



Government of Jammu and Kashmir  
Home Department

Subject:- Order dated 22.12.2015 passed by the Hon'ble High Court at Jammu in writ petition SWP No.3074/2001, titled Mulkh Raj vs. State of J&K and others.

Reference:-PHQ communication No.CB(A&M)/16/ Pros/160 dated 20.03.2017.

**Government Order No. 323 -Home of 2017**  
**Dated:30.03.2017.**

Whereas, pursuant to the orders of the Hon'ble High Court dated 17.12.1999 passed in SWP No.706/1997 titled Mulkh Raj Vs State and others, the Police Headquarters vide Order No.181 of 2000 dated 17.01.2000 read with Order No.983 of 2000 dated 03.04.2000 promoted Shri Mulkh Raj as Sub-Inspector, retrospectively, w.e.f 23.04.1978 and Inspector w.e.f 24.11.1987. His seniority in the cadre of Inspectors was re-fixed vide PHQ's above order dated 03.04.2000 read with order No. 3173 of 2001 dated 11.09.2001; and

2. Whereas, the Police Headquarters referred the case of Inspector Mulkh Raj to the Home Department for consideration of his promotion to the rank of Dy.SP w.e.f 15.04.1998 i.e. the date his immediate junior namely Shri Abdul Gani Dar No.594/NGO had been promoted as Dy.SP vide Government Order No.Home-129 (P) of 1998 dated 15.04.1998; and

3. Whereas, the case of the petitioner was placed before the Selection Committee on 17.10.2001 for consideration which examined the same with reference to the earlier recommendations of the Selection Committee meeting held on 07.04.1998 and made the following observations: -

*"The Committee considered the proposal for placement of Shri Mulkh Raj, Retired Inspector as DySP w.e.f 15.04.1998 i.e from the date his junior Shri Abdul Gani Dar was promoted as such. His APRs resume for 1992-93 to 1996-97 was only satisfactory/average and he did not fulfill the criteria laid down by the Selection Committee for promotion of Inspectors as Dy.SPs in its meeting held on 07.04.1998 (which was that only those officers shall be cleared for promotion who have at least 02 Goods in the last 05 years' ACRs). The Committee accordingly found him 'Unfit' for promotion w.e.f 15.04.1998."*

4. Whereas, the claim of Inspector Mulkh Raj for his promotion as DySP w.e.f 15.04.1998, was rejected vide Government Order No.Home-467 (P) of 2001 dated 15.11.2001; and

5. Whereas, the petitioner filed a writ petition before the Hon'ble High Court, Jammu which came to be registered as SWP No.3074/2001 titled Mulkh Raj vs. State of J&K and others praying therein for quashment of Government Order No.Home-467 (P) of 2001 dated 15.11.2001 and for re-consideration of his case for promotion as DySP w.e.f 15.04.1998; and

6. Whereas, the Hon'ble High Court of J&K vide its order dated 22.12.2015 disposed of the aforesaid writ petition with the following directions: -

*"... Thus, the writ petition is disposed of under the following terms:*

- a) by issuance of writ of certiorari the impugned Government Order No.Home-467 (P) of 2001 dated November 15, 2001 is quashed;*
- b) Respondents are directed to reconsider the case of petitioner for grant of promotion to*

*him with effect from April 15, 1998 in light of observations made in this order;*

- c) *Necessary consideration order shall be issued within four weeks from the date copy of this order is served upon the respondents and the petitioner shall be also given higher post title benefits."*

7. Whereas, on receipt of the aforesaid order of the Hon'ble Court, the issue with regard to intimation of entries made in APR(s) of the petitioner for the period in question has been examined in consultation with the Director General of Police, J&K. It has been observed that procedure for writing, custody and maintenance of the APR's, of IPS Officers and APRs of other officers of Police Department has been detailed in Government order No. 677-GAD of 2001 dated 21.06.2001 and addendum dated 21.06.2001 issued to the said order; and

8. Whereas, there is no provision in the aforesaid Government order with regard to intimation of entries made in APR(s) to the officer concerned. Further, the ACRs are the reflection of the performance of the officer notwithstanding that whether the petitioner was serving as Inspector or Sub-Inspector. The ACRs of past five years immediate to the accord of consideration are taken into consideration. Since the petitioner was given retrospective effect to his promotion as Sub-Inspector and Inspector as such the ACRs earned by him during the last five years were examined and placed before the Selection Committee then for consideration. Therefore, the contention of the petitioner that the ACRs from 1992-93 to 1996-97 when he was only Sub-Inspector could not have been considered for his promotion from the rank of Inspector to Dy.SP loses its significance.

9. Now, therefore, the claim of the petitioner for his promotion as Dy.SP w.e.f. 15.04.1998, having been re-considered in light of the rules governing the subject and the recommendation of the Selection Committee dated 17.10.2001, in due deference to the Order dated 22.12.2015 passed by the Hon'ble High Court at Jammu in

SWP No.3074/2001 titled Mulkh Raj vs. State of J&K and others, is for the aforesaid reasons, found devoid of merit and hence rejected.

By order of the Government of Jammu and Kashmir.

Sd/-  
(R. K. Goyal) IAS  
Principal Secretary to the Government  
Home Department

No.Home/PB-I/02/2000

Dated:30.03.2017

Copy to: -

1. Principal Secretary to Hon'ble Chief Minister, J&K, Jammu.
2. Director General of Police, J&K Jammu.
3. Shri Waseem Sadiq Nargal, Ld. Sr. Addl. Advocate General, Jammu.
4. Private Secretary to Principal Secretary to the Government, Home Department.
5. Concerned.
6. Incharge, Website Home Department.
7. Government order file/ Stock file.

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(Syed Yasir Farooq) KAS  
Under Secretary to the Government  
Home Department

*30.03.17*