

HIGH COURT OF JAMMU & KASHMIR AND LADAKH AT SRINAGAR
(Chief Justice's Secretariat)

Subject: Regular enquiry against Shri Ashiq Hussain Farooqi, Sr. Assistant (Unser Suspension) attached with the Court of Pr. District & Sessions Court, Budgam.

O R D E R

No: 1402/BSJ

Dated: 12.9.2024

Whereas, during the posting of Shri Ashiq Hussain Farooqi, Sr. Assistant (Unser Suspension) as Criminal Clerk in the Court of Special Judge Anti-Corruption, Kashmir Srinagar, he allowed the statement of a prosecution witness No. 3, recorded in File No. 12/B titled State Vs. Gh. Mohammad Bhat, to be taken outside the Court premises under a well thought plan and thereby provided full opportunity to tamper with such statement at as many as nine places.

Whereas, during the preliminary enquiry conducted by the then Special Judge Anti-Corruption Kashmir, Srinagar, prima facie negligence/ misconduct against the Delinquent Official (Sh. Ashiq Hussain Farooqi) was established.

Whereas, on the basis of the report of the then Special Judge Anti-Corruption Kashmir, Srinagar, the Competent Authority directed for initiation of Regular Enquiry by Registrar Vigilance in the matter against the D.O. and also for lodgment of an FIR.

Ashiq Hussain Farooqi
12.9.24

Whereas, a case bearing FIR No. 03/2018 of P/S VOK u/s 5(1) (d) and 5(2) of J&K Prevention of Corruption Act r/w 467, 468, 471 and 120-B RPC was lodged and the D.O. was arrested by the Vigilance Organization Kashmir on 17.03.2018 in the said FIR and the accused was remanded upto 27.03.2018 by the CJM Srinagar.

Whereas, the accused/D.O. remained in custody of Police more than 48 hours and in terms of Rule 31(2) of the Civil Services (Classification, Control and Appeal) Rules, 1956 he was required to be suspended by the appointing authority.

Whereas, the D.O. was placed under suspension vide High Court order No. 1745 Dated 28.03.2018 and was attached with the Court of Principal District & Sessions Judge, Kulgam till further orders.

Whereas, the Regular Enquiry pending with the Registrar Vigilance, was completed and on the basis of the evidence that came on record during the enquiry proceedings, the Enquiry Officer came to the conclusion that the charges leveled against the Delinquent Official have been established and accordingly arrived at the following finding:

“Consistent with the facts found, this Commission would opine that the evidence recorded in the matter and the other material produced on record would establish the charge against the delinquent official. The evidence and material on record would prove that he did not discharge his official duty with case, diligence and alacrity. He had no authority or right to either detach the witness’ statement from the judicial file, or hand over the same to the Advocate’s Clerk. He did not have any right or authority to permit the Advocate’s clerk or any other person to take the witness statement outside the Court premises or permit him to retain the same with him for some twenty minutes or even for minute for that reason. Having so permitted the witness’ statement to be taken outside the Court premises, he has facilitated the other miscreants to tamper with it and insert words in it and interpolate it. The evidence would show that he has fallen short to exercise that degree of care and caution which was required of him as custodian of the judicial record. The ACB has registered criminal case against the DO which shows that he has exposed himself to criminal prosecution apart from committing such serious dereliction of duty. His omissions and commissions would fall within the purview of misconduct which render him liable to penalty under Rule 30 of the Jammu & Kashmir (CCA) Rule, 1956.”

Whereas, the above Enquiry Report was placed before Hon’ble the Chief Justice (Competent Authority) for soliciting orders in the matter and after perusing the Enquiry Report his lordship was pleased to direct issuance of show cause notice to D.O. as to why his promotion should not be withheld for a period of five years. Accordingly a show cause notice was issued to Delinquent Official vide this Secretariat No. 924/Psy-472 Dated 11.06.2024.

Whereas, the D.O. filed his reply to the show cause issued to him and the same was placed before the Competent Authority. However, the Competent Authority {Hon’ble the Chief Justice (A)} was not satisfied to the reply submitted by the D.O. and was pleased approve the withholding of promotion to the D.O. for 5 five years but allowed the reinstatement of the D.O.

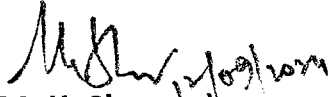
Now, therefore:

- i) Shri Ashiq Hussain Farooqi, Sr. Assistant presently attached in the Court of Pr. District & Sessions Judge Budgam is reinstated with immediate effect, however, the treatment of his suspension period will be decided as and when the trial in Criminal Case in FIR No. 03/2018

of P/S VOK, pending disposal before the Court of Special Judge Anti-Corruption Srinagar, is completed/decided.

- ii) the punishment of withholding of further promotion for 5 years proposed against Shri Ashiq Hussain Farooqi, Sr. Assistant (D.O.) in terms of Rule 30 (iii) of the J&K Civil Services (Classification, Control and Appeal) Rules, 1956 is reaffirmed.

By order of the Hon'ble the Chief Justice (A).

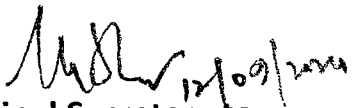

(M. K. Sharma)

Principal Secretary to
Hon'ble the Chief Justice

No : 1350-1360/PSy472 Dated : 12.9.2024

Copy to :

1. Registrar General, High Court of J&K and Ladakh, Srinagar for information.
2. Registrar Vigilance, High Court of J&K and Ladakh, Srinagar for information.
3. Registrar Rules, High Court of J&K and Ladakh, Srinagar for information
4. Pr. District & Sessions Judge, Srinagar, for information and n/a.
5. Presiding Officer, Court of Special Judge Anti-Corruption, Srinagar for inf & na.
6. Pr. District & Sessions Judge, Budgam for information
7. ~~Munsiff~~ Chrar-i-Sharief for information and necessary
- ✓ 8. CPO e-Court, High Court of J&K and Ladakh, Srinagar for uploading the same on the High Court website
9. Incharge Librarian, high Court of J&K and Ladakh, Srinagar/Jammu for keeping record of the same.
10. Shri Ashiq Hussain Farooqi, Sr. Assistant, attached with the Court of Pr. District & Sessions Judge, Budgam for compliance
11. Office file.


Principal Secretary to,
Hon'ble the Chief Justice