

No.27(C)/436/2006-SR(S)
Ministry of Personnel, P.G. & Pensions
(Department of Personnel & Training)
Government of India

Room No.318, 3rd Floor,
Lok Nayak Bhawan, New Delhi.

Dated : 01, 2011
1 JAN 2011

To

1. The Chief Secretary,
Govt. of Uttar Pradesh,
Lucknow, Uttar Pradesh.
2. The Chief Secretray,
Government of Uttrakhand,
Dehradun.

Subject : Allocation of Shri Naushad Ahamad Ansari, Assistant Geologist (Ad-hoc),
Department of Geology and Mining in pursuance of order dated 17.2.2010
of Hon'ble Supreme Court in SLP No.13479/2006.

Sir,

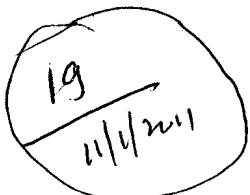
I am directed to refer to the letter dated 26th October, 2010 of Uttar Pradesh Government enclosing therewith the minutes of the meeting of the State Advisory Committee held on 17th June, 2010 wherein amongst other matters the matter of allocation of Shri Naushad Ahmad Ansari, Assistant Geologist (ad-hoc), Department of Geological and Mining was discussed. The minutes of the meeting have since been approved by the Government.

2. State Advisory Committee did not arrive at a decision regarding allocation of Shri Naushad Ahmad Ansari in the abovementioned meeting as reflected in the minutes. While the Chairman, State Advisory Committee was of the opinion that the allocation of Shri Naushad Ahmad Ansari can be decided on the merits of the case including the fact that his candidature for promotion to the post of Assistant Geologist needs to be considered by Government of Uttarakhand, representatives of Uttarakhand and Government of India were of the view that as the matter is pending before the Hon'ble Supreme Court who have in their order dated 17th February, 2010 directed that appropriate orders in compliance with the orders of the High Court dated 24th May, 2006, be issued, the only option available at this stage is to issue orders as per directions of the Hon'ble High Court, Uttarakhand.

3. In this regard, it is to be noted that Hon'ble High Court, Uttarakhand in writ petition No.250/SP/2004 passed the following orders on 24th May, 2006.

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“.....Since the petitioner was holding the post on ad-hoc basis, he has no right to continue on the said post and to seek his allocation for the State of Uttaranchal. He has also not opted for his allocation as Technical Assistant to the State of Uttaranchal, therefore, the entire application of the petitioner made to be State Advisory Board is misconceived.

In these facts and circumstances of the case, we provide that it is open for the State of Uttaranchal to relieve the petitioner for State of Uttar Pradesh in exercise of powers under Section 75 of the Uttar Pradesh Reorganisation Act, 2000. Since the petitioner has been found unsuitable for regular promotion, he shall also not be allowed to hold the post of Assistant Geologist on ad-hoc basis.

The petitioner was relieved by the State of Uttaranchal but he has not been allowed to join in State of Uttar Pradesh, therefore, the State of Uttar Pradesh is directed to allow the petitioner to join on the post of Technical Assistant which is a substantive post within a period of one week from the date of production of certified copy of this order.....”

4. Shri Ansari filed a review petition against the order. In its review judgement dated 17th July, 2006, the Hon'ble High Court of Uttarakhand passed the following orders:-

“...we don't find any force in the review petition. However, it is provided that the petitioner is at liberty to file representation before the State of Uttar Pradesh stating therein that the order of the DPC was held.

Learned counsel for the petitioner has submitted that in the event of adverse entries made in the character roll of an employee who had already crossed the efficiency bar, such adverse entries don't come in the way of his promotion in view of the law laid down in Brijnath Pandey Vs State of Uttar Pradesh 2001(9) SCC 398.

In view of the above, if the petitioner made a representation the case of the petitioner be reconsidered by the State of Uttar Pradesh.”

5. Shri Naushad Ahmad Ansari has challenged these orders through SLP No.13479 of 2006 and 16932-33 of 2007. Hon'ble Supreme Court passed the following orders on these SLPs on 17th February, 2010:-

“By order dated 15th September, 2009, this Court had directed the Union of India to file an affidavit disclosing whether any decision has been taken by them regarding the empanelment of the petitioner either in the State of Uttarakhand or in the State of Uttar Pradesh.



Contd...3/-

In response to it, the Union of India has filed an affidavit wherein it has stated (at para 18) that the allocation of the petitioner has not been finalized because the status of the petitioner, that is the substantive post he was holding on 8.11.2000 is not clear.

As the High Court has recorded the findings that he should be allowed to join on the post of Technical Assistant, and as there is no stay, the Union of India is directed to pass appropriate orders under Section 73(2) within six weeks.”

6. In its order, Hon'ble Supreme Court has noted that the High Court has recorded the findings that Shri Ansari should be allowed to join in the post of Technical Assistant which has not been stayed and it has given directions for passing appropriate orders under Section 73(2) keeping in view the above status.

7. Keeping in view the specific directions of the Supreme Court in its order dated 17th February, 2010 and all other aspects mentioned in the foregoing paragraphs, Government of India allocates Shri Naushad Ahmad Ansari to Uttar Pradesh on the substantive post of Technical Assistant w.e.f. 24.05.2006 i.e. the date of judgement of Uttarakhand High Court in terms of Section 73(2) of Uttar Pradesh Reorganisation Act, 2000. Shri Ansari may be allowed to join on the post of Technical Assistant in State of Uttar Pradesh as per directions of the Hon'ble High Court effective 24.5.2006.

8. It is noted that Shri Ansari has also challenged the order of the Hon'ble High Court dated 17th July, 2006 which relates to his promotion to the post of Assistant Geologist in the State of Uttarakhand. This is under consideration of the Hon'ble Supreme Court. The above orders of his allocation to State of Uttar Pradesh would be subject to final orders of the Hon'ble Supreme Court in the aforesaid SLP.

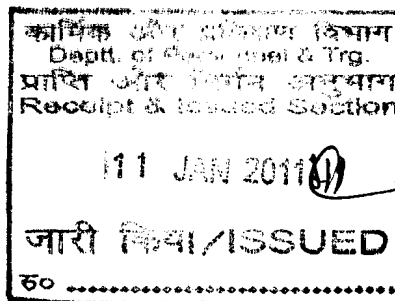
Yours faithfully,



(K.P.K. Nambissan)

Deputy Secretary to the Government of India

Tele.Fax:011 2462 3711



Copy to:-

1. Shri R.M. Srivastava, Principal Secretary, Uttar Pradesh Reorganization Coordination Deptt., Secretariat, Vikash Bhawan, Lucknow.
2. Shri D.K. Kotia, Principal Secretary, Uttarakhand Reorganization Deptt., Secretariat, Dehradun.
3. Principal Secretary, Geology and Mining Department, Government of Uttar Pradesh, Lucknow.
4. Principal Secretary, Geology and Mining Department, Government of Uttarakhand, Dehradun.
5. Shri Naushad Ahamed Ansari, Serving as Assistant Geologist Geology & Mining Unit, Directorate of Industries, Uttarakhand, Dehradun.



Deputy Secretary to the Govt. of India.