

Government of Jammu and Kashmir
Industries & Commerce Department
Civil Secretariat J&K Srinagar.

Subject: - **Final Seniority List of Functional Managers of the Jammu & Kashmir Industries & Commerce (Gazetted) Service as it stood on 01-01-2020.**

Government Order No: 137 - IND of 2020
Dated: 25 -08-2020

WHEREAS, a Tentative Seniority List of Functional Managers of the J&K Industries and Commerce (Gazetted) Service (Functional Managers) as it stood on 01.01.2020 was issued Vide Government Order No 39-IND of 2020 dated 25.02.2020;

AND WHEREAS, after issuance of the aforesaid Tentative Seniority List, objections by the members of the service were to be filed within 15 days of the issuance of the said List;

Whereas, the department has received the following objections:-

- i) Representation from all members of the service duly forwarded by the Joint Director (Adm) in the Directorate of I&C Jammu and the advance copy of same.
- ii) Representation from Mr. Mohammad Hashim Dar, Functional Manager, DIC Kashmir.
- iii) Representation dated 06.03.2020 from Functional Managers of DIC Jammu.

Whereas, the detail of the submission made in the above representations is as under:-

(i) **Representation from all members of the service of Industries & Commerce Department:-**

Mr. Dharam Pal and Mr. Sunil Kumar, direct appointees, adjusted at S.No. 9(A) and 9(B) in the Final Seniority List issued vide Government Order No.174-IND of 2018 dated 29.06.2018, have been appointed as Functional Managers when the Court directions in pursuance of which they have been appointed have mentioned them to be considered for appointment not necessarily as Functional Managers.

Their placement in the seniority list among the departmental promotes is in violation of the prescribed guidelines and infringes upon the rightful share of Departmental Promotees.

In terms of clause 3(2) & 3(3) of SRO 386 dated 01.12.2008, it implies that the direct recruitment posts of feeding services forming part of KAS at its junior scale level stand deleted from their respective services from the date these are added to the cadre strength of the service. These posts have already become part of junior scale KAS. Hence the placement of the two Functional Managers is not in

conformity of provisions of SRO 386 governing the service. Two posts out of overall cadre strength of junior scale of KAS were transferred to the I&C Department by the GAD for purpose of drawal of salary of the two officers thereby reiterating the fact that their appointment to I&C Department cannot be construed as part of cadre strength of direct appointees of the department implying thereby that their services have to be governed by the provisions of SRO 386 and their seniority has to be maintained by GAD with the officers of Junior scale KAS and not by I&C Department among promoted Functional Managers.

ii) **Representation from Mr. Mohammad Hashim Dar, Functional Manager DIC Kashmir:**

Has objected to fixing of his seniority and has requested to fix his seniority at serial No.07 instead of serial No.26 in consonance with the decision of the DPC/PSC whereby he has been promoted as Functional Manager w.e.f 17.10.2014 notionally and w.e.f 11.12.2015 on regular basis.

iii) **Representation dated 06.03.2020 from Functional Managers of DIC Jammu:**

Same in content as at (i) above, it has been submitted that Mr. Dharam Pal, Mr. Sunil Kumar and Vijay Kumar have been planted against the Department promotes against the provisions of SRO 386 dated 01.12.2008.

Whereas, so far as representations at (i) and (iii) above are concerned, it may be mentioned that the Functional Managers of the DIC Jammu have represented against fixing of the seniority of the 03 directly appointed officers namely Mr. Sunil Kumar, Mr. Dharam Paul, and Mr. Vijay Kumar in the seniority list of Functional managers of the J&K Industries and Commerce (G) Service. In the tentative seniority list of the Functional Managers issued vide Government Order No.39-IND of 2020 dated 25.02.2020, Mr. Dharam Pal has been assigned seniority position at serial Number 4, Mr. Sunil Kumar at serial No.05 and Mr. Vijay Kumar at serial No.06, respectively.

Pertinent to mention that all the three abovementioned officers namely Dharam Pal, Sunil Kumar and Vijay Kumar appeared in the Combined Competitive Examination in the year 1999. However, due to pendency of writ petitions regarding reservation for candidates belonging to Other Social Caste (OSC) category, these officers came to be appointed in Jammu and Kashmir Industries & Commerce (Gazetted) Services (Functional Managers) only in the year 2013 and 2018. Mr. Sunil Kumar and Dharam Pal were appointed to the Jammu & Kashmir Industries & Commerce (Gazetted) Service (Functional Managers) in the year 2013 vide Government Order No.1358-GAD of 2013 dated 19.09.2013, with immediate effect and Mr. Vijay Kumar got appointed vide Government Order No.1280-GAD of 2018 dated 16.08.2018 with immediate effect and with the stipulation that for purposes of determining his seniority in accordance with Rule 24 of the Jammu & Kashmir Civil Services (Classification, Control and Appeal) Rules 1956, he shall be deemed to be appointed to the Jammu & Kashmir Industries & Commerce (Gazetted) Service with effect from

19.09.2013 i.e. when other two candidates, belonging to OSC Category, were appointed as Functional Managers in the J&K Industries & Commerce (G) Service vide Government Order No.1358-GAD of 2013 dated 19.09.2013.


Whereas, for purposes of fixing the inter-se-seniority of these officers and seeking information regarding their merit, the matter was taken up with the GAD vide this Department's O.M No. IND/DCI-29/2018 dated 09.10.2018. The General Administration Department provided the following details viz-a-viz the merit obtained by the three officers in the Combined Competitive Examination as per details below:-

S.NO	Name of the candidate	Reference to G.O under which appointed	Effective date of appointment/determination of seniority	Merit position obtained to CCE 1999
1	Mr Dharam Paul	1358-GAD of 2013 dated 19.09.2013	19-09-2013	1162
2	Mr Sunil Kumar	1358-GAD of 2013 dated 19-09-2013	19-09-2013	1138
3	Mr Vijay Kumar	1280-GAD of 2018 dated 16.08.2018	19.09.2013	1097

The above details make it evident that the three officers have been appointed by the General Administration Department in the Jammu & Kashmir Industries & Commerce (G) Service (Functional Managers) by direct recruitment through Combined Competitive Examination conducted by the J&K Public Service Commission in 1999. The service namely Jammu & Kashmir Industries & Commerce (G) Service (Functional Managers) has been allotted to them by the GAD on the basis of overall merit obtained by them in the Combined Competitive Examination. The appointment done in pursuance of directions of Hon'ble Supreme Court of India and service allotted on the basis of merit obtained from Public Service Commission by the General Administration Department is therefore, unchallengeable.

The seniority of these Direct Recruits and the seniority of the promote Functional Managers in the service is to be determined in terms of Rule 24 of the Jammu & Kashmir Civil Services (Classification, Control and Appeal) Rules, 1956 which provide that:-

"Provided that the inter-se-seniority of two or more persons appointed to the same service, class, category or grade simultaneously will, notwithstanding the fact that they may assume the duties of their appointments on different dates by reason of being posted to different stations, be determined:

- 
- (a) In the case of those promoted by their relative seniority in the lower service, class, category or grade;
 - (b) In the case of those recruited direct except those who do not join their duties when vacancies are offered to them according to the positions attained by and assigned to them in order of merit at the time of competitive examination or on the basis of merit, ability and physical fitness etc., in case of no such examination is held for the purpose of making selection;
 - (c) As between those promoted and recruited direct by the order in which appointments have to be allocated for promotion and direct recruitment as prescribed by the rules.

Whereas, in terms of Rule-24 (b), the inter-se-seniority of the three directly recruited officers in the J&K Industries & Commerce (G) Service (Functional Managers) shall get assigned on the basis of merit obtained by them in the Combined Competitive Examination 1999. Mr. Dharam Paul having secured 1162 marks shall figure above as Mr. Sunil Kumar (1138 marks) who shall figure above Mr. Vijay Kumar (1097 marks).

Whereas, so far as the seniority position of these three directly recruited officers vis-à-vis the promote Functional Managers is concerned, the same is to be determined in terms of Rule-24 of the Jammu & Kashmir Civil Services (Classification, Control and Appeal) Rules, 1956. The directly recruited officers having been appointed on 19.09.2013 shall figure in between the last and first officer of the batches of promote officers appointed on 12.07.2013 and 17.10.2014. Mr. Khurshid Ahmed Khalil, the last promote Functional Manager appointed on 12.07.2013 and figuring at seniority position No. 03 and Ms Shagufta being the first officer appointed on 17.10.2014 figuring at Seniority position 7, Mr. Dharam Pal, Mr. Sunil Kumar and Mr. Vijay Kumar shall have to be assigned the seniority position at Serial No.4,5 and 6 due to their having been appointed on 19.09.2013.

Whereas, the other contention of the promote officers of the DIC Jammu that in terms of Rule 3 of Jammu & Kashmir Administrative Service Rules, 2008 issued vide SRO-386 dated 01.10.2008, the above three direct recruits shall have to be treated like Junior Scale KAS Officers as they have been appointed in the year 2013 after amendment in KAS rules abolishing the allotment of officers to different services and renaming them as Junior KAS Officers under the administrative of GAD and that there were no direct quota posts in different departmental feeding services as mentioned in rule 3(2) and rule 3(3) of Jammu & Kashmir Administrative service Recruitment Rules, 2008, the officers could not have been appointed to J&K I&C (G) Service (Functional managers), is not based on facts.

It may be mentioned that the three directly recruited Functional Managers were appointed in pursuance of the Combined Competitive Examination 1999 by GAD. At that point of time, the officers were being allocated to different departmental feeding services to KAS. Accordingly, the officers have been allotted the J&K Industries & Commerce (G) Service (Functional Managers) on the basis of their merit in CCE 1999 but since they were appointed in 2013, after a long legal battle, supernumerary posts were created in the Jammu & Kashmir I&C (G) Service (Functional Managers) for their appointment. Hence rule 3 (2) and rule 3(3) of Jammu & Kashmir Administrative Service Rules, 2008 as notified vide SRO 386 dated 01.12.2008, as quoted by the promote Functional Managers as ground for their objection to the fixing of seniority of three directly recruited officers, are not relevant to the situation. Transfer of posts of Junior KAS, at any point of time, for administrative convenience, in drawing the salary an officer cannot be a determinant for fixing of seniority in a particular cadre.

So far as objections raised by Mr. Mohammad Hashim Dar, Functional Manager in representation (ii) above are concerned, it may be mentioned that Mr. Mohammad Hashim Dar (RBA) who has been granted promotion as Functional Manager w.e.f 11.12.2015 on the basis of the recommendations of DPC/Public Service Commission has been requesting for revising his promotion "notionally w.e.f 17.10.2014 and on regular basis from 11.12.2015" and accordingly fix his

seniority at serial No.07 instead of serial No.26 in consonance with the decision of the DPC/PSC wherein he has been promoted as Functional manager w.e.f 17.10.2014 on notional basis and on regular basis w.e.f 11.12.2015.

It may be mentioned that the matter regarding 'reservation in promotions' is pending hearing in the Hon'ble Supreme Court and in terms of the instructions by the GAD, the DPC/PSC is promoting officers on the basis of seniority only but slots are being kept reserved for the candidates belonging to reserved categories whose status is not being disturbed for the time being till pendency of the matter.

As a sequel to that Mr. Hashim Dar has been recommended by the DPC/PSC to be promoted as Functional Manager on the basis of his seniority w.e.f 11.12.2015. However, due to his being an officer of RBA category, a slot has been decided to be kept reserved by the DPC/PSC for him for promotion w.e.f 17.10.2014 as and when reservation in promotions get clearance.

In light of above, the above mentioned objections have been examined and found meritless.

Now, therefore, final seniority list of Functional Manager of Jammu & Kashmir Industries and Commerce (Gazetted) Service, as it stood on 01.01.2020, is issued as annexure to this Government Order for information of all concerned members of the service.

By order of the Government of Jammu and Kashmir.

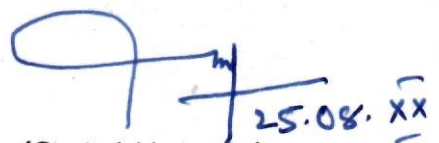
Sd/-
(Manoj K. Dwivedi), IAS
Commissioner Secretary to Government,
Industries & Commerce Department.

No: IND/DIC-29/2018

Dated: 25 -08-2020

Copy to the:-

1. Joint Secretary (J&K), Ministry of Home Affairs, Government of India.
2. Commissioner Secretary to the Government, General Administration Department.
3. Director, Industries and Commerce, Jammu / Kashmir.
4. Director Archives Archeology and Museums, J&K.
5. Private Secretary to the Principal Secretary to Government, Industries & Commerce Department for information.
6. Concerned Officers.
7. In-Charge Website I&C Department
8. Government Order file.


(Sartaj Hussain)
Deputy Secretary to Government

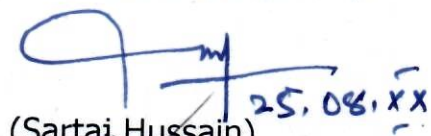
Annexure "A" to Government Order No. -IND of 2020 dated -08-2020

**Final seniority of Functional Managers of Industries & Commerce Department
as it stood on 01.01.2020.**

S. No.	Name of the officer (S/Shri)	Qualification	Date of birth	Date of entry into service	Date of appointment into present grade Rs. 9300-34800 + GP 4800 (PR)	Whether direct appointee or promotee
1.	Sansar Chand (SC)	B.Com	27-04-1961	10-07-1985	04-02-2009	Promotee
2.	Gh. Nabi Malik	M.Com	06-04-1960	10-07-1985	12-07-2013	Promotee
3.	Khurshid Ahmed Khalil	B.Com	10-09-1962	10-07-1985	12-07-2013	Promotee
4.	Dharam Paul (OSC)	B.Sc	15-10-1972	19-09-2013	19-09-2013	Direct
5.	Sunil Kumar (OSC)	B.Sc, B.Ed	28-11-1965	19-09-2013	19-09-2013	Direct
6.	Vijay Kumar (OSC)	AMIE Civil	02-03-1966	19-09-2013	19-09-2013	Direct
7.	Shagufta	M.Com	11-08-1963	27-11-1990	17-10-2014	Promotee
8.	Mohd Yousuf Mir	M.A	18-07-1960	10-07-1985	17-10-2014	Promotee
9.	Ajaz Hussain Malik (RBA)	B.A	22-09-1960	10-07-1985	17-10-2014	Promotee
10.	M. Jahangir Khan (ALC)	B.A	01-04-1961	10-07-1985	17-10-2014	Promotee
11.	Mohd Iqbal Lone (RBA)	B.A	01-03-1961	10-07-1985	17-10-2014	Promotee
12.	DewakarKhajuria	M.Com	06-09-1963	10-07-1985	17-10-2014	Promotee
13.	Chaman Lal Sharma	B.Com	16-07-1961	10-07-1985	17-10-2014	Promotee
14.	Farooq Ahmed Naqash	B.Sc	29-07-1962	10-07-1985	17-10-2014	Promotee
15.	Mohd Aslam Jan	B.Com	26-12-1961	10-07-1985	17-10-2014	Promotee
16.	Mehraj-ud-Din Wani	B.A	20-04-1963	10-07-1985	17-10-2014	Promotee
17.	Hardev Singh	B.A	15-04-1961	10-07-1985	17-10-2014	Promotee
18.	Jagdev Raj	B.Com	16-10-1960	10-07-1985	17-10-2014	Promotee
19.	Amresh Kotwal	B.A	14-08-1963	10-07-1985	17-10-2014	Promotee
20.	Naresh Kumar Vohra	B.Com/ DoM	12-04-1961	17-08-1985	17-10-2014	Promotee
21.	Rajesh Parihan	B.Com	09-08-1961	10-01-1986	17-10-2014	Promotee
22.	Pawan Kumar Goswami	B.Sc/PGDBA	21-09-1967	31-08-1998	17-10-2014	Promotee
23.	Shahzada Noor-ul-Ain	MBA	29-11-1966	02-09-1998	17-10-2014	Promotee
24.	Abhishek Chandra Vaidya	B.A / M.A. Geography	05-03-1973	24-09-1998	17-10-2014	Promotee
25.	Abdul Aziz Ganai	B.A	03-04-1962	10-07-1985	11-12-2015	Promotee
26.	Mohd. Hashim Dar (RBA)	B.Com/PGDBA	10-12-1962	10-07-1985	11-12-2015	Promotee
27.	Ab. Rouf Lone	B.Com	01-02-1961	10-07-1985	11-12-2015	Promotee
28.	Gh. Mohd Bhat	B.A	21-05-1961	10-07-1985	11-12-2015	Promotee
29.	Mushtaq Ahmed Ahanger (Social Cast)	B.Com., Dip. in Marketing & Management	01-02-1961	10-07-1985	01-07-2016	Promotee
30.	Gh. Nabi Peer	B. Sc.	20-02-1960	10-07-1985	01-03-2017	Promotee
31.	Mohammad Yaseen Padder	B.A	25-04-1960	10-07-1985	01-11-2017	Promotee

Note:

- 1) The Date of Birth of the officer(s) shall be subject to verification from valid D.O.B Certificate(s).
- 2) The seniority in respect of Mr. Mohammad Hashim Dar (RBA), is subject to outcome of writ petition till a decision with regard to reserved category (s) is finally heard and disposed by the Hon'ble Supreme Court.


 (Sartaj Hussain)
 Deputy Secretary to Government
 25.08.20