



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

Subject:- Contempt No.145/2011 & CMP No.375/2000 titled Nazir Ahmad Malik Vs. B.R. Sharma.

Reference:- Legal/Pros/SWP/57/S/2000-5320 dated 27.10.2011 from PHQ, J&K.

Government Order No. Home- 59 (P) of 2012
D a t e d : 25-01-2012

Whereas, Shri Nazir Ahmad Malik S/o Abdul Gaffar Malik, HC No.1152/CID SBK, filed a writ petition SWP No.475/2000 titled Nazir Ahmad Malik V/S State and others before the Hon'ble Court, praying therein for similar treatment as was given to Shri Hamid-Ullah Dar and Shri Ab. Rashid Dar (SI) vide Government order Nos. Home-202 (P) of 1987 dated 01.04.1987 and 545 (P) of 1999 dated 16.12.1999 respectively; and

Whereas, the Hon'ble High Court disposed of the SWP No.475/2000 titled Nazir Ahmad Malik V/S State & others on 04.08.2009. The operative part of the judgement reads as under:-

“The petition is disposed of with a direction to the respondents to consider and dispose of the representation of the petitioner dated 31st December, 1999 in accordance with law and convey results thereon to the petitioner”.

Whereas, promotion to the posts of Assistant Sub-Inspectors and Sub-Inspectors is made from the Head Constables and Assistant Sub-Inspectors respectively. In terms of the J&K Police Rules, the post of Sub-Inspector shall be filled up either by direct recruitment or by promotion from in-service candidates holding the rank of Assistant Sub-Inspector of Police. Further, promotions to various posts in the Police Department are made on the basis of eligibility, seniority, merit, suitability and integrity and subject to availability of posts in the promotion quota; and

Whereas, the rules and the standing orders on the subject prohibit diversion of quota meant for direct recruitment to the promotion quota and vice-versa. For streamlining the gazetted and non-gazetted cadres, detailed guidelines have been laid down vide Government Orders Nos.107-GAD of 2002 dated 16.01.2002 read with Government Order No.743-GAD of 2007 dated 28.06.2007 pursuant to the directions of the Hon'ble Supreme Court passed in

case titled Suraj Prakash Gupta V/s State and others. These guidelines, inter-alia provide that no quota shall be diverted from one source of appointment to another and wherever it has been diverted, the same should be restored to such source in future; and

Whereas, the appointment of S/Shri Hamidullah Dar and Abdul Rashid Rather or any other candidate to the post of Sub-Inspector in the past by diversion of the quota from one source to another either dehors the rules or in relaxation of the rules, cannot form the basis for grant of similar benefit to the petitioner; and

Whereas, in the instant case, there is no plausible ground or justification which necessitate appointment of the petitioner as Sub-Inspector in relaxation of rules.

Now, therefore, the case of the petitioner, Nazir Ahmad, HC No. 1152/CID SBK having been considered in deference to the orders of the Hon'ble High Court dated 04.08.2009, is for the reasons mentioned herein above, found to be without any merit, and, is accordingly rejected.

Sd/-

(B. R. Sharma) IAS

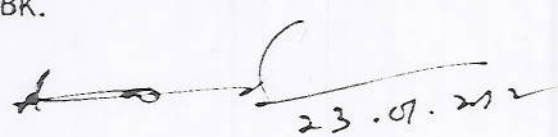
Principal Secretary to Government
Home Department

Dated -01.2012

No. Home/PB-IV/94/2011

Copy to the:-

1. Director General of Police, J&K, Jammu.
2. Commissioner/Secretary to the Government, General Administration Department.
3. Government order file (w.2.s.c).
4. Shri Nazir Ahmad, HC No.1152/CID SBK.
5. Stock file.


23.07.2012
Addl. Secretary to the Government
Home Department.

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