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

Subject: **Imposition of penalty on Mr. Bachan Lal Sr. PO (now retired) in terms of Rule 30 read with Rule 33 of the J&K Civil Services (Classification , Control and Appeal) Rules 1956.**

Government Order No: 358 -Home of 2023
Dated: 11 .07.2023

Whereas, a departmental Inquiry was initiated against Mr. Bachan Lal Sr.PO (now retired), then posted as Sr. PO, PTC Kathua, for having contracted second marriage, in violation of Rule 22 of the J&K Government Employees (Conduct) Rules 1971; and

2. Whereas, a charge sheet bearing No. Home/PB-I/33/2005 dated 16.12.2005 was served upon Mr. Bachan Lal through PHQ on 24.12.2005, who submitted his response to the charge sheet on 14.01.2006; and

3. Whereas, upon examination, the reply submitted by Mr. Bachan Lal was found to be unsatisfactory and accordingly, vide Government Order No 64-Home (P) of 2006 dated 24.02.2006, Mr. Niaz Mehmood, IPS, the then DIG Jammu was appointed as the Inquiry officer to conduct an in-depth inquiry into the matter; and

4. Whereas, the report submitted by the Inquiry Officer was examined in the Home Department in consultation with the PHQ. The Director General of Police, J&K, vide reference dated 04.08.2007 intimated that the Inquiry officer had not examined the Numberdar and two brothers of Mrs. Rani Devi, whose statements have relevance to the inquiry and in absence of which, the inquiry should be considered incomplete; and

5. Whereas, the matter was further examined in the Home Department and vide Government Order No. Home-457(P) of 2007 dated 24.09.2007, Mr Lalatendu Mohanti, IPS, the then DIG, Jammu Range was appointed as Inquiry officer to inquire into the charges leveled against Mr. Bachan Lal, Sr. PO (now retired); and

6. Whereas, Mr. Lalatendu Mohanti, IPS, the then DIG, Jammu Range submitted his Inquiry report on 10.06.2008, which was examined in the Home Department and subsequently, the case was referred to the Department of Law, Justice and Parliamentary Affairs, for opinion/advice; and

7. Whereas, the Department of Law, Justice and Parliamentary Affairs vide U.O No. LD(ser) 2008/78-Home dated 16.09.2008 conveyed the following opinion:-

"During the inquiry one thing that has been clearly established is that Shri Bachan Lal is living with another woman namely Mrs. Rani Devi for last couple of years and has a female child out of that relationship. There are now only two possibilities viz Shri Bachan Lal has either contracted second

11.07.23

marriage with Smt Rani Devi or else he is having illicit relationship with her and the female child is the result of that illicit relationship. In both the situations, he has violated Government Employees (Conduct) Rules, 1971. In case, he has contracted 2nd marriage while the subsistence of his first marriage, he has violated Rule 22 of Conduct Rules and in case he has not contracted the marriage then he is guilty of maintaining illicit relationship which is unbecoming of a Government Servant and has thus violated Rule 3 of J&K Government Employees (Conduct) Rules, 1971. Government Instructions below Rule 3 clearly states that a Government Servant shall maintain a reasonable and decent standard of conduct in his private life and not bring discredit to his service by his misdemeanor. In case where a Government Servant is reported to have acted in a manner unbecoming of a Government Servant as for instance neglect of his wife and family, departmental action be taken against him on that score without invoking Conduct Rules. Neglect by Government Servant of his wife and family in a manner unbecoming of a Government Servant may be regarded as good and sufficient reason to justify action being taken against him under this Rule.

The department is as such advised to take action against the officer, in terms of Rule 3 of the J&K Government Employees (Conduct) Rules, 1971, in case the second marriage with Mrs. Rani Devi is not established. The female Government Employee is also liable to action, in terms of Rule 22(2) in case it is established that she has married any person who has a wife living without obtaining permission of the Government."

8. Whereas, in pursuance of the advice of the Department of Law, Justice & Parliamentary Affairs, the case was further examined in the Home Department and it was observed that act of the officer is unbecoming of a Government Servant and thus requires an action to be taken against him for violation of J&K Government Employees (Conduct) Rules, 1971; and

9. Whereas, in view of the serious allegations against Mr. Bachan Lal, it was decided to initiate a fresh inquiry against him. Accordingly, vide memorandum dated 06.04.2011, Article of charges along with Statement of Imputations in support of the charges were served upon Mr Bachan Lal, Senior Prosecuting Officer (now retired); and

10. Whereas, aggrieved with the initiation of a fresh inquiry, the officer filed a writ petition (SWP No. 896/2011) titled *Bachan Lal vs. State and others* in the Hon'ble High Court praying therein for (i) quashment of Memorandum dated 06.04.2011 to hold yet another inquiry, and (ii) to treat the findings so handed down by respondent No. 4 in the departmental inquiry ordered by the Government vide order No. 64(P) of 2006 dated 24.02.2006, into the allegations of bigamy leveled against the petitioner, as final and conclusive; and

11. Whereas, the Hon'ble High Court, vide its interim order dated 28.04.2011 passed in SWP No. 896/2011 titled Bachan Lal vs. State and others, ordered as under:

11.07.23

"Issue notice. Mr. Gagan Basotra, AAG accepts notice on behalf of respondents. Learned Counsel for the petitioner shall supply copy of the writ petition to Mr. Basotra. It is contended that departmental enquiry was conducted against the petitioner and he came to be exonerated of the charges leveled against him. It is further contended that a fresh enquiry is being conducted against him on the same charges. Notice in CMP also as above. In the meanwhile, inquiry against the petitioner shall remain stayed till next date of hearing. List on 23.05.2011."

12. Whereas, the Hon'ble High Court vide its judgement dated 12.07.2016 disposed of SWP No. 896/2011, MP No. 1301/11 titled *Bachan Lal vs. State of J&K & Others*. The operative part of the judgment reads as under:

".....

24. In the present case, however, once material evidence was available on record regarding the illicit connection of the petitioner, the competent authority would be competent to even remit the matter to the enquiry officer, to frame an additional charge based upon the material evidence available on record during the enquiry and confront the delinquent with the same. The enquiry officer could then record his findings thereupon based on which a final decision could be taken by the competent authority.

25. Be that as it may, this petition is allow. The memorandum impugned dated 06.04.2011 along with article of charge is quashed. However, it would be open to the respondent to take recourse to the procedure as discussed above (in para 24)."

13. Whereas, the matter was remitted to Mr. Laltendu Mohanti IPS (2nd Inquiry officer) to inquire into the additional charge against the accused regarding his alleged illicit relationship with the lady in question and submit his report within 30 days; and

14. Whereas, due to Administrative reasons, the inquiry was later assigned to Mr. A.K Choudhary, IPS, ADGP Armed, vide G.O No 03-Home of 2018 dated 02.01.2018, who concluded the inquiry and submitted his report, wherein the additional charge framed in accordance with the judgment dated 12.07.2016 was established by the Inquiry officer that Mr. Bachan Lal was having an illicit relationship with Mrs. Rani Devi and out of this relation, two children were born; and

15. Whereas, Mr. Bachan Lal Sr.PO (now retired) has been found guilty of having violated Rule 3 of the Jammu and Kashmir Government Employees (Conduct) Rules 1971 to the extent of exhibiting the conduct unbecoming of a Government employee; and

16. Whereas, the report of the Inquiry officer was placed before the Competent Authority for consideration; and

11.07.23

17. Whereas, the Competent Authority accepted the report of the inquiry officer and directed to impose a penalty of withholding 02 increments (without cumulative effect) upon Mr Bachan Lal, Sr. PO (now retired); and

18. Whereas, due to retirement of Mr. Bachan Lal Sr.PO on attaining the age of superannuation, the requirements of Rule 35 of the J&K Civil Services (CCA) Rules, 1956 are waived; and

19. Now, therefore, in terms of Rule 30 (iii) of the J&K Civil Services (Classification, Control and Appeal) Rules, 1956, the penalty of withholding of two increments (***without cumulative effect***) for the period of 02 (two) years only, viz 2020 and 2021 shall be deemed to have been imposed on Mr. Bachan Lal, Sr. PO (now retired).

It is further ordered that the concerned DDO shall carry out revised pay fixation of the officer in view of the penalty imposed upon Mr. Bachan Lal and while forwarding his papers to the office of Accountant General for authorization of pension in his favour, shall invariably indicate the amount of recovery to be made from the pensionary benefits of the retired officer.

By the Order of the Government of Jammu and Kashmir.

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

No: HOME-Pros/30/2021-08-HOME (CC: 20430) Dated: 11.07.2023

Copy to the:
1. Director General of Police, J&K
2. Principal Accountant General, J&K.
3. Director General of Prosecution, J&K.
4. Principal Secretary to Hon'ble Lieutenant Governor.
5. Director Archives, Archaeology and Museums, J&K
6. Private Secretary to the Chief Secretary, J&K.
7. Private Secretary to the Financial Commissioner (ACS), Home Department.
8. Concerned Officer.
9. I/c Website, Home Department.
10. Government Order file/stock file.

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

(Syed Yasir Farooq) JKAS 11.7.23
Deputy Secretary to the Government