



Government of Jammu and Kashmir
Home Department

Subject: - Order dated 22.01.2013 of the Hon'ble High Court of J&K at Srinagar passed in SWP No.3191-J/2001 titled T. Gyalpo Vs State and others read with Order dated 24.08.2015 of the Hon'ble Division Bench of the J&K High Court and Order dated 11.12.2015 of the Hon'ble Supreme Court.

Government Order No.590-Home of 2015
Dated.22.12. 2015

Whereas, vide Government Order No.187-HD of 1997 dated 30.05.1997, among other Police Personnel, sanction to the one rank promotion (out-of-turn) in relaxation of the standing rules and procedures was accorded in favour of Shri T. Gyalpo (the then Inspector). The Government Order further provided that these promotions shall, however, not entitle the promotees to claim seniority over other employees who are senior to them in their respective cadres. The order further stipulated that period of their adhoc promotion shall not be counted to determine their eligibility for promotion to the next ranks; and

Whereas, Shri T. Gyalpo represented to the Home Department for removing the rider in the aforesaid order and also approached the Hon'ble High Court of J&K through the medium of SWP No.3191-J/2001 titled T.Gyalpo V/s State and others, inter-alia, praying for quashment of Government Order No.187-Home Department of 1997 dated 30.05.1997 and grant of seniority as DySP from 30.05.1997 on the analogy of Shri Abdul Rashid Baba and Shri Sewa Singh; and

Whereas, the Hon'ble High Court of J&K vide its order dated 22.01.2013 passed in SWP No.3191-J/2001 titled T. Gyalpo Vs State and others, while allowing the writ petition, held the petitioner entitled to the same treatment which has been given to the persons whose details are given in paragraph 7(a) of the writ petition and 12 of the rejoinder of the affidavit and for which the petitioner has sought relief in the writ petition; and

Whereas, the claim of the petitioner was examined in the Home Department and rejected vide Government Order No.308-Home of 2014 dated 03.07.2014, for being devoid of any merit; and

Whereas, the petitioner filed contempt petition No.721/2013 seeking implementation of the order dated 22.01.2013 passed in SWP No.3191-J/2001; and

Whereas, the Home Department examined the case of the petitioner in consultation with the Department of Law, Justice and Parliamentary Affairs. Accordingly, LPA was filed against the order dated 22.01.2013 of the Hon'ble High Court passed in SWP No.3191-J/2001 titled T. Gyaplo Vs State and other alongwith condonation of delay. The Hon'ble Division Bench vide its order dated 24.08.2015 passed in COD No.344/2014 LPA SWP No.214/2014, CMP No.346/2014 titled State of J&K Versus T. Gyalpo, dismissed the appeal alongwith the application seeking condonation of delay; and

Whereas, the Home Department filed SLP against the order dated 24.08.2015 of the Division Bench. The Hon'ble Supreme Court has disposed of the SLP No.33655-33657/2015 vide its Order dated 11.12.2015 with the following observations:-

“The petitioners are aggrieved, since the Division Bench of the High Court of Jammu and Kashmir at Srinagar declined to entertain the intra court appeal on the ground of delay. The learned counsel for the petitioners submits that the judgement dated 22.01.2013 of the Single Judge would be treated as a precedent and in such case, it might create a lot of confusion in the seniority.

We find some substance in the submission of the learned counsel. However, we dismiss the special leave petitions making it clear that the judgement dated 22.01.2013 of learned Single Judge in T. Gyalpo Vs State and ors. will not be treated as a precedent, as we are leaving open the question of law.

As a sequel to the above, pending interlocutory application(s) shall stand disposed of.”

Whereas, Shri T. Gyalpo has been promoted as DySP w.e.f 01.05.2003 vide Government Order No.Home-367(P) of 2007 dated 01.08.2007. He has been placed in the Selection Grade of DySP w.e.f 18.03.2013 vide Government Order No.Home-224 of 2013 dated 06.06.2013 and placed as I/C SP w.e.f. 04.07.2013 vide Government Order No.Home-270 of 2013 dated 04.07.2013. As the court order has attained finality, Shri T. Gyalpo is required to be promoted as DySP on out-of-turn basis w.e.f 30.05.1997 instead of adhoc basis. However, since the seniority of DySPs and SPs is under review pursuant to the judgement passed in the case of Smt. Anita Sharma, his entitlements relating to the placement in the Selection

Grade of DySP and SP from a retrospective date will be determined separately, after the seniority of DySPs and SPs is firmed up, as at this stage, it would be difficult to determine his immediate senior or junior in the cadre of DySPs/SPs pending finalization of seniority.

Now, therefore, in compliance with the order dated 22.01.2013 of the Hon'ble High Court of J&K passed in SWP No.3191-J/2001 and in partial modification of Government Order No.187-HD of 1997 dated 30.05.1997, sanction is hereby accorded to the regular promotion of Shri T. Gyalpo as DySP on out-of-turn basis w.e.f 30.05.1997 with the stipulation that grant of such promotion under orders of the Hon'ble Court will not be treated as a precedence as directed by the Hon'ble Supreme Court vide its order dated 11.12.2015 passed in SLP No.3365-33657/2015 titled State of Jammu and Kashmir and another Vs T. Gyalpo. All consequential benefits including seniority in the cadre of DySPs will flow to the officer from 30.05.1997. His further entitlement to placement in the Selection Grade of DySP and as SP from a retrospective date will be determined after the issuance of the final seniority lists of DySPs/SPs pursuant to the judgement passed in the case of Mrs. Anita Sharma.

By order of the Government of Jammu and Kashmir.

Sd/-

(R.K. Goyal) IAS

Principal Secretary to Government
Home Department

Dated:22.12.2015.

No. Home/Gaz/PB-I/11/98/6953

Copy to: -.

1. Principal Secretary to Hon'ble Chief Minister.
2. Director General of Police, J&K.
3. Shri B.A. Dar, Additional Advocate General, J&K High Court, Srinagar with the request to file the compliance report before the Hon'ble High Court in contempt No.721/2013 titled T. Gyalpo Vs Suresh Kumar.
4. Concerned officer.
5. Private Secretary to Chief Secretary.
6. Private Secretary to Principal Secretary to Government, Home Department.
7. I/C Website, Home Department.
8. Government Order file/Stock file.

d/c

Mushtaq Ahmad
22-12-2015

(Mushtaq Ahmad)

Deputy Secretary to Government
Home Department