

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

Subject: Order dated 14.01.2021 passed by the Hon'ble Central Administrative Tribunal, Srinagar Bench in O.A. No.62/44/2021 titled Firdous Iqbal vs. UT of J&K and another.

Government order No:241-Home of 2022
Dated:19-07-2022

Whereas, on the basis of the Combined Competitive Examination, the applicant namely, Shri Firdous Iqbal was appointed as Dy. Superintendent in the Jammu and Kashmir Police, vide Government Order No. 789-GAD of 1999 dated 12.07.1999, issued by the General Administration Department; and

2. Whereas, the applicant among others was promoted as Superintendent of Police, on officiating basis, vide Government Order No. Home-334(P) of 2005 dated 16.08.2005; and

3. Whereas, the applicant among others was placed in the Selection Grade of Deputy Superintendent of Police, vide Government Order No. 392(P) of 2009 dated 18.05.2009, with effect from 26.08.2004; and

4. Whereas, the applicant was confirmed/regularized as Superintendent of Police vide Government Order No. Home-929(P) of 2009 dated 18.11.2009 w.e.f. 16.08.2005; and

5. Whereas, in terms of Government Order No. 1034-Home of 2018 dated 03.08.2018, the applicant among others was granted Selection Grade-II (Non-Functional) and placed in the pay band of Rs. 15600-39100, with Grade pay of Rs. 7600/- on notional basis, w.e.f. 01.01.2014 and Selection Grade-I (Non-functional) of Rs. 37400-67000, with Grade pay of Rs. 8700/- on regular basis w.e.f. 01.04.2018; and

6. Whereas, the applicant filed an O.A. No. 62/44/2021 titled *Firdous Iqbal vs. UT of J&K and another* in the Hon'ble Central Administrative Tribunal, Jammu Bench, inter-alia, praying therein for directions upon the respondents to grant him the benefits envisaged in Government Order No.653-Home of 2017 dated 07.06.2020, read with

Government Order No.1031-Home of 2017 dated 09.08.2017 and placement in the Super Time Scale-I of PB: 4 Rs.37400-67000+GP of 8900/-; and

7. Whereas, the O.A No. ibid was disposed of by the Hon'ble Tribunal vide order dated 14.01.2021, with a direction to the respondents to decide the representation of the applicant dated 08.02.2020 by passing a reasoned and speaking order, in accordance with the rules, under an intimation to the applicant; and

8. Whereas, in pursuance of the order ibid of the Hon'ble Tribunal, the representation dated 08.02.2020 submitted by the applicant in the Home Department was examined and it was observed that the applicant in his representation ibid had requested for grant of benefit of Government Order No.653-Home of 2017 dated 07.06.2020 and Government Order No.1031-Home of 2017 dated 09.08.2017 and benefits in terms of Para IV of Government Order No. 1031-Home of 2017 dated 09.08.2017 and placement in the Super Time Scale-I of PB: 4 Rs.37400-67000+GP of 8900/-; and

9. Whereas, in terms of the Jammu and Kashmir Police (Gazetted) Service Recruitment Rules, the officers appointed on the basis of the Combined Competitive Examination and allotted J&K Police Service, are appointed as Dy. Superintendent of Police, placed in the Selection Grade of Dy.SP, after completion of five years of service as such, in order of seniority, subject to availability of vacancy and fulfillment of other eligibility conditions. Further, a Selection Grade Dy.SP is eligible for promotion as SP. Further, there is a provision of Selection Grade at SP level to the extent of 20% of posts of Superintendent of Police posts. The post of SP is the feeding post for induction into the Indian Police Service and a Selection Grade SP gets inducted into the Indian Police Service, subject to eligibility as per rules, seniority position at SP level and availability of vacancies in the promotion quota of IPS and other parameters ; and

10. Whereas, the applicant has failed to understand the true import of clause (iv) of the G.O. No. 1031-Home of 2017 dated 09.08.2017, which, inter-alia, substituted sub-clause(h) of clause(vi) of the G.O. No. 653-Home(P) of 2017 dated 07.06.2017. The G.O dated 09.08.2017 stipulates that four (4) posts in the Super Time Scale-I of PB-4 Rs. 37400-67000+ Grade Pay Rs 8900, shall be added to the service; upon placement of the officer in the grade ibid, the officer will be mandatorily posted against the identified posts in this grade in the State Police Service and the four (4) posts ibid were to be re-designated by the Home Department; and

11. Whereas, the words shall be added to the service would connote by way of amendment in the relevant service rules or by a revision of the existing service rules, which exercise is presently underway, as such, the above four posts are yet to be formally added to the service and these posts are yet to be identified and re-designated in the State Police Service; and

12. Whereas, the contention of the applicant that induction into IPS and options of the Jammu and Kashmir Police (Gazetted) Service are mutually exclusive is not legally tenable, as presently, there is no such provision in the service ibid which permits, an officer, who is junior in the State Service to steal march over his senior in the said service, in case the senior for some reason does not get inducted into the IPS. The option of seeking willingness from the officers of the State Police Service for their induction into the IPS is a part of the process which is to be followed for induction into the IPS, as the select list for induction into IPS is based on the eligibility and the seniority of the officers from the feeding cadre, notwithstanding the options given by the officers; and

13. Whereas, the case of the petitioner has been examined and it has been observed that the unwillingness for induction/appointment to IPS submitted by the petitioner to the PHQ, at the time of such preference sought from the officers in the zone of consideration, does not per-se buttress his claim for placement against the posts in the Grade of PB-4 Rs. 37400-67000+ GP Rs. 8900/- (Pre-revised), envisaged in Government Order No.653-Home (P) of 2017 dated 07.06.2017, read with Government Order No.1031-Home of 2017 dated 09.08.2017. The petitioner is figuring at Sr.No.226, below Shri Bakar Samoon (Sr.No.225) in the final seniority list of Dy.SsP, notified in terms of Government Order No.992 of 2019 dated 28.09.2019, whose case for appointment to IPS is yet to be considered by the Union Public Service Commission; and

14. Whereas, to address the issue of stagnation in the Jammu & Kashmir Police Service, the Non-Functional (Monetary) Scheme (NFS) for the members of the General Executive Cadre of the Jammu and Kashmir Police (Gazetted) Service, has been notified vide SRO 215 of 2018 dated 18.05.2018 and the applicant has availed all the benefits under the ibid scheme; and

15. Now, therefore, in due deference to the order dated 14th January, 2021, passed by the Hon'ble Central Administrative Tribunal, Jammu Bench in OA No. 62/44/2021 titled *Firdous Iqbal vs. UT of J&K and another*, the representation of the applicant dated 08.02.2020 having been considered is found devoid of merit and rejected for the reasons recorded hereinabove.

By order of the Government of Jammu and Kashmir.

Sd/-

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

Dated:19.07.2022

No:Home/PG/159/2020-08 (CC:7438)

Copy to the:-

1. Director General of Police, J&K.
2. Principal Secretary to the Hon'ble Lieutenant Governor.
3. Director, Archives, Archaeology & Museums, J&K.
4. Addl. Advocate General, Srinagar/Jammu.
5. Private Secretary to the Chief Secretary.
6. Private Secretary to Financial Commissioner (ACS), Home.
7. I/C Website, Home Department.
8. Government Order file (w.2.s.c).

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


(Dr Arvind Karwani) JKAS

Additional Secretary to the Government