



POLICE HEADQUARTERS J&K JAMMU/ SRINAGAR

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Establishment

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Subject: - Disposal of representation submitted by Shri Balbir Singh retired ASI(Driver)of Telecom Cadre(to be referred as "subject" here-in-after)for grant of monetary benefit for the promotions from SgCT(Driver) to ASI(Driver)

Refn'ce:-

1. DPT J&K order No.337 of 2021 dated 05.06.2021 read with recommendations vide letter No. Estt/PF-1320/2021/ 6814-15 dated 08.06.2021 and letter No. Estt/ PF-1320/ 2021/ 8396 dated 24. 07. 2021:
2. PHQ order No.3125 of 2021 dated 12.10.2021:
3. DPT J&K order No.40 of 2022 dated 18.02.2022:
4. PHQ Order No.771 of 2022 dated 04.03.2022

ORDER NO: 793 OF 2023
DATED : 09 - 03 - 2023

Whereas, the subject was appointed as Constable Driver in Police Telecom in the year 1985 (16.11.1985) and in the year 1986, he was deputed to PTC(Now Police Academy) Udhampur for undergoing Training. The Principal PTC informed that the subject is illiterate and can even not write his name. Upon this, the Middle Pass certificate produced by the subject at the time of appointment was referred to Crime Branch for verification. The certificate was found to be fake and DIG Crime & Railways J&K of the time accordingly took up the matter with the PHQ for discharge of the subject from the services. A case was also registered in Police Station Gandhi Nager Jammu vide FIR 85/88 under section 420, 461, 467, 468, 471, 472 RPC; and

Whereas, aggrieved of the recommendations of the DIG Crime & Railways J&K, the subject filed SWP 845/88 and obtained stay from the Hon'ble Court on the action proposed by the DIG Crime & Railways J&K .

Whereas, the Challan of the case FIR 85/88 under section 420, 461, 467, 468, 471, 472 RPC was produced in the Court of CJM Jammu against the subject and Principal New Bikram Academy Digiana Jammu who had issued the Middle Pass certificate in favour of the subject. However, the 3rd Additional Sessions Judge Jammu acquitted both the accused vide Judgment dated 14.07.1999; and

Whereas, the SWP 845/88 filed by the Subject was dismissed by the Hon'ble High Court J&K vide order dated 15.11.1996 with the direction that the petitioner has no right to continue in service as there was no force in his petition. Accordingly DPT J&K sent a copy of this Judgment to SSP Telecom Jammu for necessary action.

Whereas, the subject filed another SWP No.1444/2000 in which the Hon'ble High Court in its interim order dated 17.08.2000 directed the respondents not to issue termination order of the petitioner till the disposal of instant petition. Subsequently, the Hon'ble High Court in its judgment dated 06.04.2005 directed the respondents not to proceed against the petitioner departmentally on the basis of charges for which he has been acquitted by the Hon'ble Criminal Court; and

Whereas, Department filed LPA No.232 against the court order dated 06.04.2005. The LPA was dismissed in the year 2016 vide Hon'ble High Court Order dated 26.04.2016. The case was received from Telecom Hqrs and was examined at PHQ and it was decided to implement the directions of Hon'ble High Court vis-à-vis constituting of special DPC to consider the claim of the subject for promotion on notional basis;

Whereas, Consequent upon above, Telecom Hqrs vide order No.337 of 2021 dated 05.06.2021 promoted the subject to the rank of SGCT Driver w.e.f 05.06.1992 & HC Driver w.e.f 09.06.1997 on notional basis and submitted the proposal to PHQ vide letter No.Estt/PF-1320/2021/6814-15 dated 08.06.2021 thereby requesting for promoting the subject to the rank of ASI w.e.f 30.12.2009 as, according to the seniority list of the Constable Drivers as it stood on 05.06.1992, the subject figured above Const. Driver Rajinder Parshad who was promoted as SGCT with effect from 05.06.1992, as HC w.e.f 09.06.1997 and as ASI w.e.f 30.12.2009. The DPT J&K vide letter No.Estt/PF-1320/2021/6814-15 dated 08.06.2021 recommended the promotion of the subject with effect from 30.12.2009 as ASI driver on notional basis.

Whereas, in reference to Court orders/ recommendations of the Designated Committee / promotions issued by Telecom Hqrs vide order No.337 of 2021 dated 05.06.2021 vis-à-vis recommendations made by DPT J&K, a special sitting of Departmental Promotion Committee(DPC) constituted vide PHQ order No. 3361 of 2019 dated 03.09.2019 was convened at PHQ, Srinagar on September 25th 2021, to assess the suitability of the subject for being brought-on list "D" of Telecom cadre. The DPC after examining/assessing the suitability of the subject, recommended that subject Balbir Singh No. Tel855677 be brought on promotion list "D" of the Telecom Cadre and promoted to the rank of ASI(Driver) in Telecom cadre retrospectively w.e.f 30.12.2009 on notional basis.

Consequent upon the recommendations of DPC/DPT J&K, vide PHQ order No.3125 of 2021 dated 12.10.2021, the subject was promoted to the rank of ASI(driver) in the Cadre notionally w.e.f 30.12.2009.

In the meanwhile, the subject had retired from service w.e.f 30.04.2021, as such, his last basic pay was drawn @ Rs.21,000/= while-as , Telecom Hqrs fixed his pay Rs.58600/= on notional basis to which clarification was sought by AG J&K read with DPT J&K letter No.GB/ SWP/ 878/ 2020/13354 dated 13.12.2021 and letter No. GB/ WPC-1585/2022/1292-94 dated 05.02.2022. In response to the communications of DPT, J&K PHQ vide letter No. Estt/SWP-16/2003 /3365 dated 17.01.2022 sought some clarification from Telecom Hqrs. On receiving the clarification from Telecom

Hqrs, a reconsideration was granted to the issue and on humanitarian grounds, his promotion to the rank of ASI(Driver) was modified to the extent to read " the subject promoted as ASI(Driver) monetarily w.e.f 10.04.2021" (i.e. before 20 days of his retirement which took place on 30.04.2021) so as to entitle him for pensionary benefits in capacity of ASI.

Given to the facts as discussed above, it has become clear that a lenient view was taken and he was allowed monetary benefit to make him eligible for pensionary benefits only otherwise he has never performed duty as SGCT, HC or as ASI which therefore, factually/legally negates his claim of monetary benefit on account of promotions which has granted to him on notional basis solely for pensionary benefit.

Therefore, the representee has not brought forth any new facts/circumstances which would warrant review of early decision. He has not come with clean hands and has clandestinely been trying to harvest the undue benefit to which he is not entitled, as such the representation being bereft of any force is rejected in toto.

Let the representee be informed accordingly.

This issues without any prejudice to legal proceedings 'if any' pending adjudication in any Court of law competent to hear such cases.

Sd/=

(Dilbag Singh)IPS,
Director General of Police
J&K-Jammu

Dated; 09.03.2023

No: Estt/W-SWP-16/03/1097479

Copy to the: -

1. Director Police Telecom J&K Jammu.
2. AIG(Communication/Welfare), PHQ.
3. PPS to DGP.
4. CPO, PHQ
5. SO(ITC), PHQ/ Order book

Virinder Singh
09.03.2023
(Virinder Singh)-JKPS
AIG(Personnel)

for **Director General of Police**

He J&K Jammu