Subject:- SWP No. 756/2013, MP No. 3288/2014 & 1042/2013 titled Arun Kumar v/s State and others.

**Government Order No: 659 – Home of 2017**

**Dated: 12.06.2017**

Whereas, Shri Arun Kumar was appointed in J&K Police Gazetted Services as Probationer DySP vide Government Order No. 971-GAD of 2004 dated 23.07.2004 and was subsequently deputed to SKPA-Udhampur for undergoing 12 months Basic Induction Course. After reporting at SKPA on 13.08.2004, he fell ill and was subsequently referred to GMC Jammu on 23.08.2004 for treatment. He underwent kidney transplant at IOTI Hospital Chennai and reported back the Academy on 08.09.2005, after a gap of one year but could not continue Basic Induction Training Course at SKPA-Udhampur due to his ailment; and

Whereas, Shri Arun Kumar, having missed major portion of his training, was attached with SSP Jammu, vide PHQ’s Order No. 2890 of 2005 dated 24.09.2005 and referred to the Medical Board for examination as to whether he is fit for the Police Department or otherwise. The Medical Board GMC Jammu vide No. MRD/C/1450 dated 28.09.2006 opined that the petitioner is physically fit and mentally sound but should avoid heavy exertion and prolonged travelling and should remain in regular follow-up in Nephrology Unit of GMC Jammu; and

Whereas, the petitioner submitted a representation to the Director General of Police, J&K stating therein that he was earlier appointed as Constable Operator in Police Telecom on 19.04.2001 and was subsequently deputed to PTTI Vijaypur for undergoing (03) months BRTC, which he successfully completed in year 2002, as per result notification issued by Principal PTTI Vijaypur vide order No. 119 of 2002 dated 20.03.2002; and
Whereas, Shri Arun Kumar also submitted a representation in the Home Department for exempting him from Basic Training Course, in view of his ill health. The department sought the comments of DGP, J&K as to whether there is any provision in the rules for such exemption; and

Whereas, Director General of Police vide communication dated 22.05.2009 intimated that there is no provision under rules for exemption of a direct recruit DySP from attending the Basic Training Course and there has never been any such precedent where a directly recruited DySP has been exempted from Basic Training; and

Whereas, Sh. Arun Kumar, Prob. DySP filed SWP No. 756/2013 before Hon’ble High Court at Jammu contending therein, among others, that the Basic Induction Course which he was required to undergo on being appointed as Prob. DySP is equivalent to training course which he has undergone as a Wireless Operator (Constable) and therefore sought exemption from Basic Induction Training for Prob. DySP under Rule 7 of the J&K Police (Gazetted) Service recruitment Rules, 2002; and

Whereas, the Hon’ble High Court vide order dated 18.10.2016 disposed of the writ petition with the following directions:-

"With the consensus of counsel for the parties, this petition along with connected MP (s) is accordingly disposed of with a direction to the respondent-state to determine, in terms of Rule 7 of the J&K Police (Gazetted) Service Recruitment Rules, 2002, as to whether the training course undergone by the petitioner at the time of his engagement as a Wireless Operator was equivalent to the Basic Induction training Course which he was, otherwise supposed to undergo upon being appointed as Dy.SP. In case, the answer is in affirmative, the benefit of the same would be given to the petitioner in accordance with law. Let an appropriate decision be taken within a period of two months from the date a copy of this order is served upon them”

Whereas, Rule 7 of the Jammu and Kashmir Police(Gazetted) Service Recruitment Rules, 2002 provides for training and departmental examination. This rule is reproduced below:-
7. **Training and Departmental Examination.**

Persons appointed to the service by competitive examination shall be required to undergo such training from time to time and to pass such departmental examination during the course of probation, as the Government may prescribe, provided that the Government may exempt either wholly or partly from such training or Departmental examinations, persons who have passed a departmental examination or undergone a training declared by Government to be equivalent to a departmental examination or training prescribed under these rules.

Whereas, in view of his inability to undertake the Basic Induction Training successfully, he could not complete his probation which was mandatory for his confirmation in service and subsequent promotion; and

Whereas, the matter has been examined in terms of Rule 7 of the Jammu and Kashmir Police(Gazetted) Service Recruitment Rules, 2002 and it is found that “Basic Recruitment Training” as Wireless Operator undergone by the petitioner in the year 2001, cannot be equated with the “Basic Induction Training” required to be undergone by a DySP during his probation. The training in the capacity as Wireless Operator is purely technical in nature, whereas the training as DySP on probation involves various aspects viz; rigorous physical and technical training, weapon training, class work teaching, field assignment etc.

Now, therefore, in pursuance to the Hon'ble High Court order dated 18.10.2016, passed in SWP No. 756/2013, MP No. 3288/2014 & 1042/2013 titled Arun Kumar v/s State and others, the claim of the petitioner has been considered and the same is found devoid of any merit and is hence rejected.


Sd/-

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

No:Home/Gaz/PB-I/SWP/60/2015

Dated: 12.06.2017
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, Srinagar.
4. Private Secretary to Principal Secretary to Government Home Department.
5. Concerned Officer.
6. Incharge website, Home Department.

(Syed Yasin Lateeq)

Under Secretary to Government,
Home Department

12-06-17