

GOVERNMENT ORDER NO: 648—Home (Relief) of 2016
DATE D: 11.11.2016

WHEREAS, the petitioner in the afore-cited writ petition approached the Hon’ble High Court of J&K at Srinagar seeking therein directions upon the respondent department to produce the petitioner’s son namely, Javid Ahmad Bhat from custody, inform the petitioner his whereabouts and pay an amount of Rs. 20.00 lacs in case the respondents are not in a position to present the detenu; and

WHEREAS, the Hon’ble High Court, vide its order dated 10.07.2015 disposed of the said writ petition, operative part whereof is reproduced herein below:

"...Against the above backdrop, petition is disposed of with the following direction:

i) That SHO Police Station, Kokernag shall immediately register an FIR regarding the custodial disappearance of Shri Javid Ahmad Bhat from Police Station, Kokernag. The investigation of case shall be handed over to Special Investigation Team (SIT) headed by"
an officer not below the rank of Dy. S. P. to be constituted by SSP
Anantnag. The SIT shall make every effort to conclude the
investigation, identify the person(s) responsible for custodial
disappearance of Shri Javid Ahmad Bhat and present outcome of
investigation i.e., a final report/charge-sheet before the competent
court within six months from the date FIR is registered

ii) The respondents would pay an amount of Rs. 6,48,000/- to
the petitioner as compensation on account of custodial
disappearance of his son-Shri Javid Ahmad..."

WHEREAS, in deference to one of the afore-mentioned directions of
the Hon’ble Court, a case FIR No. 131/2015 came to be registered in P/S
Kokernag u/s 365 RPC and a Special Investigating Team was also
constituted by the Senior Superintendent of Police, Anantnag vide Order
issued under endorsement No. Rd/Order/2015/21017-19 dated 19.08.2015
to carry out the investigation of afore-mentioned case FIR; and

WHEREAS, the matter regarding the payment of compensation to
the petitioner was examined in this department in consultation with PHQ
and subsequently was referred to the Department of Law, Justice &
Parliamentary Affairs for accord of sanction to the filing of LPA against the
order dated 10.07.2015 passed by the Hon’ble High Court of J&K in HCP
No. 151/2010 titled Ghulam Hassan Bhat Vs. State of J&K & others; and

WHEREAS, the Department of Law, Justice & Parliamentary
Affairs vide their U.O. No. LD (Lit) 2010/794-Home dated 04.01.2016
advised as under;

"Returned. The judgment of the Hon’ble High Court is well-
reasoned and there is no scope of challenging the judgment in appeal
particularly when a part of the judgment with regard to registration of
FIR has been implemented by the department.

The Department is advised to implement the other part of the
judgment and pay a compensation of Rs. 6.48 lacs (Rupees six lac forty
eight thousand only) to the petitioner whose son has admittedly
disappeared from police custody."
WHEREAS, the advice tendered by the Department of Law, Justice and Parliamentary Affairs was conveyed to the Director General of Police, J&K vide this department’s communication No. Home/Relief/55/2015/651 dated 01.02.2016 for his comments/views in the matter, who vide his communication No. Legal/HCP-22/III/2010-23158-61 dated 05.04.2016 reiterated for filing of LPA in the matter against the direction for payment of compensation; and

WHEREAS, the matter was re-referred to the Department of Law, Justice and Parliamentary Affairs for review of their earlier opinion tendered in the matter. However, the Department of Law, Justice and Parliamentary Affairs vide their U.O. No. LD (Lit) 2010/794-Home dated 21.07.2016 reiterated its earlier stand and advised as under;

“Returned. The Department is advised that the opinion already conveyed vide U.O. No. LD (Lit) 2010/794-Home dated 04.01.2016 still hold good.”

WHEREAS, subsequent to the receipt of afore-quoted opinion from the Department of Law, Justice and Parliamentary Affairs, the matter was referred to the Finance Department for their concurrence to the payment of Rs. 6.48 lacs under Non-Plan Funds in favor of the petitioner; and

WHEREAS, the Finance Department vide their U.O. No. FD-VII-2(28)2235/Ex-gratia/97 dated 26.10.2016 has advised as under;

“Departmental proposal is returned with the advise to meet out the compensation award of Rs. 6.48 lacs out of already authorized funds of Rs. 82.50 lacs for 2016-17 under Detailed Head: ‘032-Relief & Rehabilitation’ below Major Head: ‘2055-Police’, Sub Head: ‘0789-Director General of Police’, to implement the directions of Hon’ble Court order dated 10.07.2015 in HCP No. 151/2010 titled Ghulam Hassan Bhat Vs. State & or’s.”
Now, therefore, in compliance with the order dated 10.07.2015 passed by the Hon’ble High Court in the afore-cited writ petition and based on the opinion of the Department of Law, Justice & Parliamentary Affairs, along with the concurrence received in the matter from Finance Department, sanction is hereby accorded to the release of an amount of Rs. 6.48 lacs (Rupees six lacs forty eight thousand only) out of the available funds under Detailed Head: ‘032-Relief & Rehabilitation ’below Major Head: ‘2055-Police’, Sub Head: ‘0789-Director General of Police’, in favor of the Director General of Police, J&K, to be deposited in the Hon’ble High Court of J&K at Srinagar for further payment/disbursement to the petitioner.


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

No: - Home/Relief/55/2015

Copy to:
1. Principal Secretary to Hon’ble Chief Minister.
2. Director General of Police, J&K, Jammu.
3. Commissioner/Secretary to Government, Finance Department.
4. Secretary to Government, General Administration Department.
5. Secretary to Government, Department of Law, Justice & Parliamentary Affairs.
6. Director Finance, Home Department.
7. Deputy Commissioner, Anantnag.
8. Pvt. Secretary to Principal Secretary to Government, Home Department.
10. I/C Website Section, Home Department.
11. Government Order file (w.2.s.c.).

(Mushfaq Ahmad)
Deputy Secretary to Government
Home Department