

Government of Jammu and Kashmir
Home Department
Civil Secretariat, Srinagar

Subject : Adoption of date of birth in respect of Sgvt Gopal Krishan PID No EXE-902017.

Reference : Letter No. Estt/DOB-12/2015/2105/37994-95 dated 30.05.2018 from Police Headquarters, J&K.

Government Order No. 177 – Home (P) of 2020

D a t e d : 25 .08.2020

1. Whereas, the Police Headquarter vide above referred communication forwarded the original Character Roll along with the copies of allied documents of Shri Gopal Krishan PID No EXE-902017 stating, inter-alia, that due to clerical error at the time of preparation of character roll of the official, his date of birth came to be recorded in figures as 15.09.1960 instead of 15.09.1968 and recommended that the date of birth of the official be adopted as 15.09.1968 instead of 15.09.1960; and
2. Whereas, the case was examined in light of the above documents and it was observed that Shri Gopal Krishan was temporarily appointed as follower guardman against the post of Barber in 2nd Bn SDRF in the year 1990, vide order No. 120 of 1990 dated 01.03.1990 and his date of birth on the first page of his Character Roll, presumably prepared in his presence in terms of Rule 193 of the Jammu and Kashmir Police Rules, was recorded as 15.09.1960 in figures; and
3. Whereas, the Police Headquarter in terms of the referred letter had also informed about the departmental inquiry which was conducted in the matter by Commandant SDRF 2nd Bn, who in his findings had concluded that due to clerical error, the date of birth of the official was wrongly recorded as 15.09.1960 instead of 15.09.1968 and there was no malafide intention. Subsequently, the Committee of Officers constituted in PIHQ for examination of cases involving dispute in date of birth of police personnel, while concurring with the findings of the inquiry officer had in its report dated 15.01.2018 recommended PIHQ, that the case be taken up with the Home Department for adoption of date of birth of Shri Gopal Krishan as 15.09.1968. The Committee had perused the school leaving

certificate of the official, verification certificate, relevant pages of long roll, medical form and CID verification of school leaving certificate; and

4 Whereas, the case was examined in light of the above factual details, documents made available by PHQ including, its aforesaid report dated 15.01.2018 and the extant rules governing the subject. It was observed that neither the inquiry officer nor the aforesaid Committee had taken the following factors into consideration while examining the matter and recording its findings:-

- i) In terms of order No. 120 of 1990 dated 01.03.1990, Shri Gopal Krishan was temporarily appointed as follower guardman against the post of Barber in 2nd Bn SDRF and not constable as contended by the official.
- ii) Why the official chose to file representation for alteration of his date of birth in the year 2015 viz. after 25 years in service and before five years of his retirement and not before that.
- iii) The compelling reasons, if any, given by the official for not applying for alteration of his date of birth within five years of his entry into service, as contemplated under Article 35-AA(c) of the Jammu and Kashmir Civil Services Regulations, 1956.

5. Whereas, during the course of further examination, it was observed that besides the above aspects, neither the inquiry officer nor the aforesaid Committee or PHQ had considered the relevant rule position governing the preparation and attestation of character rolls, as indicated in rules 192 and 193 of the Police Rules, 1960 nor the provisions governing alteration of date of birth, provided in Article 35-AA(c) of the Jammu and Kashmir Civil Services Regulations, 1956 and rule 6.4 of the J&K Financial Code, Volume-I. These rules/provisions read as under:-

Police Rules

“ 192. Character rolls

A character roll in Form 29 shall be prepared and maintained for each enrolled police officer. Each roll shall be paged and extra pages or papers added shall be given a page number and attached in the chronological order

193. Attestation of recruits and preparation of character rolls.



When the formalities required by rule 185 have been completed, and the recruit has served for one month and received the instruction prescribed in rule 794 his character roll shall be prepared in his presence. When the roll is otherwise complete the recruit shall be taken before a gazetted officer and required to sign the agreement printed as item 4 in the roll and the rolled impressions of the thumb and fingers of his left hand shall be taken in the space provided for the purpose. The gazetted officer before signing the roll shall satisfy himself that the recruit understands the purpose of his agreement and shall explain to him the purport of rule 117 and give him the opportunity of claiming alteration in his recorded age on production of documents in support of his contention.

Article 35-AA

“(c) Alteration of date of birth

The date of birth so declared by the Government servant and accepted and once recorded by the appropriate authority (as specified in clause (b) above) in the service book or any other record of service of the Government servant, as the case may be, shall not be subject to any alteration, except in the case of a clerical error without the orders of the Government. No alteration of date of birth of a Government servant shall be made by the Government (Administrative Department) unless a request in this regard is made by the concerned Government servant within a period of five years of his/her entry into Government service and it is clearly established that a genuine/ bonafide mistake has occurred.

Provided that in case of Government servant in service on the date of issue of this Notification, a request for alteration of his/her date of birth may be considered by the Government, for reasons to be recorded in writing, if an application to this effect is made within a period of six months from the date of issue of this Notification:

Provided further that the date of birth so altered would not make him/ her ineligible to appear in any school or University/Board or Public Service Commission Examination in which he had appeared or for entry into Government service, on



the date on which he first appeared at such examination or on the date on which he entered Government service.

Rule 6.4 of the J&K Financial Code, Volume-I

“(i) Every person newly appointed to a service or a post under Government, should at the time of appointment declare the date of his/her birth by the Christian era with confirmatory documentary evidence such as Matriculation Certificate, School Leaving Certificate, Municipal Birth Certificate and so on, as required by or permitted under Article 35-AA of the Jammu and Kashmir Civil Service Regulations”.

6. Whereas, it was further observed that the official was all along having the knowledge of the entries made in his character roll in light of the above provisions of the police rules and he had failed to make a representation to the Government (Administrative Department) within a period of five years of his entry into Government service viz before the year 1995, mentioning therein that a genuine/bonafide mistake had occurred while entering his date of birth in his character roll. Besides, the examination of character roll indicates that there is neither overwriting nor mutilation in the existing entry regarding date of birth of Shri Gopal Krishan as 15.09.1960 and the same with the lapse of time has attained finality; and
7. Whereas, in light of the above factual and legal position, the recommendations of the PHQ sans merit and hence cannot be accepted at this belated stage. Any contrary view would give rise to similar claims and thus, set a wrong precedent.
8. Now, therefore, the claim of the applicant namely Shri Gopal Krishan PID No EXIE-902017 with respect to the adoption of his date of birth as 15.09.1968 instead of 15.09.1960, duly recorded in his character roll, having been considered in terms of Rule 35-AA(c) of the J&K Civil Service Regulations, 1956 Volume -1, Rule 6.4 of the J&K Financial Code Vol-I read with rules 192 & 193 of the Police Rules, 1960 and the recommendations of the PHQ, is for the reasons recorded hereinabove, found devoid of any merit and accordingly rejected. The date of birth of the official namely Shri Gopal Krishan PID No EXIE-902017 shall for the purposes of superannuation and pensionary benefits continue to be treated as 15.09.1960 as already recorded in his Character Roll. The PHQ, J&K



shall issue necessary notification relating to superannuation of the official on most immediate basis.

By order of the Government of Jammu and Kashmir.

Sd/-

(Shaleen Kabra) IAS

Principal Secretary to the Government

No : Home/PB-III/59/2018

Dated : 25.08.2020

Copy to:

1. Director General of Police, J&K, Srinagar. The original Character Roll/School Leaving Certificate of Sget Gopal Krishan PID No EXE-902017 is returned herewith. He is requested to immediately forward the names of the officers/officials, whether serving or retired, who had made or attested entries in the character roll of the official.
2. Principal Accountant General, J&K, Srinagar.
3. Director, Archives, Archaeology and Museums, J&K, Srinagar.
4. FA/CAO, Home Department.
5. Shri Amit Gupta, I.d. Additional Advocate General, Central Administrative Tribunal, Jammu. He is requested to inform the Hon'ble Tribunal about the order in O.A No 196/2020 titled Gopal Krishan vs. UT of J&K & Others and ensure that no adverse orders are passed in the matter.
6. Private Secretary to the Principal Secretary to the Government, Home Department.
7. Incharge Website, Home Department.
8. Government order file/Stock file.

Copy also to Joint Secretary, Ministry of Home Affairs, Government of India.


(Rashid Raina) KAS

Under Secretary to the Government