Government of Jammu and Kashmir
Industries & Commerce Department
Civil Secretariat, Jammu.

Subject:- Contempt No.177/2016 in SWP No.2198/2015 titled Nazir Ahmad Tantray and Ors V/s Shailendra Kumar and Anr.

Reference:- 1. Director, Geology and Mining Department's letter No. C-Adm/DGM/617/15-16/3284 dated 26.10.2015.
2. General Administration Department's U.O No. GDC-123/CM/2016 dated 27.09.2016.

Government Order No. 01 - IND of 2017
Dated: 02 - 01-2017

1) Whereas, Director Geology and Mining Department reported that the following petitioners are working as Casual Labourers in the Directorate of Geology and Mining:-

S. No	Name of the Petitioners	Date of Birth	Academic Qualification	Date of engagement as Casual Labour
01	Nazir Ahmad Tantray S/o Abdul Samad R/o Monghall Anantnag	09.03.1970	B.A	01.08.1995
02	Abdul Majeed Sheikh S/o Ghulam Mohd Sheikh R/o Zadi Masjid Safakadal Srinagar	02.09.1971	B.Sc	11.07.1996
03	Masrat Jan D/o Habibullah Mir R/o Nowshara Srinagar	04.02.1968	B.A	27.06.1994
04	Shahzada Jahangir D/o Mohd Akbar Sheikh R/o Bemina Sriangar	25.03.1975	10+2	04.10.1994
05	Tahira Akhter D/o Ghulam Mohd Shangoo R/o Zainder Mohalla Habbakadal	30.06.1969	P.U.C	20.10.1995
06	Sukhdev Singh S/o Ajeet Singh Bali R/o Kanibagh Baramulla	30.09.1976	Matric	20.10.1995

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2) Whereas, the petitioners had approached the Hon'ble High Court of J&K at Srinagar through SWP No. 1276/2015 for directing respondents to appoint them against the vacant posts of Mineral Guards on the ground that they are eligible for such appointment, besides they had applied for said appointment in the year 2012;

3) Whereas, the Hon'ble High Court while considering the SWP No. 1276/2015, vide order dated 26.06.2015 directed the respondents as under:-

> ***"Notice, returnable within four weeks, Notice in the CMP also returnable within the same period. Steps for service within one week. In the meantime, respondents to consider the case of the petitioners for their absorption against the six posts stated to be lying vacant even after operating the wait list. The consideration order be passed within a period of four weeks".***

4) Whereas, as per the relevant Recruitment Rules the basic eligibility for the post of Mineral Guards for direct recruitment is as under:-

> ***"100% by Direct recruitment from Daily wagers having 5 years job experience in the Department and having academic qualification of Matriculation".***

5) Whereas, in compliance to the order dated 26.06.2015 passed by Hon'ble High Court in SWP No. 1276/2015, the claim of the petitioners was considered and it was found that since petitioners have crossed the upper age limit as prescribed by the Government for direct recruitment, as such they are not eligible for direct recruitment against the posts lying vacant in the Department and accordingly their claim was rejected vide order issued by Directorate of Geology and Mining under endorsement No. C-Adm/DGM/ 617/ 15-16/2622-24 dated 03.09.2015;

6) Whereas, the petitioners challenged the said order before Hon'ble High Court at Srinagar through the medium of another SWP No. 2198/2015 titled Nazir Ahmad Tantray & others V/s State and others;

7) Whereas, the Hon'ble High Court vide order dated 08.10.2015 disposed of the writ petition with the following directions:-

> ***"This writ petition along with connected IA's disposed of and respondents are directed to consider claim of the petitioners for grant of relaxation in their upper age limit and further consider them for being appointed under Geology & Mining (Subordinate) Service Recruitment Rules, 1990".***

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8) Whereas, the claim of petitioners were examined in detail and found that :

a) As per Recruitment Rules, Mineral Guard is to be appointed "100% by Direct Recruitment from Daily Wagers having five years job experience in the Department and having academic qualification of Matriculation".
b) When the petitioners applied for the post after advertising of these posts they did not qualify for short list due to lack of merit. Due to this reason, they were not selected at that point of time.

9) Whereas, in spite of having this difficulty, matter was taken up with the Finance Department for their regularization vide U.O. dated 24.02.2016;

10) Whereas, the Finance Department returned the Departmental file with the following observations on 22.04.2016:-

"Finance Department has no role in the case viz SWP No.2198/2015 dated 8.10.2015, given the fact that the prayer of the petitioners is to be appoint them as Mineral Guards in terms of recruitment rules of the Department".

11) Whereas, after re-examining the case in light of the orders of the Hon'ble High Court and the observations of the Finance Department, the Department referred the matter to the Hon'ble Chief Minister through Chief Secretary in coordination as per Jammu & Kashmir Business Rules for relaxing of upper age limit in favour of the petitioners; being the Competent Authority in this regard;

12) Whereas, General Administration Department did not agree to the proposal on the ground that at the time of advertisement of posts, petitioners did not even qualify for short list due to lack of merit at that point of time, as such cannot be considered against these posts;

13) Now, therefore, the claim of the petitioners for their appointment to the post of Mineral Guard is dis-allowed.

By Order of the Government of Jammu and Kashmir.

Sd/-
(Shailendra Kumar)IAS
Commr/ Secretary to Government
Industries & Commerce Department

No: IND/Legal/G&M/88/2015 Dated: 9 -01-2017

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Copy to the:-

1. Commr/Secretary to Government, General Admn. Department
2. Director, Geology and Mining Department
3. Director, Archives, Archaeology and Museums, J&K
4. OSD to Hon'ble Minister for Industries & Commerce
5. Spl. Assistant to Hon'ble MOS, Industries & Commerce
6. Senior Law Officer, I&C Department for further necessary action
7. Pvt. Secretary to Commr/Secretary to Government, I&C Department
8. Incharge Website, I&C Department
9. Government Order file.

(Raja Jee Bhat)KAS
Deputy Secretary to Government
Industries & Commerce Department

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