



POLICE HEADQUARTERS J&K JAMMU/SRINAGAR

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Subject:- Court judgment dated 19.10.2016 passed in LPASW No.122 of 2013 titled Vikas Kant Vs State and Others

Refn'ce:-

- i) PHQ attendance signal No.Estt/Pros-SWP-37/2003/74281 dated 16.10.2017
- ii) PHQ attendance notice No.Estt/Pros-SWP-37/2003/15628 dated 24.02.2018
- iii) Final Attendance notice issued vide No. Estt/Pros-SWP-37/2003/26051-55 dated 04.04.2018

ORDER NO : 4192 OF 2018
D A T E D : 14- .08.2018

Whereas, Shri Vikas Kant S/O Shri Jagdesh Raj Sharma R/O Brahman Mohalla Kishtwar Tehsil Kishtwar District Kishtwar (then District Doda) "to be called petitioner hereinafter" challenged the selection list of Prosecuting Officers for the year 2003 vide SWP No.2132/2003, inter-alia on the grounds summed-up hereunder:-

- i) The DGP at the time of issuing the advertisement notified 53 vacancies under different categories whereas a total number of 65 candidates have been selected/recommended for appointment.
- ii) The selection has been made in excess of the notified vacancies, even procedure adopted for making selection is contrary to the rules & regulations and to the notification;
- iii) Notification provides that only those candidates shall be invited for interview who had qualified in the written test but all the candidates who have appeared in the written test were called for viva-voce test;
- iv) State has not implemented the Malimath Committee Report vis-à-vis separation of Prosecution from the Police department;

Whereas, the writ petition was allowed and in CMP No. 2345/03 Hon'ble High Court reserved one post of Prosecuting Officer for the petitioner subject to the objections from other side. The writ petition came to be dismissed by the Hon'ble High Court vide its judgment dated 07.05.2013

Whereas, the petitioner not satiated with the order dated 07.05.2013 passed by the Hon'ble High Court, assailed the court order in the next higher forum through APLPA No 53/ 2013, LPASW No. 122/2013 & CMA No.149/2013 titled Vikas Kant V/S State & Others on the ground that PHQ has appointed some of the petitioners vide PHQ order no.2013 of 2010 having lower merit than the appellant.

Whereas, with regard to the plea(mentioned above) taken by the petitioner, it is made clear that in compliance to the judgment passed by Hon'ble High Court in SWP No.1863/2003 titled Sheikh Bilal Mohi-ud din and others Vs sate,1795/2003 titled Nighat Maqbool Vs Sate and others and SWP No.1382/2004 titled Javaid Ahmad Vs State and others the petitioners came to be appointed strictly under Court orders and the move was not suo moto initiative of PHQ, therefore, the plea was not maintainable.

Whereas, The appeal was allowed and in CMA No. 149/2013 and the respondents were directed to keep one post of Prosecuting Officer reserved if any vacant, out of the advertised post(s). The LPA(SWP) No.122/2013 titled Vikas Kant V/S State & Others came to be disposed off by the Hon'ble Division Bench vide order dated 19.10.2016. The operative portion of the Court order is reproduced as under:-

"the Letters Patent Appeal is allowed. Judgment of the learned writ court is set aside. Respondents are directed to consider the appointment of the appellant in the same terms as of the petitioners of aforementioned writ petitions as made vide order of the Director General of Police, J&K, Srinagar No. 2013 of 2010 dated 10.06.2010 within six weeks of the date of submission of certified copy of this order. Letter Patent appeal allowed in aforementioned terms. No orders as to costs."

Whereas, in compliance to the judgment of the Hon'ble High Court dated 19.10.2016, the case of the petitioner was considered at PHQ and it was decided to appoint the petitioner as Prosecuting Officer.

Whereas, The SWP filed by the petitioner against the selection made in 2003 came to be dismissed by the Court and the directions with regard to the reserving one post of PO by the HHC in that petition came also to be nullified automatically. Thereafter, petitioner filled instant LPA and the grounds taken in appeal were different vis-à-vis that PHQ vide Order No. 2013 of 2010 dated 10.06.2010 appointed some candidates having merit lower than that of the petitioner. Since the instant claim was against appointments made in 2010 whereunder appointees also applied / appeared in the tests pursuant to the advertisement issued in 2003 alike that of the petitioner but were appointed under court order in year 2010 & their appointment were given effect prospectively. In the given scenario, the claim of the petitioner was considered under court orders for his appointment as PO prospectively from the date of judgment dated 19.10.2016 on the analogous pattern adopted in case of claimed appointees(appointed in 2010).

Whereas, Pursuant to the decision taken at PHQ, the petitioner was informed at his Home Address through SSP Kishtwar to report at Police Headquarters J&K Srinagar/Jammu on any working day along with testimonials in original;

Whereas, the petitioner didn't respond to the communication made to him accordingly an attendance notice was issued vide PHQ endorsement No. Estt/Pros-SWP-37/2003/15628 dated 24.02.2018 and executed through the SSP Kishtwar;

Whereas, Notwithstanding the repeated instructions the petitioner failed to deposit his testimonials/present himself at Police Headquarters for last (appx) 2 years now (i.e. from the date the LPASW was disposed of) vis-à-vis to initiate the appointment process which clearly testifies that the petitioner is not interested to serve the department;

Whereas, had the petitioner been interested in the job, he would have soon after the pronouncement of judgment reported at Police Headquarters and got himself associated with process to accomplish the formalities pre-requisite for appointment in Govt Department which he didn't and even has not deposited his documents which speaks of his disinterest to be a Police Officer;

2. Whereas, nevertheless, a final attendance notice was issued by PHQ vide endorsement No. Estt/Pros-SWP-37/2003/26051-55 dated 04.04.2018 which besides was got published in leading news papers (Kashmir Times dated 07.04.2018, Greater Jammu dated 07.04.2018 & State Times dated 08.04.2018) thereby providing further opportunity to the petitioner to show his willingness or otherwise. Not only this, the notice was also got executed on the petitioner by person through SSP Kishtwar and acknowledgement obtained. But despite all these efforts and opportunities provided by the department, the petitioner failed to avail off these chances and has not turned up for last approximately two years now.

Therefore, in view of the facts and circumstances enumerated above, the offer of appointment as Prosecuting Officer in J&K Police extended to the petitioner under Court orders is hereby withdrawn ab-initio and the one post of the Prosecuting Officer reserved under Court orders is hereby released to be advertised for the recruitment to be held next.

Let the petitioner be informed accordingly.

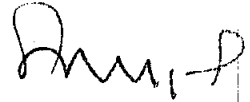
Sd/-
(S.P.VAID) IPS
Director General of Police
J&K-Srinagar

No: Estt/Pros-SWP-37/ 2003/56994-97

Dtd; 14.08.2018

Copy to the: -

1. SSP Kishtwar for information of the petitioner.
2. Jt. Director Prosecution, PHQ J&K Srinagar for information and necessary action
3. ~~AIG Media/Communication.~~
4. SO IT PHQ for necessary action.
5. OB/Master file for records


SAMEER REKHI-JKPS
AIG(Training/Policy) PHQ
For Director General of Police
J&K Srinagar