



Government of Jammu and Kashmir
Home Department

Subject: - Order dated 26.11.2014 passed by the Hon'ble High Court in SWP No.825/2004 titled Parvaiz Ahmad Shah Vs State and others.

Government Order No. 117 -Home of 2016

Dated. 29-02.2016

Whereas, Shri Parvaiz Ahmad Shah S/o Late Ghulam Ahmad Shah R/o Charsoo, Pulwama has approached the Hon'ble High Court of J&K at Srinagar through the medium of SWP No.825/2004 titled Parvaiz Ahmad Shah Vs State and others, seeking appointment as Inspector in J&K Police under SRO-43, on the analogy of similarly situated cases; and

Whereas, the Hon'ble High Court of J&K at Srinagar vide its order dated 26.11.2014 has disposed of the writ petition with the following directions: -

"This writ petition is disposed of alongwith connected IA's and official respondents are directed to consider and take decision on representation of the petitioner within four weeks from the date copy of this order is served. The respondents while considering the representation of the petitioner shall also keep in mind the Division Bench order passed in LPA No.210/99 and the outcome of the consideration shall be communicated to the petitioner.

In order to enable the respondents to implement the court judgement, petitioner would be at liberty to file one more representation before the respondents within week's time and after receipt of the said representation and court order, the respondents to consider and take decision within four weeks."

Whereas, the Hon'ble High Court of J&K has disposed of LPA No.210/99 titled Parvaiz Ahmad Shah Vs State of J&K and others vide its order dated 07.11.2002, which reads as under: -

"The learned Counsel for the appellant submits that he does not wish to press this appeal. He, however, submits that he be left free prefer a representation before the respondents. He submits that in the matter of compassionate appointments the status of the deceased is not to be taken note of."

This appeal is disposed of with liberty to the appellant to prefer a representation before the State. As and when any such representation is preferred. Nothing said by the Learned Single Judge of this court will come in his way.

Let a decision on his representation be taken within a period of three months from the date it is filed.

Disposed of accordingly."

Whereas, the claim of Shri Parvaiz Ahmad Shah (petitioner) for his appointment as Inspector in the Police Department under SRO-43 of 1994 has been examined and it has been found that: -

- i. The object of compassionate appointment is to offer help and assistance to the dependents of deceased in order to save them from destitution, vagrancy and from other social evils. The compassionate appointment enables the family to tide over sudden financial crises which occurred due to death of bread earner of the family alleviate their financial distress by offering sustenance. Therefore, object of the compassionate appointment is not to give an NoK, the appointment of his/her choice or give him appointment which is actually a departure from the normal recruitment rules.
- ii. The Home Department vide Government Order No.Home-165 (P) of 1997 and 30.04.1997, has appointed Shri Parvaiz Ahmad Shah S/o Late Ghulam Ahmad Shah R/o Charsoo, Pulwama as Assistant Sub-Inspector in the Police Department in the Pay Band of Rs.5200-20200 with the Grade Pay of Rs.2800/- under SRO 43 of 1994. The petitioner has availed the appointment and joined the Police Department as ASI in 1997 itself.
- iii. The petitioner having accepted the appointment as Assistant Sub-Inspector in the Police Department in 1997 cannot claim a higher post after a lapse of around 18 years to which he is not entitled by any rule or norm. Therefore, change of his appointment at this stage would defeat the object of compassionate appointment, besides being time barred and also tantamount to retrospective change of his service conditions which is not permissible under rules.
- iv. The case of the petitioner has also been examined in consultation with the General Administration Department (GAD). The GAD vide U.O. No.GDC/218/CM/2015-SRO/718 dated 12.10.2015 has advised as under: -

“Returned. The Department is advised to reject the claim of the petitioner for being appointed on the post of Inspector retrospectively from the date he was initially appointed as ASI on 30.04.1997 under SRO-43 of 1994, by issuing a speaking order.”

- v. The post of Inspector is a promotion post, earmarked for promotion of SIs of Police Department and not a direct recruitment post.
- vi.

Now, therefore, the claim of Shri Parvaiz Ahmad Shah S/o Late Ghulam Ahmad Shah R/o Charsoo, Pulwama for his appointment as Inspector having been considered in due deference to the Order dated 26.11.2014 passed by the Hon'ble High Court in SWP No.825/2004 titled Parvaiz Ahmad Shah Vs State and others, has been found to be devoid of any merit and is accordingly, rejected for the reasons mentioned hereinabove.

By order of the Government of Jammu and Kashmir.

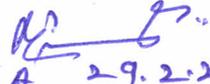
Sd/-
(R.K. Goyal) IAS
Principal Secretary to Government
Home Department

No. Home/SRO-43/12/2015

Dated: 29.02.2016.

Copy to: -

1. Principal Secretary to Hon'ble Governor, J&K, Jammu.
2. Director General of Police, J&K, Jammu.
3. Commissioner/Secretary to Government, General Administration Department.
4. Private Secretary to Principal Secretary to Government, Home Department.
5. Concerned.
6. I/C Website, Home Department.
7. SRO file/Stock file.


A 29.2.2016
(Mushtaq Ahmad)KAS
Deputy Secretary to Government
Home Department