



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

Subject:- Order dated 11.03.2015 passed by the Hon'ble High Court at Jammu in SWP No. 49/2004 CMA 44/2004 titled Karar Hussain Shah vs. State and others.

Government Order No. ⁵⁷⁴-Home of 2018
Dated: ²⁴04.2018

Whereas, one Shri Karar Hussain was engaged for teaching Psychology in the Sher-I-Kashmir Police Academy in the year 2001, on a monthly honorarium of Rs. 5000/- per month; and

2. Whereas, Shri Karar Hussain, left the temporary job on 30th September, 2002 and opted for a Government job and got selected as 'Forest Guard' which he joined on 01-10-2007; and

3. Whereas, Sh. Karar Hussain filed SWP No. 49/2004 CMA 44/2004 titled Karar Hussain Shah vs. State and others in the Hon'ble High Court, Jammu for seeking regularization of his service on the analogy of Shri Faisal Qureshi; and

4. Whereas, the Hon'ble High Court, vide its judgment dated 11.03.2015 passed in SWP No. 49/2004, CMA No. 44/2004 titled Karar Hussain Shah Vs. State and others ordered as under:-

- "i. Case set up by the petitioner is that he was engaged as lecturer by respondent academy in the month of November, 2001 on consolidated salary of Rs 5000/- per month.
- ii. Petitioner claim to have a degree in psychology based on which he had sought appointment on permanent basis. He seems to have filed application to Director, Sher-e-Kashmir Police Academy, Udhampur which has been forwarded to the Director General of Police, Jammu and Kashmir on 05.06.2002 wherein it has been mentioned that the petitioner deserves to be encouraged for his work, therefore, a request has been made to PHQ to take up his

case for regularization against the post of Sub Inspector in the Academy.

- iii. Director General of Police vide his communication dated 06.04.2004 had proposed creation of post of ASI in the Academy, Udhampur in the pay scale of 4500-7000 with a further recommendation that against the said post, the service of the petitioner could be utilized.
- iv. Matter remained as it is, constraining the petitioner to file the representation before the Hon'ble Chief Minister but with no results, Hence the instant writ petition.
- v. In the petition, it is contented that the respondent no. 4 being similarly situated has been appointed as DySP whereas the petitioner has been ignored. Today during the course of hearing, when the learned counsel for the petitioner was confronted with the position of respondent no. 5 being altogether different, he made a candid submission to the effect that respondents 1 to 4 may be directed to accord consideration to the case of the petitioner in the light of the two communications as referred to above and to take a final decision within some time frame, Same is not opposed. Rightly so.
- vi. this petition is disposed of with a direction to respondent nos. 1 to 4 that they shall take all requisite steps simultaneously at their respective levels so as to ensure that a final decision is taken vis-a-vis case of the petitioner in the light of the communications dated 05.06.2002 addressed by the respondent no. 4-Director, Academy to respondent no. 2-Director General of Police and the proposal is mooted by the Director General of Police-J and K on April, 6, 2004. Result of the decision as shall be taken be conveyed to the petitioner within six weeks. Right is reserved to the petitioner to re-agitate if thereafter cause survives."

5. Whereas, the Director SK Police Academy, Udhampur vide his letter dated 05.06.2002 addressed to the DGP requested to take up the case of Shri Karar Hussain Shah for regularization against the post of Sub-Inspector in the Academy; and

6. Whereas, the DGP vide his communication dated 06.04.2004 informed that there is an urgent need for posting of a teacher in faculty of

psychology. The DGP proposed that a post of ASI may kindly be created in the academy in the pay scale of Rs. 4500-7000 and against the post the services of Shri Karar Hussain Shah could be utilized; and

7. Whereas, the record note of the Designated Committee of PHQ meetings dated 15.01.2016 and 20.06.2016 reveals that personal hearing was given to the petitioner in which the petitioner expressed that he will be satisfied if his case is processed for the post of SI, retrospectively. However, it was observed by the Committee that same can not be promised, under rules, and

8. Whereas, the Committee recommended to approach Home Department again, in continuation to PHQ J&K's communication bearing UO No. GB/PG-I/99/20901 dated 06.04.2004, in compliance to the orders of the Hon'ble Court; and

9. Whereas, on the recommendations of the Designated Committee of PHQ, the DGP vide his communication dated 01.09.2016 requested the Home Department to consider the case of the petitioner in light of the court order; and

10. Whereas, the case of the petitioner has been examined in light of the court directions and it has been found that Shri Mohd. Faisal Qureshi, who is Ex-Captain, was appointed as Dy. Superintendent of Police on contractual basis in the Police Department by the Government. He has served in the Army as Captain and in view of the experience of service in the Army and the performance during his two year appointment as Dy. SP of Police on Contractual basis in the Police Department in imparting training to the Probationary Police Officers, the Government of J&K regularized him as Dy. SP of Police vide Govt. Order No.133-(P) of 2002; and

11. Whereas, Shri Karar Hussain (Petitioner) was engaged on contractual basis on a consolidated salary of Rs. 5000/- per month only in SKPAU and was never appointed on the post of Dy. SP or Sub Inspector ; and

12. Whereas, the recommendations of SKPAU and DGP J&K date back to 2002 and 2004, respectively and as such the case of petitioner for a regular appointment in the Police Department are time barred more so when he has already joined a new job in the Forest Department in 2007; and

13. Whereas, the demand of the petitioner for a regular appointment in the Police Department on the basis of a temporary service rendered on contractual terms, are not covered in terms of the relevant rules governing the subject.

14. Now, therefore, in due deference of the Hon'ble High Court order dated 11.03.2015 passed in SWP No. 49/2004, CMA No. 44/2004 titled Karar Hussain Shah Vs. State and others, the case of the petitioner has been considered in the department and has been found devoid of any merit and is accordingly rejected.

By Order of the Government of Jammu and Kashmir.

Sd/-

(R.K. Goyal) IAS
Principal Secretary to Government
Home Department

No. Home/PB-I/Gaz/141/2016

Dated 24.04.2018

Copy to:

1. Director General of Police, J&K for information.
2. Director SKPA Udhampur.
3. IGP (Tech) PHQ J&K Jammu.
4. Private Secretary to Principal Secretary to Government, Home Department.
5. Incharge Website.
6. Govt. Order file/stock file.


(Nivedita Munshi)
24/4/18
Under Secretary to Government,
Home Department