.

(JAVED IQBAL WANI)
JUDGE

JAMMU
12.03.2024
Naresh/Secy.

Whether order is speaking: Yes/No.
Whether order is reportable: Yes/No

