



GOVERNMENT OF JAMMU AND KASHMIR
HANDLOOM DEVELOPMENT DEPARTMENT

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Subject: Consideration order in SWP No. 157/2008, MP No. 177/2008
titled Javed Afzal & Ors Vs State and Others.

Order No. **68** - DHD of 2018

DATED: **13** - **08** - 2018

Whereas prior to 1980 there was one Department of Handicrafts & Handlooms in the State; and

Whereas during 1979, the service conditions of the employees the Department were governed under the J&K Handicrafts & Handlooms (Subordinate) Service Recruitment Rules, 1979 and; and

Whereas the mode of recruitment for the posts of Tailor Master and Assistant Tailor Master as per the J&K Handicrafts & Handlooms (Subordinate) Service Recruitment Rules, 1979 is as under:-

Tailor Master (280-520)

"By promotion from Class III i.e. Assistant Tailor Master having 5 years experience as such".

Assistant Tailor Master (220-430)

"By direct recruitment having 7 years experience in the line".

Whereas the petitioners were appointed as Assistant Tailor Master in the pay scale of 5200-20200 + GP Rs 2400 (revised) in the Department under these rules; and

Whereas the Handloom Wing was segregated from the Handicrafts & Handlooms Department and a separate Directorate of Handloom Development was created vide Government Order No. 273-DOH of 1980 dated 29.7.1980 and rules came into existence in 1993 known as J&K Handloom Development (Subordinate) Service Recruitment Rules, 1993 whereunder the method of recruitment for these posts is as under:-

Tailor Master

"50% by direct recruitment from candidates possessing qualification matric with ITI in cutting & Tailoring and 5% by promotion from ATMs with 5 years' service as such".

Assistant Tailor Master

“100% by direct recruitment from candidates possessing qualification matric with ITI in cutting & Tailoring”.

Whereas, in 2008, the petitioners approached the Hon'ble High Court at Jammu in SWP No. 157/2008 titled Javed Afzal & Ors Vs State of J&K Ors seeking direction for grant of pay scale of Rs 6500-10500 (pre-revised) w.e.f. 1992 as has been done in the case of ITI instructors of Technical Education Department in their favour; and

Whereas the Hon'ble High Court at Jammu in its Order dated 7.11.2017 has disposed of the case alongwith connected MP. The operative part of the judgment is reproduced below:-

“Thereafter the Letters Patent Appeal bearing LPA(SW) No. 159/2001 was preferred against the aforementioned dismissal order, which was allowed by the Division Bench of this Court vide Judgment and order dated 2.12.2002. Relevant paragraphs of the said judgment is reproduced hereunder for facility of reference:

‘This stand of the State is that so far as the ITI Instructors are concerned, they render 42 hours practical training in a week and also teach theory, whereas, the Workshop Instructors render 12 hours practical training in a week and theory is being taught by Demonstrators.

If this is the position then the case of ITI Instructors is better than the Workshop Instructors. They render practical training for longer period. They also take theory classes. If this category of employees render more practical training to the trainees then it cannot be said that they cannot invoke concept of equal pay for equal work i.e. seek parity with Workshop Instructors.

In view of the above this appeal is allowed. ITI Instructors are held entitled to the same benefit as are being given to Workshop Instructors. Let the requisite relief be granted with effect from the date the WP was filed in this Court. Let this be done within a period of four months from the date copy of the order is made available to the respondents.’

In view of the aforementioned facts and circumstances of the case, writ petition is disposed of with a direction to the respondents to consider the case of the petitioners for grant of pay-sales at par with the pay scales of ITI Instructors of the Technical Education Department and having regard the judgment (supra), provided the said judgment is applied in the case in hand. Let the needful be done preferably within a period of six (06) weeks from the date, a certified copy of this order

alongwith complete set of paper-book is made available to the respondents.

Disposed of, accordingly, alongwith connected MP."

Whereas, the case of the petitioners has been examined in terms of judgment dated 7.1.2017 with particular reference to the Hon'ble Division Bench judgment reflected in this judgment supra and the Recruitment rules of 1979 read with Recruitment Rules of 1993 and it has been observed that the judgment of the Division Bench is in respect of Technical Education Department which has its own recruitment rules and service conditions whereas the Handloom Development Department has its own recruitment rules and services conditions and they cannot be given same parity in respect of release of grades, etc., therefore, the judgment dated 7.1.2017 do not apply to the case of the petitioners; and

Whereas, it has further been observed that the petitioners have been appointed in the Handloom Development Department in terms of the above mentioned recruitment rules of the department and as such, with the joining of the petitioners in the Department, they have accepted all the service conditions of the Department including pay scales; and

Whereas, at this stage they cannot claim the pay scale as is sanctioned to the Instructors of ITI in the Technical Education Department as both the departments have separate recruitment rules, service conditions, training syllabus, nature of work etc. for their respective employees; and

Now, therefore, in view of the afore-mentioned facts and circumstances, the claim of the petitioners for grant of the pay scale of 6500-10500 (pre-revised) w.e.f. 1992 as is applicable to the Instructors of ITI in the Technical Education Department has been considered and examined in terms of the Hon'ble High Court judgment dated 7.11.2017 read with recruitment rules of 1979 and 1993 applicable to the employees of the Department and the same has been found devoid of merit.


Director,

Handloom Development Deptt

J&K Srinagar

Dated: 13.08.2018.

No. DHD/Court/ 790-95

Copy for information to:-

1. Principal Secretary to Gov, Industries & Commerce Deptt.
- ✓ 2. Joint Director Handlooms, Kashmir/ Jammu.
- ✓ 3. Government Advocate with a request to file compliance report before the Hon'ble High Court at Jammu.
4. Shri Javed Afzal, Head Weaver, District Rajouri (Petitioner)
5. I/C Official Website of the Handloom Dev. Department.
6. Order file/ stock file.