

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

Subject: Order dated 25th August, 2020 passed by the Hon'ble
Central Administrative Tribunal, Jammu in OA No.
61/535/2020 titled Behari Lal Koul v/s State and others - reg.

Government Order No: 297 -Home of 2022
Dated: 17.08.2022

Whereas, the petitioner (Behari Lal Koul), was initially appointed as ASI in J&K Police in the year 1967 and subsequently promoted as Sub Inspector, Inspector and placed as I/c Deputy Superintendent of Police, in own pay and grade vide Government Order No.Home-136 (P) of 1998 dated 18.04.1998. ; and,

Whereas, a panel of 125 Inspectors (General Executive Cadre), including the petitioner, in order of their seniority, who were working as Incharge Deputy Superintendent of Police in their own pay and grade was furnished by the DGP, J&K , which was examined and proposal forwarded to the J&K Public Service Commission. The petitioner was figuring at S.No.16 in the panel furnished by the DGP, J&K, below Shri Durga Dass No.724/NGO and above Shri Mukhtar Ahmad No.727/NGO;and,

Whereas, the petitioner was not considered for regularization of his promotion as Deputy Superintendent of Police in view of the adverse entries in his APRs for the period 08/1997 to 03/1998 and 04/98 to 03/1999. ; and,

Whereas, Shri Mukhtar Ahmad No.727/NGO, junior to the petitioner in the seniority list of Inspectors of General Executive, has been regularized as Deputy Superintendent of Police w.e.f.10.09.1998 and thereafter placed in the Selection Grade of Dy.SP w.e.f. 10.09.2003 vide Government Order No. Home-88(P) of 2003 dated 17.03.2003 and as SP vide Government Order No.Home-79(P) of 2007 dated 27.02.2007 w.e.f. 11.09.2003 on notional basis and from 05.11.2003 on regular basis.; and,

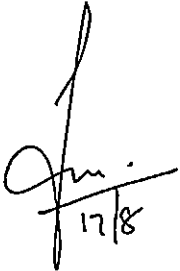
Whereas, the adverse APRs in respect of the petitioner for the period of 08/1997 to 03/1998 and for the year 1998-1999 were subsequently

expunged by the DGP, J&K vide order No.1172 of 2004 dated 12.04.2004 and 2173 of 2004 dated 16.07.2004. ; and,

Whereas, subsequently vide Government Order No.Home-367 (P) of 2007 dated 01.08.2007, petitioner was promoted/regularized as Deputy Superintendent of Police notionally w.e.f. 10.09.1998 and from 06.06.2001 on regular basis, against the vacancy reserved by the DPC for his promotion. The order was issued after retirement of the petitioner on 31.12.2005; and,

Whereas, Shri Behari Lal Koul filed the petition O.A No.61/535/2020 before the Hon'ble Central Administrative Tribunal, Jammu Bench, wherein the petitioner sought the following relief: -

- i. *Directing the respondents to promote the applicant for the post of SP on the analogy of similar situated persons who were junior to applicant in police department on the basis of seniority of applicant.*
- ii. *Directing the respondents to grant all the service benefits and promotion after retirement to the applicant as provided to similar situated persons and junior to applicant till date in the police department as per seniority of the applicant.*
- iii. *Directing the respondents to promote the applicant as SP in the light of recommendation of the respondent No.3 in his letter dated 12-07-2008 from the date of his due promotion in police department.*
- iv. *Directing the respondents to consider the representations of the applicant given to the respondents from time and representation dated 14.02.2020 for promotion for the rank of SP on the analogy of Sh. Mukhtar Ahmed (Retired).*



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Whereas, the Hon'ble Central Administrative Tribunal, Jammu vide its order dated 25th August, 2020 passed in OA No. 61/535/2020 titled *Behari Lal Koul v/s State and others*, was pleased to dispose of the aforementioned application as under:

"...The question as to whether the applicant was entitled to be promoted to the post of Superintendent of Police, and as to why he was not promoted even while his juniors were extended that benefit, needs to be examined by the respondents. In case, the DPC did not recommend the name of the applicant or if the applicant suffered from any other disqualification, that needs to be stated. If on the

other hand the applicant was wrongfully denied the promotion, necessary steps need to be take. to redress his grievance.

... Therefore, dispose of the OA directing the respondents to pass orders on the representation dated 04.02.2020, submitted by the applicant within a period of two months from the date of receipt of a copy of this order. There shall be no order as to costs"

Whereas, the petitioner filed a representation before the Home Department dated 14.02.2020, inter-alia stating therein that: -

...Recently Home department issued final seniority list of Gazetted cadres mentioned above in the reference column. As per this seniority list undersigned figures at Sr. No. 157 whereas my immediate junior Shri Mukhtar Ahmad figures at Sr. No. 158. He stands automatically mentioned in Order No.993-Home of 2019 dated 28.09.2019 which pertains to review the dates of promotion of the J&K Gazetted Service at the level of SP (Executive Cadre).

Whereas, after the expunging of the adverse APRs, the petitioner on account of his seniority became eligible for consideration of promotion to next higher rank subject to other conditions such as merit and suitability, which could not have been determined after he had attained the age of superannuation.

Now, therefore, in view of the above and in due deference of the order dated 25th August, 2020 passed by the Hon'ble Central Administrative Tribunal, Jammu in OA No. 61/535/2020 titled Behari Lal Koul v/s State and others, the claim of the petitioners, for reasons as stated above, being found devoid of merits, is hereby rejected.

By Order of the Government of Jammu and Kashmir.

Sd/-

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

Dated: 17.08.2022

No: Home-PG/52/2022-08 (CC 130641)

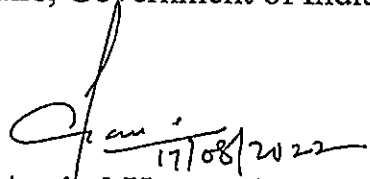
Copy to the:

1. Director General of Police, J&K.
2. Principal Secretary to the Hon'ble Lieutenant Governor, J&K.

3. Director Achieves, Archaeology & Museums, J&K.
4. Ld. Advocate, CAT Bench, Jammu
5. Sh, Behari Lal Koul Dy. SP (Retd.).
6. Private Secretary to Financial Commissioner (Additional Chief Secretary) Home.
7. Incharge Website, Home Department.
8. Government Order/Stock file.

Copy also to the:

Additional Secretary (JKL), Ministry of Home Affairs, Government of India.


17/08/2022
(Dr. Arvind Karwani) JKAS
Additional Secretary to the Government