Government of Jammu and Kashmir
Home Department
Civil Secretariat, Jammu/Srinagar

Subject : Re-fixation of seniority of Chief Prosecuting Officers.
Reference : i)Judgement dated 01.11.2019 passed by the Hon'ble High Court Laeeq Ahmad Dar vs. State of J&K and others.
ii)Judgement dated 16.11.2015 passed passed by the Division Bench of the Hon'ble High Court in LPA titled Parshotam Lal and another vs. State and others.
iii) Government Order No.192-Home of 2022 dated 25.06.2022.

Government Order No.: 254–Home of 2022
Dated: 25.07.2022

Whereas, a Seniority list of the Chief Prosecuting Officer(s),as it stood on 01.01.2012, was issued vide Government order No. 102(P) of 2012 dated 09.02.2012, which was followed by a Seniority list of Chief Prosecuting Officer(s),as it stood on 01.01.2010, issued vide Government Order No. Home-746(P) of 2012 dated 29.08.2012; and

2. Whereas, a writ petition SWP No. 1613/2013 titled *Laeeq Ahmad Dar vs. State of J&K and others* was filed in the Hon'ble High Court at Srinagar, whereunder, the petitioner, aggrieved of the seniority position assigned to him in the final seniority list of the Chief Prosecuting Officers, as it stood on 01.01.2012, notified vide Government Order No. 102(P) of 2012 dated 09.02.2012, challenged the same, inter-alia, on the ground that the private respondents 4 & 5 were junior to him at the level of Prosecuting Officer [entry level post] and Sr. Prosecuting Officer. The petitioner's contention was that the private respondents 4&5 were wrongly assigned the seniority position above the petitioner at the level of CPO notwithstanding their promotion as Chief Prosecuting Officer under RBA category before the petitioner and that while notifying the seniority ibid, the official respondents were required to apply catch up rule and place the petitioner above the private respondents 4&5; and

3. Whereas, in the aforesaid writ petition, the Single Bench of the Hon'ble High Court, vide its judgment dated 01.11.2019, while observing as under, referred to various judgments delivered by Hon'ble the Supreme Court on the Catch up rule and the principle laid down in judgment dated 05.03.2019 titled *Sudhakar Baburao Nangnure vs. Noreshwar Raghunathrao Shende & Ors*", 2019 4 Scale 417:

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" that the petitioner has been able to show that the impugned action of the official respondents is bereft of legal sanctity and needs to be struck down. Impugned order issued vide No. Home-102(P) of 2012 dated 09.02.2012, whereby the petitioner has been placed at S.No. 25 and respondent No. 4 and 5 at S.No 15 and 22 in the seniority list, is adjudged bad necessitating the petitioner to be placed ahead of respondent No-4 and 5 on earning the promotion under general category. "

4. Whereas, the Hon'ble High Court in terms of its judgment ibid allowed the writ petition and directed as under:

"...17. For what has been stated above, the writ petition is allowed in the following terms:

(i) By issuance of Writ of Certiorari, order No. Home-102(P) of 2012 dated 09.02.2012, to the extent of placing respondent No.4 and 5 over and above the petitioner, is quashed.

(ii) By issuance of Writ of Mandamus, the official respondents are directed to re-frame the seniority of the petitioner and respondent No.4 and 5 along with other appointees figuring in order No.2250 of 1995 dated 12.08.1995, by placing them at an appropriate place permissible under rules. As a necessary corollary thereto, consequential benefits including promotion, whatever accrue, be granted in favour of the petitioner and respondent No.4 and 5 accordingly.

(iii) No order as to costs."

5. Whereas, the judgment ibid of the Hon'ble Single Bench was assailed by the private respondents 4&5 in LPA No. 340/2019 titled *Ravinder Kumar and another vs. Union Territory of J&K and others*, which was dismissed by the Division Bench of the Hon'ble High Court vide its judgment dated 20.12.2021 in the following terms:

"34/- The Writ Court, while allowing the writ petition of the petitioner/ respondent no. 4 herein, has appreciated the controversy in its right perspective. The law cannot come to the rescue of the official respondents in having extended a benefit in favour of certain employees in disregard of rules and the law on the subject. The Court cannot be a signatory to the wrong done by the official respondents.

36/- The submission made by the learned senior counsel on behalf of the appellants that the impugned judgment is based on wrong

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premise for having taken recourse to the judgment of this Court which is pending consideration before the Hon'ble Apex Court is without substance in view of the findings recorded hereinbefore. The submission that the judgment of this Court, of which the reference is made by the Writ Court, in the impugned judgment, has not yet been confirmed by the Apex Court, therefore, is bad in law, is without substance as the position is vividly clear even in absence of such reference.

37/- Having regard to the above narration, we uphold the view of the learned Single Judge and dismiss the appeal as meritless along with connected CMs. Respondents are directed to comply with the directions of the Writ Court without further wastage of time."

6. Whereas, the appellant No-1 (respondent 4 in the writ petition) filed SLP in Hon'ble the Supreme Court titled *Ravinder Kumar vs. Union Territory of Jammu and Kashmir and others,* SLP(C) No. 2945/2022 against the aforesaid Division Bench judgment dated 20.12.2021, which was contested by the writ petitioner; and

7. Whereas, Hon'ble the Supreme Court vide its order dated 04.03.2022 dismissed the Special Leave Petition, in pursuance whereof, the petitioner filed a representation through email dated 28.03.2022, praying therein for implementation of the order of Hon'ble the Supreme Court and the Hon'ble High Court of J&K and Ladakh at Srinagar; and

8. Whereas, upon examination of the matter, in consultation with the Department of Law, Justice and Parliamentary Affairs and the General Administration Department, it was decided to implement the judgment dated 01.11.2019 passed by the Hon'ble High Court of J&K and Ladakh at Srinagar; and

9. Whereas, in a related matter involving issues relating to the promotion and seniority of Prosecuting Officers, the judgment dated 16.11.2015 passed in LPASW No. 458/2002 titled *Parshotam Lal and another vs. State and others* was implemented and vide G.O No.192-Home of 2022 dated 25.06.2022, the seniority position as well as the dates of promotion of some of the officers at the level of Sr.PO and CPO, who were appointed vide order No.2250 of 1995 dated 12.08.1995, issued by the PHQ, has been revised.

10. Now, therefore, in compliance to the judgment 01.11.2019 passed by the Hon'ble High Court of J&K and Ladakh at Srinagar in case titled *Laeeq Ahmad Dar vs. State of J&K and others*, SWP No. 1613/2013 and in partial modification of the Government order No. Home-102 (P) of 2012 dated 09.02.2012 & Government order No.Home-746 (P) of 2012 dated 29.08.2012

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and in pursuance of G.O No.192-Home of 2022 dated 25.06.2022, the seniority position of the Chief Prosecuting Officers is re-framed, as per the details indicated in **Annexure "A"** and **Annexure "B"** to this order. This shall be followed by an updated seniority of Chief Prosecuting Officers in due course.

This shall, however, be without prejudice to the outcome of the writ petition(s), if any, pending consideration before the Competent Court(s).

By Order of the Government of Jammu and Kashmir.

Sd/-
(R. K. Goyal), IAS
Financial Commissioner/
Additional Chief Secretary
Dated: 25.07.2022

No. HOME/8/2022-08-HOME (CC No. 129618)

Copy to the:

1. Director General of Police, J&K.
2. Principal Secretary to the Hon'ble Lieutenant Governor.
3. Director General of Prosecution, J&K.
4. Principal Secretary to the Government, General Administration Department.
5. Secretary to the Government, Department of Law, Justice and Parliamentary Affairs.
6. Director Archives, Archaeology and Museums.
7. Director Prosecution, Kashmir/Jammu.
8. Concerned officers.
9. Private Secretary to the Chief Secretary, J&K.
10. Private Secretary to the Financial Commissioner (ACS), Home.
11. I/c Website, Home Department.

Copy also to the Additional Secretary (JKL), MHA, GoI, New Delhi.

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(Syed Yasir Farooq), JKAS
Deputy Secretary to the Government

Annexure "A" to the Government Order No. 254 dated 25.07.2022

S.No	Name	Date of Birth	Date of initial appointment	Seniority No. as per Govt. Order no. 102 (P) of 2012 dated 09.02.2012	Revised seniority
1	Parshotam Lal	25.01.1962	04.01.1993	14	13
2	Maroof Ahmad Manhas	07.07.1963	04.01.1993	16	14
3	Subash Chander Sharma	13.10.1962	17.03.1993	17	15
4	Murtaza Nassir	01.02.1962	04.01.1993	18	16
5	Riyaz Ahmad Darzi	03.03.1965	04.01.1993	13	17
6	Mahesh Kumar	04.03.1963	04.01.1993	19	18
7	Pawan Kumar Khajuria	14.10.1963	04.01.1993	20	19
8	Khalid Muzaffar Jan	07.01.1962	04.01.1993	21	20
9	Dawood Ahmad Tota	31.03.1963	01.10.1993	23	21
10	Inderjeet Lal	28.03.1964	12.08.1995	24	22
11	Laeeq Ahmad Dar	05.03.1967	12.08.1995	25	23
12	Aijaz Ahmad Bhat	14.01.1966	12.08.1995	26	24
13	Ms.Sunita Vishu Karma	03.10.1967	12.08.1995	27	25
14	Qazi Abdul Qayoom	12.10.1967	12.08.1995	28	26
15	Javid Iqbal	01.04.1964	12.08.1995	29	27
16	Bhupinder Singh	15.09.1964	12.08.1995	30	28
17	Mohmmad Shafi Rather	10.03.1964	12.08.1995	31	29
18	Mushtaq Ahmad Zargar	01.03.1964	12.08.1995	32	30
19	Ravinder Kumar (RBA)	22.04.1964	12.08.1995	15	31
20	Satish Kumar	15.01.1965	12.08.1995	33	32
21	Peer Afaq Ahmad	05.02.1965	12.08.1995	34	33
22	Kulbushan Sharma	10.04.1964	12.08.1995	35	34
23	Irshad Ahmad Sheikh	31.03.1967	12.08.1995	-	35
24	Mohd Ashraf Bakshi(RBA)	24.06.1965	12.08.1995	22	36

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Annexure "B" to the Government Order No. 254 dated 25.07.2022

S.No	Name	Date of Birth	Date of initial appointment	Seniority No as per Gov. Order No. 746 (P) of 2012 dated. 29.08.2012	Revised Seniority
1	Parshotam Lal	25.01.1962	04.01.1993	21	20
2	Marood Ahmad Manhas	07.07.1963	04.01.1993	23	21
3	Subash Chander Sharma	13.10.1962	17.03.1993	24	22
4	Murtaza Nassir	01.02.1962	04.01.1993	25	23
5	Riyaz Ahmad Darzi	03.03.1965	04.01.1993	20	24
6	Mahesh Kumar	04.03.1963	04.01.1993	26	25
7	Pawan Kumar Khajuria	14.10.1963	04.01.1993	27	26
8	Khalid Muzaffar Jan	07.01.1962	04.01.1993	28	27
9	Dawood Ahmad Toza	31.03.1963	01.10.1993	30	28
10	Inderjeet Lal	28.03.1964	12.08.1995	31	29
11	Laeeq Ahmad Dar	06.03.1967	12.08.1995	32	30
12	Aijaz Ahmad Bhat	14.01.1966	12.08.1995	33	31
13	Ms. Sunita Vishu Karma	03.10.1967	12.08.1995	34	32
14	Qazi Abdul Qayoom	12.10.1967	12.08.1995	35	33
15	Javaid Iqbal	01.04.1964	12.08.1995	36	34
16	Bhopinder Singh	15.09.1964	12.08.1995	37	35
17	Mohmmad Shafi Rather	10.03.1964	12.08.1995	38	36
18	Mushtaq Ahmad Zargar	01.03.1964	12.08.1995	39	37
19	Ravinder Kumar (RBA)	22.04.1964	12.08.1995	22	38
20	Satish Kumar	15.01.1965	12.08.1995	40	39
21	Peer Afaq Ahmad	05.02.1965	12.08.1995	41	40
22	Kulbushan Sharma	10.04.1964	12.08.1995	42	41

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