Subject: - Order dated 27.02.2012 of the Hon'ble High Court of J&K passed in SWP No. 921/2010 titled Bashir Ahmad Dar Vs State and others.

Government Order No.Home-180 of 2014
Dated: 17-04-2014

Whereas, Shri Bashir Ahmad Dar S/o Mohammad Yousuf Dar R/o Balhama, Srinagar has approached the Hon'ble High Court through the medium of SWP No. 921/2010 titled Bashir Ahmad Dar Vs State and others challenging order No.901-Aux. of 2009 dated 10th of November, 2009 of the Home Department, whereby the claim of the petitioner for appointment as Constable has been rejected; and

Whereas, the Hon'ble High Court of J&K vide its order dated 27.02.2012 has disposed of SWP No. 921/2010 titled Bashir Ahmad Dar Vs State and others with the following directions: -

"... I deem it proper to allow the writ petition and set aside the Government Order No.901 (Aux) of 2009 dated 10th of November, 2009 and a direction is also issued to the respondents to reconsider the case of the petitioner for grant of compassionate appointment while considering his case for relaxation of age and having regard to the ratio laid down in the judgements supra. Disposed of along with all CMPs."

Whereas, in due deference to the above orders of the Hon'ble High Court, the claim of the petitioner for appointment as Constable in the Police Department has been examined afresh with reference to the records and rules on the subject and it has been found that: -
1. In terms of Rule 2 of the Jammu and Kashmir Compassionate Appointment Rules, 1994, appointment on compassionate grounds can be extended to a family member of a government employee who dies in harness other than militancy related incident.

2. The father of the petitioner has not died in harness but has turned mad. There is no provision in the Jammu and Kashmir Compassionate Appointment Rules, 1994 to consider family member of such an employee for appointment on compassionate grounds, as has turned mad. The compassionate appointment rules are a means to provide immediate succor and sustenance to the family members of an employee who dies in harness.

3. As per the Jammu and Kashmir Police Rules, the age for recruitment to the post of a Constable is between 18 - 28 years. In addition, a candidate has to satisfy the physical standards prescribed under the Police Rules.

4. The Order No.1097 of 1998 dated 03.04.1998 issued by Director General of Police, J&K wherein sanction has been accorded to the appointment of the petitioner as Constable on compassionate grounds though subject to the fulfillment of other formalities/conditions, is itself erroneous for not being in accordance with the rules/norms as also there is no compassion involved in the appointment of the said petitioner. Further, at the time of issuance of appointment orders, the petitioner was over 50 years of age and by now, the petitioner has attained 52 years of age. Therefore, he cannot be considered for appointment as Constable at this stage as he does not satisfy the eligibility criteria prescribed in the Police Rules for appointment as Constable.

Now, therefore, the claim of Shri Bashir Ahmad Dar S/o Mohd. Yousuf Dar R/o Balhama, Srinagar for appointment as Constable on compassionate grounds having been considered in due deference to order dated 27.02.2012 of the Hon'ble High Court of J&K passed in SWP No. 921/2010
titled Bashir Ahmad Dar Vs State and others having been found to be devoid of any merit or justification for the reasons mentioned herein above, is rejected.


Sd/-
(Suresh Kumar) IAS
Principal Secretary to Government
Home Department

No. Home/PB-IV/47/2012/2423

Copy to:-
1. Director General of Police, J&K Jammu
2. Secretary to the Government, General Administration Department
3. Private Secretary to the Principal Secretary to Government, Home Department
4. Concerned
5. Incharge Website, Home Department
6. Government order file/Stock file

(Dated: 17.04.2014)

(Mohammad Yaqoob Malik)
Under Secretary to the Government
Home Department