

Government of Jammu and Kashmir
Home Department
Civil Secretariat, Srinagar/Jammu

Subject: Adoption of date of birth in respect of Shri Fayaz Ahmad Bandy, Deputy Superintendent of Police (Ministerial).
Reference: TA No.62/9280/2020 titled Fayaz Ahmad Bandy Vs Union Territory of Jammu and Kashmir & others.

Government Order No. 205-Home of 2022
Dated: 01.07.2022

Whereas, the Police Headquarters (PHQ), J&K, vide communication No.Estt/P-case/836033/3735 dated 20.01.2015, forwarded the case of Shri Fayaz Ahmad Bandy, Inspector (Ministerial) [now Deputy Superintendent of Police (Ministerial)] to the Home Department, stating inter alia, that due to the clerical error at the time of preparation of Character Roll of the official, his date of birth came to be recorded in figures as 28.02.1963, and on the basis of recommendation of the Designated "Date of Birth" Committee, proposed for adoption of his date of birth as 28.04.1965; and

Whereas, the case was examined in light of the documents made available by the PHQ and it was observed that Shri Fayaz Ahmad Bandy, Dy.SP (M) was appointed in J&K Police as Junior Assistant-cum-Typist in the year 1983, in terms of PHQ's order No.Estt.(APH)82-89/PHQ dated 18.04.1983, and his date of birth on the first page of his Character Roll, presumably prepared in his presence in terms of rules 193 of Jammu and Kashmir Police Rules, was recorded as 28.02.1963; and

Whereas, the PHQ also informed that Shri Fayaz Ahmad Bandy, Dy.SP(M) had filed a representation with PHQ only in the year 2014, in furtherance of which his case has been brought to the notice of Administrative Department by the PHQ, after a lapse of more than three decades; and

Whereas, during the course of further examination, it was observed that the aforesaid committee of PHQ had neither considered the relevant Rule position governing the preparation and attestation of Character Roll as indicated in rules 192 and 193 of the J&K Police Rules, 1960 nor the provisions governing alteration of date of birth, provided in Article-35-AA (c) of the Jammu and Kashmir Civil Service Regulations, 1956. The pertinent 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 gazette 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 gazette 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 alternation in is recorded age on production of documents in support of his contention.

Article 35-AA- 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.

(d) Notwithstanding the provisions contained in clause (c) above regarding alteration of date of birth, Government, however, reserves the right to make a correction in the recorded age of Government servant at any time, against the interests of the Government employee when it is satisfied that the age recorded in his/her service book or in the history of services of the concerned Government servant is incorrect and has been incorrectly recorded with the object that the said Government employee may derive some unfair advantage therefrom."

Whereas, Article 35-AA of J&K Civil Service Regulations, Volume-I, explicitly lays down that the alteration in date of birth can be effected only within five years from the date of entry into Government service. Shri Fayaz Ahmad Banday, Dy.SP (M) has failed to represent for alteration of his recorded date of birth within the prescribed time limit and has filed a representation with PHQ after rendering three decades of service; and

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, but he failed to make a representation to the Government (Administrative Department) within a period of five years of his entry into Government service. Besides, the examination of Character Roll indicates that there is neither overwriting nor mutilation in the existing entry regarding date of birth of Sh. Shri Fayaz Ahmad Banday, Dy.SP (M) and the same with the lapse of time has attained finality; and

Whereas, the case having been examined in light of the available records and provisions contained in the J&K Police Manual and J&K CSR, it was found that the official has not represented for alteration of his date of birth within the time line prescribed under Rules. Even otherwise also adoption of his date of birth as 28.04.1965, will render him ineligible for entry into the Government service; and

Now, therefore, in due deference to the order of the Hon'ble Central Administrative Tribunal, Srinagar in TA No.62/9280/2020 titled *Fayaz Ahmad Banday Vs Union Territory of Jammu and Kashmir & others*, the claim of Shri Fayaz Ahmad Banday, Dy.SP(M), after having been examined and considered in terms of the relevant documents and the rules governing the subject, is for reasons recorded herein above, found devoid of any merit and hence rejected. The date of birth of the officer shall continue to be treated as 28.02.1963, as recorded in his Character Roll, at the time of his appointment.

Sd/-

(Raj Kumar Goyal) IAS
Financial Commissioner/
Additional Chief Secretary

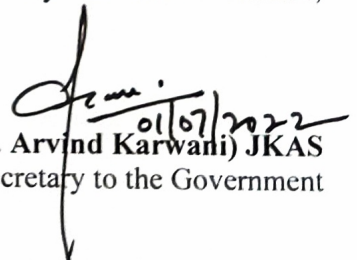
No: HOME-PNG/28/2021-01(CC-9245)

Dated:01.07.2022

Copy to the:

1. Director General of Police, J&K.
2. Principal Accountant General, J&K.
3. Director Archives, Archaeology and Museums, J&K.
4. Private Secretary to the Financial Commissioner (Additional Chief Secretary), Home Department.
5. I/c Website, Home Department.
6. Government Order /Stock file.

Copy also to: Additional Secretary (JKL), Ministry of Home Affairs, Government of India.


(Dr. Arvind Karwani) JKAS
Additional Secretary to the Government