Subject: Review of Suspension of Shri Basharat Hussain, DySP.

Government Order No. 1340 – Home of 2017
Dated: 25.09.2017

Whereas on receipt of a complaint lodged against Shri Basharat Hussain, DySP by his wife Dr. Rizwana Parveen, about having contracted second marriage by him with SI Sheetal Bharti during the subsistence of the first marriage, a preliminary enquiry was conducted through IGP, Jammu Zone and the report received established contracting of second marriage by the said officer with SI Sheetal Bharti of Armed wing; and

2. Whereas, Shri Basharat Hussain, DySP in reply to the explanation sought in the matter was not able to submit any plausible explanation and stated that the complaint in the matter is subjudice before the Hon’ble Additional CJM, Lucknow, UP.

3. Whereas, since the officer was found having violated the applicable Service Conduct Rules by contracting second marriage without the consent of his first wife and without seeking prior permission from the Government, the DGP, J&K vide his communication No. CB/Gaz/66/2013/1422 dated 26.04.2016 recommended initiation of Departmental Enquiry against Sh. Basharat Hussain, DySP, then posted in IRP 11th Bn; and

4. Whereas, on receipt of recommendation from Director General of Police, J&K along with the connected documents, the matter has been examined in the Home Department and it has been observed that papers furnished by the PHQ were indicative of the fact that Shri Basharat Hussain, DySP has contracted second marriage with SI Sheetal Bharti, in violation of Rule 22 of the Jammu and Kashmir Government Employees (Conduct) Rules, 1971, for which he was required to be dealt under rules; and
5. Whereas, vide Government Order No.295-Home of 2016 dated 30.05.2016, pending enquiry into his conduct, Shri Basharat Hussain was placed under suspension; and

6. Whereas, Shri Basharat Hussain, DySP was served with a memorandum by the Home Department vide No. Home/Gaz/PF/81/2013/807 dated 22.02.2017, alongwith Articles of Charge and Statement of Imputations. The delinquent officer submitted his reply vide letter dated 17.03.2017; and

7. Whereas, a reply furnished by Shri Basharat Hussain, DySP has been examined in the department and vide letter No. Home/Gaz/PF/81/2013/1742 dated 21.04.2017, the Director General of Police has been requested to furnish the present status of the suit filed by Dr. Rizwana Parveen before the Hon'ble Addl. CJM Lucknow, UP and also furnish his comments on the reply submitted by Shri Basharat Hussain, DySP (under suspension); and

8. Whereas, the said officer approached the Hon'ble High Court through the medium of writ petition SWP No. 157/2017 titled Basharat Hussain vs. State of J&K and Another, and the Hon'ble High Court was pleased to dispose off the writ petition vide its order dated 07.04.2017, with the following direction:-

   "...In view of the aforesaid position, the writ petition is disposed of with a direction to the respondents to review the suspension case of the petitioner which otherwise they are obliged to do periodically, but keeping in view the law laid down by the Hon'ble Apex Court, they shall review the case of the petitioner within a period of ten days and pass appropriate orders".

9. Whereas, the officer has also filed a contempt petition No. 356 of 2017 in SWP No. 157 of 2017 titled Basharat Hussain Vs. Mr. R.K. Goyal & Ors.; and

10. Whereas, in compliance to the above order, the case was placed before the Review Committee, on 15.07.2016 for taking a view; and
11. Whereas, the Committee observed that pending enquiry, the officer was suspended vide Government Order No. 295-Home of 2016 dated 30.05.2016, but due to procedural delay, the regular departmental action has not been concluded so far and advised the Home Department to expedite the enquiry and have it concluded in a time bound manner while recommending revocation of suspension of the officer, with the approval of the Competent Authority; and

12. Whereas, on the recommendations of the Review Committee, the case was placed before the Disciplinary Authority for considering the revocation of suspension of Shri Basharat Hussain, DySP.; and

13. Whereas, the Disciplinary Authority has decided to take a view on revocation of the suspension only after the report of the enquiry is received.

Now, in due deference to Order dated 07.04.2017 passed by the Hon'ble High Court in SWP No. 157/2017 titled Basharat Hussain Vs State of J&K and Others, Shri Basharat Hussain, DySP, under suspension, shall continue to remain so, till the inquiry in the matter, is finalized, as decided by the Competent Authority.


Sd/-
(R.K. Goyal) IAS
Principal Secretary to Government,
Home Department.

No:Home/PB-I/Gaz/20/2017 Dated: 09.09.2017

Copy to the:
1. Principal Secretary to the Hon'ble Chief Minister.
2. Director General of Police, J&K, Srinagar
3. Secretary, J&K Public Service Commission.
4. Director Achieves, Archaeology & Museums, J&K.
5. Shri Bashir Ahmad, Ld. AAG, Hon'ble High Court, J&K at Srinagar with the request to submit the compliance report in SWP No. 157/2017 titled Basharat Hussain Vs State of J&K & Others, accordingly.

6. OSD to Hon'ble Deputy Chief Minister, J&K.

7. Private Secretary to Principal Secretary to the Government, Home Department.

8. Concerned Officer.

9. Incharge website, Home Department.


(Syed Yasir Farooq) KAS
Under Secretary to Government, Home Department.