



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

Subject: - Re-instatement- treatment of intervening period of suspension of Shri J.S. Kotwal, the then Dy. Controller of Prisons, J&K (now retired).

Reference:- Minutes of the meeting dated 31.05.2016 of the Review Committee, constituted vide Government Order No.541-GAD of 2008 dated 21.08.2008 read with Government Order No.993-GAD of 2008 dated 21.07.2008.

Government order No. ³⁸⁷ Home of 2017
D a t e d :- ¹² -04-2017

Whereas, Shri J.S.Kotwal, the then Dy. Controller of Prisons, J&K (now retired) was alleged to have acted in league with other officers/officials of Prisons Department and supplier firm for their pecuniary gains with a corresponding loss to the State Exchequer; and

2. Whereas, in terms of Rule 31 of J&K Civil Services (Classification, Control and Appeal) Rules, 1956, vide Government Order No.280 (Jail) of 1999 dated 05.07.1999, Shri J.S. Kotwal, the then Deputy Controller of Prisons was placed under suspension till further orders; and .

3. Whereas, the accused faced trial in case FIR No.77/93 in the court of Ld. Additional Sessions Judge, Anti-Corruption, Jammu The Ld. Court vide Order dated 31.01.2014 while acquitting the accused was pleased to observe as under:-

"..... Hence, charges laid against them are found not proved beyond reasonable doubt. Hence, Prosecution case is dismissed and accused herein are acquitted of the charges leveled against them. They shall stand relieved of bail bonds and the records of the Prisons Department after expiry of appeal shall stand released in favour of Deputy Controller Prisons, Jammu against proper receipt.

File after due compilation be consigned to records.."

4. Whereas, the Home Department vide communication dated 22.03.2016 requested the Vigilance Organization to intimate as to whether any acquittal appeal has been filed against the judgment dated 31.01.2014 of the Addl. Sessions Judge, Anticorruption, Jammu passed in File No. 68/Challan (FIR No.77/93 of PS, VoJ) in case titled State through VoJ vs Shri J.S. Kotwal, the then Deputy Controller Prisons and others or the judgment has been accepted as final; and

5. Whereas, the Vigilance Organization vide communication dated 04.04.2016, intimated that the judgment dated 31.03.2014 passed by the Ld. Court of Special Judge Anti-corruption, Jammu in the aforementioned case has been examined and the same was not found fit for agitating before the higher forum. The Prisons Department has also accepted the judgment of the Ld. Additional Sessions Judge Anti Corruption, Jammu as final and did not assail the same before the higher forum; and

6. Whereas, as per the provisions of Article 168-A of J&K CSR, any departmental proceeding can be instituted against an officer before his retirement from service or within a year from the date on which he was last on duty, whichever is later. Neither the Prisons Department nor the Home Department instituted any enquiry against the retired officer during his service or within one year after his retirement as required under Article 168-A of J&K CSRs VoL.1;and

7. Whereas, Director General of Police (Prisons) J&K vide D.O No.Estt/146/11673 dated 21.01.2016 forwarded a copy of representation of Shri J.S Kotwal, the then Dy. Controller Prisons requesting therein to settle his suspension period and release his pay dues and pensionary benefits in pursuance of the Order dated 31.01.2014 passed by the Ld. Addl. Session Judge, Anti Corruption, Jammu; and

8. Whereas, since Shri J.S. Kotwal, retired Deputy Controller of Prisons had been acquitted of the charges by the Ld. Court of Additional Sessions Judge, Anti Corruption, Jammu in case FIR No.77/93, PS/VOJ with both, the Vigilance Organization and the Prisons Department having accepted the judgment as final, his case was required to be considered for re-instatement in service on 30.08.2000 i.e. one day before his retirement; and



9. Whereas, the case was placed before the above referred Review Committee at its meeting held on 31.05.2016, and the Committee has made the following recommendations:-

“The Committee observed that in view of the acquittal of Shri J.S Kotwal, the then Dy. Controller, Prisons, J&K by the Sessions Court and acceptance of its judgment as final by the Vigilance Organization and also non-institution of departmental enquiry against him during his service career, no action is possible at this stage, being fait-accompli. The Committee also observed that the retired officer is presently drawing provisional pension. Keeping in view the above and with a view to settling his case, the Committee proposed that Shri J.S. Kotwal, the then Dy. Controller Prisons may be reinstated in service w.e.f 30.08.2000 i.e one day before his retirement. The intervening period of his suspension i.e from 05.07.1999 to 29.08.2000 may be treated as leave whatever kind due to him and if some period remains unaccounted for, the same may be treated as leave without pay. The Home Department was advised to process the recommendations of the Review Committee for approval of the Competent Authority in the State Government before issue of necessary orders in this regard.”

10. Whereas, the case has been further examined and with the approval of the competent authority, it has been decided to accept the recommendations of the Review Committee.

11. Now, therefore, it is ordered that Shri J.S Kotwal, the then Deputy Controller, Prisons Department is hereby reinstated in service w.e.f 30.08.2000 i.e one day before his retirement and further treatment of his intervening period of suspension from 05.07.1999 to 29.08.2000 as on leave, whatever kind due to him. However, if some intervening period remains unaccounted for, the same is treated as leave without pay.

By order of the Government of Jammu and Kashmir

Sd/-

(Raj Kumar Goyal) IAS
Principal Secretary to Government
Home Department.

Dated: 12-04-2017

No .Home/24/Jail/2014



Copy to the:-

1. Principal Secretary to Hon'ble Chief Minister.
2. Director General of Police (Prisons) J&K, Jammu.
3. Commissioner/Secretary to Government, General Administration Department.
4. Director Vigilance Organization, Jammu.
5. Accountant General J&K, Jammu
6. Secretary to Government Department of Law, Justice and P.A.
7. Director, Archives, Archeology & Museums
8. Private Secretary to the Chief Secretary.
9. Private Secretary to Principal Secretary to Govt. Home Department.
10. Shri J.S Kotwal ,the then Deputy Controller, Prisons Department.
11. Government order file (w.2.s.c)
12. Incharge Website.(Home Department).

Mohammad Yaqoob Malik
12/04/2017
(Mohammad Yaqoob Malik)
Under Secretary to Government
Home Department