



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

Subject: SWP No. 1291/2018, IA No. 01/2018-titled Jamsheed Ahmad Sofi
V/S State of J&K and others.

Government Order No/95-IND of 2018
Dated : 07-08-2018

Whereas, Shri Jamsheed Sofi, has filed a writ petition before the Hon'ble High Court at Srinagar registered as SWP No. 1291/2018 praying therein for directing the respondents to appoint the petitioner on the post of Jr. Craft Instructor(Sozni) in the Handicrafts wing of Industries and Commerce Department;

Whereas, the Hon'ble High Court disposed of the writ petition vide its order dated 07.06.2018, the operative part whereof is reproduced as under:

"In view of the statement made by the learned counsel for the petitioner, the writ petition is disposed of with a direction to the respondents to treat the same as representation on behalf of the petitioner and accord consideration to the claim of the petitioner. Needful to be done strictly in accordance with law and the rules governing the field within a period of four weeks from the date the certified copy of this order alongwith all annexures of the writ petition is made available to the respondents."

Whereas, the petitioner claims that he may be appointed against the post of "Jr. Craft Instructor, (Sozni)" in view of resignation of Shri Mohammad Ashraf Raja, who has been appointed against the said post by the Director, Handicrafts vide Order No. 386-HD of 2018 dated 26.04.2018, but resigned upon his selection as Sr. Instructor (Sozni) by the Service Selection Board and that the petitioner is figuring at S.No. 1 of the waiting list;

Whereas, the post against which the selection is made remains vacant in two situations:

- i) by not joining of the selected/appointed candidate.
- ii) by joining and subsequent resignation of the selected/ appointed candidate.

Whereas, in the situation(i) a candidate in waiting list can be considered during the life of the wait list; and

Whereas, in the second(ii) type of situation, the vacancy becomes a resultant vacancy and cannot be filled up from the waiting list but has to be re-advertised as per well established law and also as held by the Hon'ble High Court of J&K in case SWP No. 498/2009-titled Jasbinder Singh V/S State and by the Delhi High Court in case WP(c) No. 5691/2013-titled Roshan Bhimrao Patil V/S Secretary, Department of Electornics and Information Technology and others;

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Whereas, in the instant case, the selected/appointed candidate Mr. Mohammad Ashraf Raja joined on the post and subsequently resigned upon his selection and appointment as Sr. Craft Instructor(Sozni) in the Handicrafts Department. The resultant vacancy has become a future vacancy and has to be re-advertised as per the above law; and

Now, therefore, in view of the above position, the claim of the petitioner for appointing him against the post of "Jr. Craft Instructor, Sozni" in Handicrafts Department against the vacancy caused due to resignation of Shri Mohammad Ashraf Raja, has been found devoid of merit.

By Order of the Government of Jammu and Kashmir.

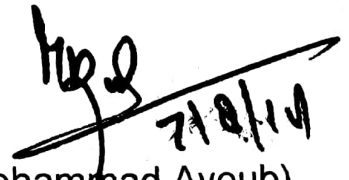
Sd/-
(Shailendra Kumar) IAS
Principal Secretary to the Govt.
Industries & Commerce Department

No: IND/Legal/237/2018

Dated: 07 -08-2018

Copy to the:

- 1 Director, Handicrafts Department, J&K, Srinagar.
- 2 Director, Archives, Archeology and Museums, J&K.
- 3 Secretary, J&K Service Selection Board.
- 4 Private Secretary to the Advisor (V) for information of Advisor(V).
- 5 Pvt. Secretary to Principal Secretary to the Govt. I&C, for information of Principal/Secretary, I&C.
6. P.A to Additional Secretary (legal), I&C for information of Addl Secretary (L)
7. Incharge Website, I&C.
8. Govt. Order file (W2SCs)/Monday Return.
9. Stock file.


(Mohammad Ayoub)
Under Secretary to Govt.
Industries & Commerce Department
