

Government of Jammu & Kashmir
Home Department
Civil Secretariat, Jammu/Srinagar.

Subject: Order dated 01.03.2021, passed by the Hon'ble Central Administrative Tribunal, Jammu Bench in O.A No. 61/507/2020 titled *Rajinder Kumar vs. Union territory of Jammu and Kashmir and Ors.*

Reference: i) Pros/OA-35/J/2023/47/58 dated 18.10.2023 of Police Headquarters, J&K.
ii) Contempt Petition No. 193/2021 in OA No. 507/2020 titled *Rajinder Kumar Vs. Shaleen Kabra & Ors.*

Government Order No.:17-Home of 2024
Dated:09.01.2024

Whereas, Shri Rajinder Kumar filed an application before the Hon'ble Central Administrative Tribunal, Jammu Bench, which came to be registered as O.A No. 61/507/2020 titled *Rajinder Kumar vs. Union territory of Jammu and Kashmir and others*, inter-alia, praying therein for the following reliefs:

[Handwritten signature]
19/11

" (i) Allow this O.A of the applicant.

(ii) Direct the respondents to correct the date of birth of the applicant by writing the same as 03.07.1978 instead of 03.07.1976 in the character roll of the applicant.

(iii) Direct the respondents to immediately release arrears of pay as well as to confer the benefits of the seventh pay to the applicant and other pay emoluments/increments as due to the applicant.

(iv) Such other relief which this Hon'ble Tribunal may deem just and proper may also be passed in favour of the applicant in view of the submissions made herein above."

2. Whereas, the Hon'ble Tribunal was pleased to dispose of the application *ibid* vide Order dated 01.03.2021, with the following directions:

" 3. Looking to the facts and circumstances of the case, we dispose of the O.A. with direction to Respondent No. 4 i.e, Chief Accounts Officer, Police Head Quarters, J&K Jammu/Srinagar to implement the order No. DE/2014/9008-11/OPJ dated 01.03.2014 passed by SSP, Jammu and take a decision in accordance with law. In case, the order of the SSP is complied with, all consequential service benefits may also be given to the applicant provided he is entitled to the said consequential benefits as per rules.

4 The A.I.G (Personnel) stationed at Police Headquarter would note that the orders of the SSP are not being implemented which has led to filing of the present O.A. which could have been avoided.

5. It is made clear that we have not entered into the merits of the case.

6. There shall be no order as to costs."

3. Whereas, the matter has been examined and, it has been found that Police Headquarters (PHQ), J&K, earlier forwarded the case of Constable Shri Rajinder Kumar, PID No. EXJ-995811 to the Home Department, stating *inter alia*, that due to clerical error at the time of preparation of Character Roll of the official-applicant, his date of birth came to be recorded as "03.07.1976" and on the basis of recommendation of the Designated Committee the "Date of Birth" has been proposed to be adopted as 03.07.1978; and

4. Whereas, the case was examined in light of the documents made available by the PHQ, and it was observed that official-applicant was appointed as Constable in J&K Executive Police in year 1999, and his date of birth on the first page of his Character Roll, presumably prepared in his

presence and in terms of Rule 193 of Jammu and Kashmir Police Rules, was recorded as "03.07.1976"; and

5. Whereas, the Service Book of the official-applicant was also sent to FSL and report received from FSL reveals that no mark of erasure, alteration, addition or obliteration has been detected in the date of birth entry in figures and words. It has further been intimated that departmental inquiry was also conducted and the Inquiry Officer has established that the date of birth of the official-applicant is 03.07.1978 as reflected in his date of birth certificate and other documents; and

6. Whereas, during the course of further examination, it was observed that the aforesaid Committee of PHQ has neither considered the relevant Rule position governing the preparation and attestation of Character Roll as indicated in Rule 192 and 193 of the J&K Police Rules, 1960 nor the provisions governing the alteration of date of birth, provided in Article-35 AA (c) of the Jammu & Kashmir Civil Service Regulations, 1956. The pertinent Rules/Provisions read as under:

Police Rules

192. Character Rolls:

A character roll in Form 29 shall be prepared and maintained for each enrolled police officer. Each roll shall be paged and extra pages or papers added shall be given a page number and attached in the chronological order.

193. Attestation of recruits and preparation of character rolls.

When the formalities required by Rule 185 have been completed, and the recruit has served for one month and received the instruction

prescribed in rule 794 his character roll shall be prepared in his presence. When the roll is otherwise complete the recruit shall be taken before a gazette officer and required to sign the agreement printed as item 4 in the roll and the rolled impressions of the thumb and fingers of his left hand shall be taken in the space provided for the purpose. The gazetted officer before signing the Roll shall satisfy himself that the recruit understands the purpose of his agreement and shall explain to him the purport of Rule 117, and give him the opportunity of claiming alternation in recorded age on production of documents in support of his contention.

Article 35-AA-Alteration of Date of Birth

The date of birth so declared by the Government servant and accepted and once recorded by the appropriate authority (as specified in clause (b) above) in the service book or any other record of service of the Government servant, as the case may be, shall not be subject to any alteration, except in the case of a clerical error without the orders of the Government. No alteration of date of birth of a Government servant shall be made by the Government (Administrative Department) unless a request in this regard is made by the concerned Government servant within a period of five years of his/her entry into Government service and it is clearly established that a genuine/ bonafide mistake has occurred.

Provided that in case of Government servant in service on the date of issue of this Notification, a request for alteration of his/her date of birth may be considered by the Government, for reasons to be recorded in writing, if any application to this effect is made within a period of six months from the date of issue of this Notification: Provided further that the date of birth so altered would not make him/her ineligible to appear in any school or University/Board or Public Service Commission Examination in which he had appeared or for entry into Government service, on the date on which he first appeared at such examination or on the date on which he entered Government service.

d) Notwithstanding the provisions contained in clause (c) above regarding alteration of date of birth, Government, however, reserves

the right to make correction in the recorded age of Government servant at any time, against the interests of the Government employee when it is satisfied that the age recorded in his/her service book or in the history of services of the concerned Government servant is incorrect and has been incorrectly recorded with the object that the said Government employee may derive some unfair advantage therefrom."

7. Whereas, Article 35-AA of J&K Civil Service Regulations, 1956 explicitly lays down that the alteration in date of birth can be effected only within five years from the date of entry into Government service. The official-applicant has failed to represent for alteration of his recorded date of birth within the prescribed time limit and has filed a representation with PHQ after rendering over two decades of service; and

8. Whereas, it was further observed that the official-applicant all along had the knowledge of the entries made in his Character Roll in light of the above provisions of the Police Rules, but the official-applicant has failed to make a representation to the Government (Administrative Department) within a period of five years of his entry into Government service. Besides, the examination of the Character Roll indicates that there is neither overwriting nor mutilation in the existing entry regarding the date of birth of the official-applicant, and the same with the lapse of time has attained finality.

Now, therefore, in due deference to the Order of the Hon'ble Central Administrative Tribunal, Srinagar in O.A. No. 61/507/2020 dated 01.03.2021 titled *Rajinder Kumar vs. Union territory of Jammu and Kashmir and Ors*, the claim of Shri Rajinder Kumar, Constable, after having been examined

and considered in terms of the relevant documents and the rules governing the subject, is for reasons recorded herein above, found devoid of any merit and hence rejected. The date of birth of the official shall continue to be treated as 03.07.1976, as recorded in his Character Roll, at the time of his appointment.

Sd/-
(Raj Kumar Goyal) IAS
Financial Commissioner/
Additional Chief Secretary


No. HOME-PNG/66/2020/ CC-4092

Dated:09.01.2024

Copy to the:

1. Director General of Police, J&K.
2. Principal Accountant General, J&K.
3. Director, Archives, Archaeology and Museums, J&K.
4. Private Secretary to the Financial Commissioner (Additional Chief Secretary) Home Department.
5. L/c Website, Home Department.
6. Government Order/Stock File.

Copy also: Joint Secretary (JKL), Ministry of Home Affairs, Government of India, New-Delhi.


09/01/2024
(Dr. Arvind Karwani) JKAS
Additional Secretary to the Government