Subject: - Representation of Shri Abdul Gani Dar, No. 63/CID (petitioner No. 13) in SWP No. 519/1987, presently ASI No. 251/H.

Government Order No. [133-Home of 2015]
Dated 04.04.2015

Whereas, Shri Abdul Gani alongwith 15 other Constables filed a writ petition No. 519/87 titled Abdul Rashid and Other Vs State and others praying for similar treatment as had been given to Shri Hamidullah Dar, who was appointed as Sub-Inspector in relaxation of recruitment rules vide Government Order No. Home-202(P) of 1987 dated 01.04.1987; and

Whereas, the Hon'ble High Court of J&K has disposed of the above SWP vide order dated 03.08.2009, the operative portion of which reads as under:-

"After arguing for a while, Learned Council for the petitioners submit that he be permitted to withdraw this petition with liberty to file representation before the authorities, so as to allow respondents on opportunity to deal with the case of the petitioners. His Statements taken on record.

The petitioner is at liberty to approach the competent authority by filing a representation and the competent authority will consider and decide the same in accordance with the rules and Government Order occupying the filed"

Whereas, in pursuance of the above order of the Hon'ble High Court, the petitioner, Shri Abdul Gani Malik filed a representation pleading for his promotion as Sub-Inspector on the analogy of Shri Hamidullah Dar and Abdul Rashid Rather; and
Whereas, in compliance with the Order dated 03.08.2009 of the Hon'ble High Court of J&K passed in the above writ petition, the representation of Shri Abdul Gani Malik for promotion as Sub-Inspector retrospectively has been examined with reference to rules and it has been found that:

i. Promotion to the posts of Sub-Inspectors and Inspectors is to be made from Assistant Sub-Inspectors and Sub-Inspectors respectively. The promotions are made on the basis of eligibility, seniority, merit, suitability, integrity and availability of posts within the allotted quota promotion. The post of Sub-Inspectors are filled from two sources i.e. by direct recruitment and from in-service Assistant Sub-Inspectors.

ii. There is no rule or order which permits inter-change of the direct recruitment and promotion quota or diversion of quota from one source to other source and vice-versa;

iii. The appointment of Shri Hamidullah Dar and Shri Abdul Rashid Rather or any other candidate to the posts of Sub-Inspectors in the past by diversion of the quota or in relaxation of rules cannot form the basis or precedence for repeating the same in other cases. The rules are relaxed in the rarest of the cases that too only where the operation of rule(s) causes severe hardship to the concerned officer/official. Relaxation cannot be given to the extent where the main rules become infructuous.

Now, that the claim of Shri Abdul Gani Dar, No. 63/CID presently ASI No. 251/H having been again considered in due deference to the Order date 03.08.2009 of the Hon'ble High Court, has been found to be without any merit for the reasons mentioned above and is hereby rejected.

By Order of the Government of Jammu and Kashmir,

Sd/-
(B.R. Sharma) IAS
Principal Secretary to Government
Home Department


Dated 08.04.2015
Copy to:-
1. Principal Secretary to Hon’ble Chief Minister.
2. Director General of Police, J&K.
3. Shri Reyaz Ahmad Khan, Additional Advocate General, Hon’ble High Court, Srinagar.
4. Shri Abdul Gani Dar, No. 63/CID (petitioner No. 13) presently ASI No. 251/II
5. Pvt. Secretary to Principal Secretary to the Government, Home Department.

(Mohammad Yaqoob Malik)
Under Secretary to Government
Home Department