

/260910/2023

Phone No:- 0191-2546697 (J)
0194-2493309 (S)

Website: jksmg.gov.in



Fax: 0191-2565105(J)
0194-2490473(S)

E-mail: dirmsmg@gmail.com



GOVERNMENT OF JAMMU AND KASHMIR

Directorate of State Motor Garages Department

Bemina Bypass Srinagar / New Plot Jammu

Shri Ali Mohammad Mir,
S/o Ghulam Rasool,
R/o Reshigund Kupwara,
Driver, State Motor Garages Department.

No. Lit-15/ 2795-2800 DSMG

Dated: 17-08-2023

MEMORANDUM OF CHARGE SHEET

The Disciplinary Authority/ Director State Motor Garages J&K proposes to hold an inquiry against you under J&K Civil Services (Classification, Control, and Appeal) Rules, 1956. The substance of the imputations of misconduct or misbehavior in respect of which the inquiry is proposed to be held is set out in the enclosed statement of articles of charge (Annexure-I). A statement of the imputations of misconduct or misbehavior in support of each article of charge is enclosed (Annexure II). A list of documents by which, and a list of witnesses by whom, the articles of charge are proposed to be sustained are also enclosed (Annexure-III and IV).

Whereas, you are directed to **submit within 15 days of the receipt** of this Memorandum a written statement of your defense and also to state whether you desires to be heard in person.

Whereas, you are informed that an inquiry will be held only in respect of those articles of charges as are not admitted. You should, therefore, specifically admit or deny each article of charge.

Whereas, you are further informed that if you do not submit your written statement of defense on or before the time specified above, or do not appear in person before the inquiring authority or otherwise fails or refuses to comply with the provisions of J&K Civil Services (Classification, Control, and Appeal) Rules, 1956 or the orders/directions issued in pursuance of the said rule, the inquiring authority may hold the inquiry against you ex parte.

Whereas, your attention is invited to J&K Civil Services (Classification, Control and Appeal) Rules, 1956 under which no Government Servant shall bring or attempt to bring any political or outside influence to bring upon any superior authority to further your interest in respect of matters about your service under the Government, if any representation is received on your behalf from another person in

[Signature]

[Signature]

[Signature]

/260910/2023 respect of any matter dealt with in these proceedings, it will be presumed that you are aware of such a representation and that it has been made at your instance and action will be taken against you for violation of J&K Classification, Control and Appeal Rules, 1956.

(Malik Tahir Ganj) 17/8/23
Director/

Disciplinary Authority,
State Motor Garages Department,
J&K, Srinagar.

17/8/23
17.08.2023
17/8

Copy to the:

1. Secretary to Government, Transport Department, Civil Secretariat J&K, Jammu/Srinagar for information.
2. Divisional Commissioner, Kashmir for information.
3. Deputy Commissioner, Kupwara for information.
4. Deputy Director, State Motor Garages Department, Kashmir for information.
5. In charge website, SMG Department J&K, Srinagar for information with the directions to upload the charge sheet on the Departmental website.

/260910/2023

CHARGE SHEET

ANNEXURE-I

(Charges)

Articles of charge framed against Shri Ali Mohammad Mir S/o Ghulam Rasool R/o Reshigund Kupwara, Driver.

- That you have obtained employment based on fake and forged ad hoc appointment orders.
- That you have produced a fake and forged attendance certificate and on that basis caused loss to state exchequer for an amount of **Rs 1,73,937/- (Rupees one lac seventy three thousand and nine hundred thirty seven).**
- That you have misrepresented the facts and also produced fake, forged, and fabricated documents before the Hon'ble High Court of Jammu and Kashmir at Srinagar through SWP No. 1912/1994 and obtained a direction on that basis.
- That you have obtained a regularization order based on a fake and forged initial ad hoc appointment order.



ANNEXURE- II

/260910/2023

Statement of imputations of misconduct or misbehavior in support of the articles of charge framed against Shri Ali Mohammad Mir S/o Ghulam Rasool R/o Reshigund Kupwara, Driver.**1. Forgery**

That you have been appointed by Dy. Commissioner, Kupwara vide Order No. DCK/N/92-96 dated 29-05-1991 (**Alleged Forged Adhoc Appointment Order**) as Driver purely on Adhoc basis for 89 days or till final selection is made by the recruitment board. You have produced a continuation order from the office of Deputy Commissioner, Kupwara vide No. DCK/228-30 dated 30-07-1991 for the continuation of services. Thereafter you have produced a series of letters from different offices including Divisional Commissioner Kashmir for regularization and release of pending salary.

You submitted an attendance certificate issued from the office of Deputy Commissioner Kupwara vide No. DCK/327-30 dated 02-12-1996 w.e.f. 29-05-1991 to 31-12-1996 which was found fake and forged after verification as Deputy Commissioner Kupwara vide No. DCK/PA/CC/99/07/751-52 dated 05-04-1999 informed Deputy Director Garages Kashmir that letter No. DCK/327-30 dated 02-12-1996 (attendance certificate) and Letter No. DCK/328-36 dated 26-03-1998 have not been issued by his office nor dispatched by his office and signatures shown on these letters are fictitious. Further, the said driver neither attended his office for six years nor an attendance certificate has been issued by his office.

2. Forgery and Cheating.

That you had submitted a fake and forged attendance certificate to this office for the period of 29-05-1991 to 31-12-1996 purported to be issued by the deputy commissioner Kupwara vide no. DCK/327-30 dated 02-12-1996 and on that basis duped the department for an amount of **Rs 1,73,937/- (Rupees one lac seventy-three thousand and nine hundred thirty-seven)**. The attendance certificate and the other letters were later found to be fake which was verified by Deputy Commissioner Kupwara telephonically and later on confirmed in writing vide No. DCK/PA/CC/99/07/751-52 dated 05-04-1999.

3. Production of Fake, Forged, and Fabricated documents before the Hon'ble High Court.

That you had filed Service Writ Petition bearing No. (SWP No. 1912/1994) before the Hon'ble High Court of Jammu and Kashmir at Srinagar and the Hon'ble Court vide Interim Order dated 02-08-1994 directed this department to release the salary of the petitioner (Mr. Ali Mohammad Mir, ad-hoc driver) for the period he has worked as a driver. The Hon'ble Court further directed to allow the petitioner to continue till further orders and consider his regularization under the rules.

That you had filed an application bearing No. (CMP No. 4220/1995) in aforesaid Service, Writ Petition before the Hon'ble High Court of Jammu and




Kashmir at Srinagar and the Hon'ble Court vide order dated 19-04-1996 directed this

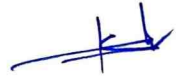
Department as **"if the petitioner is in service, he shall be paid the salary"**.

You had filed a contempt petition bearing No. 238 of 1997 for non-implementation of the Hon'ble High Court orders dated 02-08-1994 and 19-04-1996.

Despite Knowing that the initial ad hoc appointment order, attendance certificate, and all other communications were fake, you had fraudulently misled the Hon'ble Court and obtained a direction and thereby constrained the department to release the salary in your favor to which you were not entitled.

4. Obtained a regularization order on the basis of fake and forged initial ad hoc appointment order.

That you had obtained a regularization order purported to be issued by the Transport Department vide No. TR-79 of 1999 dated 11-11-1999 under endorsement No. TR-46/SMG/92 dated 11-11-1999 based on fake and forged initial ad hoc appointment order and other documents.

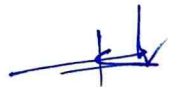


ANNEXURE III and IV

/260910/2023

List of Documents by which and witnesses by whom the Articles of charge framed against Shri Ali Mohammad Mir S/o Ghulam Rasool R/o Reshigund Kupwara, Driver are proposed to be sustained.

1. Order No. DCK/N/92-96 dated 29-05-1991 (**Alleged Forged Adhoc Appointment Order**) issued by Deputy Commissioner Kupwara.
2. Continuation Order No. DCK/228-30 dated 30-07-1991 issued by Deputy Commissioner Kupwara.
3. Attendance Certificate issued by Deputy Commissioner Kupwara vide No. DCK/327-30 dated 02-12-1996.
4. Letter No. DCK/PA/CC/99/07/751-52 dated 05-04-1999 issued by Deputy Commissioner Kupwara confirming therein that all the documents purported to be issued from his office are fake and fictitious.
5. Service Writ Petition bearing No. (SWP No. 1912/1994) filed before the Hon'ble High Court of Jammu and Kashmir at Srinagar.
6. Interim Order dated 02-08-1994 of the Hon'ble High Court of J&K at Srinagar in SWP No. 1912/1994.
7. Order dated 19-04-1996 of the Hon'ble High Court of J&K at Srinagar in CMP No. 4220/1995 in SWP No. 1912/1994.
8. Contempt Petition bearing No. 238 of 1997 filed before the Hon'ble High Court of J&K at Srinagar.
9. Regularization Order issued by Transport Department vide No. TR-79 of 1999 dated 11-11-1999 under endorsement No. TR-46/SMG/92 dated 11-11-1999.



A-III ①

Government of Jammu and Kashmir,
Office of the District Dev. Commissioner, cum
S.D.O. Baramulla.

...

Subject: Appointment of Shri Ali Mohammad Sir
S/O Lassi Sir S/O Doshigund Taseil Kupara
as driver on adhoc basis.

Ref: Dy. Director State Motor Garages Srinagar's
No:548/S dated: 27.5.1991.

...

S.R.O.

Shri Ali Mohammad Sir S/O Lassi Sir

S/O Doshigund Taseil Kupara is hereby appointed
as driver purely on adhoc basis for a period of
60 days or till final selection is made by the
recruitment board in the grade of (900-1030) and
is directed to report to Dy. Director State Motor
Garages Srinagar to ply Vehicle No:6689 - allotted
to Dist. Dev. Kupara.

The Dy. Director State Motor Garages Srinagar
will allow him to be appointed to join only after
production of valid road driving license and
the following certificates:

- 1) State Subject Certificate.
- 2) Age and Health Certificate.
- 3) Middle Class Certificate.

Dist. Dev. Commissioner, cum
Deputy Commissioner,
Kupara.

Dated 29.5.1991.

2001/192-96

Copy to:

1. Director State Motor Garages Srinagar
2. Dy. Director State Motor Garages for inf. and n/a.
This is in reference to his No:548/SW
dated: 27.5.1991.
3. Dy. Director Kupara for inf.
4. Shri Ali Mohammad Sir S/O Lassi Sir S/O Doshigund
Taseil Kupara for inf. compliance.

...

[Signature]

Government of Jammu and Kashmir,
Office of the Deputy Commissioner Kupwara,
Kashmir.

...

Subject: Appointment of Shri Ali Mohd Mir S/O
Lassi Mir R/O Reshigund Tehsil Kupwara as
Driver on adhoc basis.

..

O r d e r

In continuation to this Office
order issued under Adett.No:DCX/PA/92-96 dated
29.5.1991, Shri Ali Mohd Mir S/O Lassi Mir R/O
Reshigund will continue as Driver and will ply the
Vehicle No:6689 till such time the final selection
is made by the State Recruitment Board.

[Signature]
Deputy Commissioner,
Kupwara.

No:DCX/228-30

Dated 30.7 - 1991.

Copy to the:-

- 1) Director State Motor Garages J&K Srinagar.
- 2) Dy. Director State Motor Garages for inf. and a/c.
The pay dues of the official may drawn.
- 3) Incharge Garages Kupwara for inf.
- 4) Shri Ali Mohd Mir for information.

Government of Jammu and Kashmir
Office of the Deputy Commissioner Kupwara,
Kashmir.

The Deputy Director,
State Motore Garages,
Srinagar.

No: DCK/327-30

Dt: 2.11.76

Subj:- Attendance of Shri, Ali Mohammad Mir Driver District
Motore Garges Kupwara.

Sir,

Ali Mohammad Mir Driver attached with this Garages
attended this Garages regularly with effect from 29.05.1991 up to
31.12.1996 for duty without salary. However he was attached to
Garages with effect from 01.11.1991 to 10.12.1991. For which
separate orders has been issue by the Dy. Commissioner Kupwara.
This is not out of place to mentioned here that the attendance of
the official has been sent to State Motore Garages Srinagar for
each months regularly by the Dy, Commissioner Kupwara with other
staff of Garages.

Yours Faithfully,

Ryseh
Deputy Commissioner
Kupwara.

Copy to the :-

01. Director State Motore Garages Srinagar for information and necessary action.
02. Commissioner/Secretary of Food & Supplies and Transport Department for information and n/s.
03. Divisional Commissioner Kashmir for information.

A-III (4)

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Government of Jammu and Kashmir
Office of the Deputy Commissioner Kupwara-

NO; DCK/PA/CC/99/07/751-52

Dated; -05.04.1999


The Deputy Director,
State Motor Grages,
Srinager.

Subject;- Court Case titled Ali Mohd Mir V/S State

Sir,

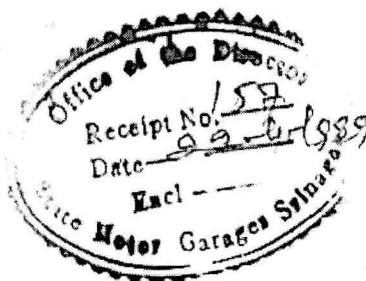
Kljddly refer your letter NO;4612-13/SMT
Dated;-12.09.1998 and letter NO;6962-63/SMT Dated;-
12.12.1998 regarding the subject cited above. In
this connection I am to say that letter NO;327-30
Dated;-02.12.1996 and DCK/328-36 Dated;-26.03.98
have not been issued by this office nor these
letters have been dispatched by this office and
the signatures shown on these letters are fictitious.
It is pertinent to mention here that neither the
said driver has attended this office nor his attendance
certificate has been issued by this office since
six years.

Yours faithfully,


Deputy Commissioner
Kupwara-Kmr.

Copy to the;-

1/- Director State Motor Grages J&K Jammu for inf.



IN THE HON'BLE HIGH COURT OF JAMMU AND KASHMIR AT SRINAGAR

FOR

In the case of:-

Ali Mohammad Mir,
S/A Chulan Resool Mir,
R/O Keshi Gund Kupwara.

... Petitioner

V E R S U S

1. State through Commissioner/ Secretary to Govt. Food, Supplies and Transport Department, J&K, Srinagar.
2. Director State Motor Garages Srinagar.
3. Dy. Director State Motor Garages, Srinagar.
4. Deputy Commissioner Kupwara Kashmir

... Respondents.

In the matter of;

Writ petition under Art. 226 of the
constitution of India read with section
103 of the Constitution of J&K State.

May it please your Lordships,

The humble petitioner submits as under:-

1. That the petitioner is the 1st class state subject of Jammu and Kashmir State and is the Citizen of India, as such is entitled to invoke the extra ordinary writ jurisdiction of this Hon'ble Court for the redressal of his grievances.

2. That the petitioner is working as Driver in the State Motor Garages by virtue of order issued by Dy. Commr. Kupwara vide his order No; DCW/N/92796 dated 28.5.1991. The copy of the said order is appended herewith and forms annexure P-1 to this petition.

Ann P-1

3. That subsequently Dy. Commissioner Kupwara gave the continuation to the services of the petitioner in terms of order No; DCW/228730 dated 30.7.1991. A photostate copy of the said order is attached herewith and forms annexure P-2 to this petition.

Ann P-2

4. That the petitioner was not given his salaries even after the Dy. Commissioner Kupwara addressed various letters to the concerned quarters for the release of pay dues to the petitioner vide letters DCI/PI/357h-77 dated 2.8.9h, DCI/PA/Camp-3/N dated 11.3.9h, DCI/PA/610-12 dated 28.6.9h and DO letter No; DCI/PA/122 dated 20.5.199h. The photo state copies of the above said letters and DO letter is annexed herewith as P-3, P-4, P-5 and P-6 respectively with this petition.

Ann. P-3,4,5,6

5/ That the Divisional Commissioner Fashir also wrote a D.O letter No: CK/P36(Kup) dated 3.9.1992 to the Commissioner/Secretary to Government Food, Supplies and Transport Deptt. for the release of the salary of the petitioner. The said letter is annexed herewith and forms annexure P-7 to this petition.

Ann.F-7

6/ That the petitioner is continuously working as Driver in the State Motor Garages with effect from 29.5.1991 till date.

7/ That the petitioner had worked very honestly and with zeal in the department, he was deputed to various officers of the Revenue Department who appreciated his work and conduct. The petitioner rendered the service for the last more than 3 years but unfortunately has not received even a single penny for his work till date. This harsh attitude of the respondents clearly shows that there is a bureaucracy rule in our Government and there is no appreciation to the hard working employees of the State. Even the petitioner is fully entitled for his regularisation of service but is not known as to why he has not been regularised nor has been given dues during these hard and crucial days.

8/ That it is settled law now that if some body is working against a particular post for more than 3 years, he will be entitled for the regularisation of his service and he will also be entitled for the salaries. But as the ill luck would have, the petitioner has rendered his service to the Revenue Department for the last 4 years but neither he has been paid the salary nor his services have been regularised by the respondents. Even D.C Kupara has written of and on to the concerned respondents that they shall release the salary of the petitioner and be regularised as well. The D.C Kupara has also admitted that the petitioner has suffered a lot during the last four years but there is no proper response from the respondent side. The petitioner tried his best while approaching the concerned quarters for the release of his pay and regularisation of his services but there is a bureaucracy approach of the respondents which is always like a sword over the head of the poor employees of the state. Same is the case of the poor petitioners who has left no stone unturned for his release of pay as well as regularisation of his services, but he was given clear refusal from all the places.

9/ That there is only a last resort for the petitioner to knock the doors of this Hon'ble Court to seek justice as it has been decided in various cases by our Hon'ble High Court

shall be given wages for that work, as such the petitioner is absolutely entitled for his salaries.

10. That even the Divisional Commissioner Kashmir and Dy. Commissioner Bupwara recommended the case of the petitioner for the release of his salary to the concerned quarters which evoke no proper response from the respondent side which forced the petitioner to approach this Hon'ble Court.

11/ That there is no alternative efficacious remedy to the petitioner but to approach this Hon'ble Court because if the services of the petitioner is not being regularized and his salary is not being released it will cause definitely a great loss to the petitioner. The petitioner will lose his seniority and as well as there will be a great monetary loss to the petitioner during these hard, fast and crucial days. If the services of the petitioner is not regularized it will cause a great loss to the service career of the petitioner and the petitioner will remain junior in the department and his promotion chances can be blocked. The fundamental right guaranteed to the petitioner also demands the release and regularization of the services of the petitioner, but the respondents have never bothered for the constitutional rights of the petitioner nor the service rules but has shown their high handedness, hence there is no other recourse for the petitioner but the Hon'ble Court to redress his grievances.

POINTS

- a) Because, the petitioner is working for the last 4 years so he is entitled for the regularization of his services.
- b) Because, the petitioner has rendered his service to the department for the last 4 years but has not been given his dues and regularized which is totally illegal and discrimination to the petitioner as the petitioner is entitled for the salaries for the period for which he has rendered his services as Driver in the Revenue

- c) Because, the petitioner has approached all the concerned quarters and there has also evidence of the annexures from which it is evident that Divisional Commissioner as well as Dy. Commissioner Kupwara has off and on written to the respondents for the regularisation of the services of the petitioner and as well as the salary but there is no proper response from the respondent side and is total denial from the respondents side, so to approach this Hon'ble Court is just and proper.
- d) Because, the petitioner has rendered his service but no law says that when some body is rendering his service in the Government and shall not be paid for the same, but on the other hand, there is well settled law that one should be given wages for the services he renders in Government, same is the case of the petitioner, he has rendered his service legally, with hardwork, zeal and devotion in the Revenue department, it is totally discrimination and the disparity on the part of respondents.
- e) Because, other equally situated employees of the same department has already been regularised and their salaries have also been released, it is only the petitioner his services has not been regularised nor he has been given the salary for the services he has rendered. This attitude of the respondents clearly shows the discrimination on the part of the respondents also shows their high handedness.

12/ That there is no alternative efficacious remedy available to the petitioner but to invoke the extra-ordinary writ jurisdiction of this Hon'ble Court.

13/ That the petitioner has not filed any other writ, of suit in any other High Court, Subordinate Court or in the Supreme Court of India on the ^{subject} same matter.

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With the above reasons and grounds, the petitioner seeks the following relief:-

- a) A writ of Mandamus issued whereby the respondents be directed to regularise the services of the petitioner with effect from 29.5.1991.
- b) A writ of Mandamus be issued whereby the respondents be directed to release the salary and other emoluments of the petitioner with effect from 29.5.1991.
- c) A writ of Mandamus be issued whereby the respondents be directed to prepare the service book of the petitioner and release the alloted increments of the petitioner with effect from 29.5.1991.

Any other relief, order or direction which the Hon'ble Court may deem fit in the facts and circumstances of the case in favour of the petitioner against the respondents.

Dated:-

Petitioner through Counsel

(Mr. Saifullah)
Advocate

THE HIGH COURT OF JAMMU AND KASHMIR AT SRINAGAR.
PRESENT.

THE HON'BLE MR. JUSTICE ~~XXXXXX~~ ~~XXXXXXXXXXXX~~ S.M.RIZVI,

S.W.P. NO: 1912/94

C.M.P. NO: 4776/94

All Mohd. Mir, S/O Gh. Rasool Mir, R/O Reshi Gund Kupwara.

... Petitioner.

VERSUS.

- 1/ State of J&K through Commr/Secy. to Govt, Food Supplies, and Transport Deptt. J&K Sgr.
- 2/ Dy. Director State Motor Garage, Sgr.
- 3/ Dy. Director State Motor Garages Sgr.
- 4/ Deputy Commissioner Kupwara Kmr.

... Respondent.

Writ petition under section 103 of the J&K constitution.

Application with the prayer that the non applicants be directed to regularise the services of the applicant for the post of Driver with effect from 29-5-91 and directed to release the salary and other emoluments and allowances to the application in the revised pay scale of 1200- 2040 Ru Plus allowances w.e.f. 29-5-91 and further the nonapplicants be directed to allow the applicant to continue on the post of driver which he is holding at present without any break.

The non-applicants be also directed to prepare the Service Book of the petitioner/applicant and release increments and C.A. for Karnah Tehsil with effect from 29-5-91.

THE HON'BLE COURT HAS BEEN PLEASED TO ORDER AS UNDER:

Mr. Mir Saifullah,

The petitioner has been appointed on 29-5-91 as a driver by the District Development Commissioner Kupwara on adhoc basis ~~XXXXXXXXXX~~ for a period of 89 days on till final selection is made by the recruitment board. Allegedly since then neither his services have been regularised and nor he has been paid his dues though he is working against that post continuously. The recruitment board has not made any selection to the post which the petitioner is holding.

Issue notice to respondent 2 and 3 only in the first instance returnable within four weeks to show cause as to why this petition be not admitted to hearing.

Issue notice in the CMP also to the same respondents returnable within the same period. In the meanwhile subject to the objection of otherside, the said respondents are directed to release the salary of the petitioner for the period he has worked as driver. They shall allow the petitioner to continue till further orders for this court and consider his regularisation under rules.

The petitioner shall file two registered covers within the course of this week for effecting service on the respondents.

Srinagar.
2-3-94

Copy to:

No: 18105

Dt: 22/6/94

Dy Director S.M.G. Sgr

.... for compliance.

Next Dt: 30-8-94

Dy. Registrar. 22/6

HIGH COURT OF JAMMU AND KASHMIR AT SRINAGAR

PRESENT:

THE HON'BLE MR. JUSTICE BILAL NAZKI

CMP No: 4220/95

1. Ali Mohammad Mir S/O Gh. Rasool Mir R/O Reshigund Kupwara, Age 29 years.

---Petitioner

Versus

1. State of J&K through Commr/Secretary to Govt. Food & Supplies & Transport Deptt. Civil Sectt. Srinagar/Jammu.
2. Director State Motor Garages Srinagar.
3. Deputy Director xx Motor Garages Srinagar.
4. Deputy Commissioner, Kupwara.

---Respondents

THE HON'BLE COURT HAS BEEN PLEASED TO ORDER AS UNDER:-

Mr. Saifullah,

Issue notice. If the petitioner is in service, he

shall be paid the salary.
Srinagar.

Sd/-Hon'ble Nazki "J"

19-4-96

No:- 1548

Dt:- 20. 4. 96.

Copy to:- Dy. Commr. Kupwara.

---for compliance

Dy. Registrar
High Court of J & K
Dy. Registrar

Next date: 20-5-96

Typed by: "N"
Compared by:

TRUE

REG. COURT OF JAMMU & KASHMIR
SRINAGAR

In the Hon'ble High court of J&K State at Srinagar.

In the case of:-

Contempt petition No. _____/97
in S.W.P. Nos 4220/1995

Ali Mohamad Mir,
S/o Sh. Rasool Mir, R/o Peshigund Kupwara,
Ages 29 years.

...Petitioner.

v/s

1. State of J&K through Commr/Secretary to Govt.
Food & Supplies department/Transport Civil Sectt. Sgr.
2. Director State Motor Garages, Srinagar.
3. Deputy Director, Motor Garages, Srinagar.
4. Deputy Commissioner, Kupwara.

.... Respondents.

In the matter of:-

An application seeking the initiation of contempt proceedings against Mr. Bashir-ud-Din, Director State Motor Garages, Srinagar and Mr. Anis Beharwal, Dy. Director, Motor Garages, Srinagar for violating the orders of this Hon'ble court passed in CMP No. 4776/94 dated 3/8/94 and order dated 19/4/96 passed in CMP No. 4220/95.

May it please your lordships:

The petitioner most respectfully submit as under:-
That the petitioner was initially appointed as a Driver on 29/5/91 by District Development Commissioner, Kupwara on adhoc basis for a period of 09 days or till final selection is made by the recruitment Board. He continued as such as no selection was made, beyond 09 days and was performing the functions of a Driver in District Garages at Kupwara. He was, however, not paid for the services he rendered irrespective of the fact that the Dy. Commissioner concerned had repeatedly been requesting the respondents herein to release the salary of the petitioner and, therefore, the petitioner approached this Hon'ble court by way of writ No. 1912/1994. In the aforesaid writ petition the petitioner prayed for the regularisation of his services and release of salary in addition to the other reliefs. The said writ

Contd...2/-

petition came up for consideration before this Hon'ble court as back as on 3/8/94 and Hon'ble Mr. Justice S.M. Rizvi, as he then was passed the following orders:-

"The petitioner has been appointed on 25-5-91 as a driver by the District Development Commr. Kupwara on adhoc basis for a period of 89 days till final selection is made by the recruitment board. Allegedly since then neither his services have been regularised and nor he has been paid his dues though he is working against that post continuously. The recruitment board has not made any selection to the post which the petitioner is holding.

Issue notice to respondent 2 and 3 only in the first instance returnable within four weeks to show cause as to why this petition be not admitted to hearing.

Issue notice in the QWP also to the same respondents returnable within the same period. In the meanwhile subject to the objections of the other side, the said respondents are directed to release the salary of the petitioner for the period he has worked as Driver. They shall allow the petitioner to continue till further orders for this court and consider his regularisation under rules.

The petitioner shall file two registered covers within the course of this week for effecting service on the respondents.

Srinagar. 2-8-94

Sd/- Rizvi 'J'

2) That irrespective of the aforesaid order the petitioner was not paid by the respondents and the representations and requests made by the petitioner yielded no fruit. The petitioner constrained to move one more application in the year 1995 bearing QWP No. 4220/1995. The said application came up for consideration of the Hon'ble court on 19/4/96 and Hon'ble Justice Bilal Nazki was pleased to issue the following order:

"Issue notice. If the petitioner is in service he shall be paid his salary."

3) That both the orders dated 3/8/1994 and 19/4/96 were duly served upon the respondents, but they did not care to implement the same and wilfully violated the directions passed by this Hon'ble court.

4) That the respondents have not chosen to contest the writ petition filed by the petitioner and have not filed any objections to the same so far irrespective of the fact that Shri Ghulam Mustafa, Govt. Advocate has been appearing on their behalf.

Contd...3/-

5) That the Deputy Commissioner Kupwara and Development commissioner Kashmir had endorsed a number of communications to the respondents herein above, directing them to implement the orders of the Hon'ble court and release the salary of the petitioner for the period he has worked but to no avail.

6) That the respondents are violating the orders of this Hon'ble court wilfully and deliberately and did not show any sign of respect towards the orders of the Hon'ble court. The respondents are as such liable to be punished under law.

In the premises, it is, therefore, prayed that this Hon'ble court may be pleased to initiate contempt proceedings against the respondents in terms of the provisions of the Constitution of India and punish them for the violation of the orders of this court.

The respondents may further by use of coercive measures commanded to release the salary of the petitioner forthwith and for each days delay penalties may be imposed on the respondents for dis-obedience of the orders of this Hon'ble court.

Petitioner through counsel.

(B.M.Badiq)
Advocate.

Government of Jammu and Kashmir
Transport Department

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Subject: - Regularisation of adhoc appointment of
Sh. Ali Mohammad Mir S/o Ghulam Rasool Mir
R/o Reshi Gund, Kupwara as Driver.

Reference: General Administration Department
No: GDC-251/CM/93 dated 30-9-1999.

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Government order No: 79 -TR of 1999
D A T E D : 11 -11- 1999

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Sanction is accorded, in relaxation of rules, to
the regularisation of adhoc appointment of Shri Ali Mohammad
Mir S/o Ghulam Rasool Mir R/o Reshi Gund, Kupwara as Driver
in the State Motor Garages in the pay scale of Rs.3050-4590.

By order of the Government of Jammu and Kashmir.

Sd/-

(S.D. Singh)

Principal Secretary to Government
Transport Department

No: TR-46/SMG/92

Dated: - 11-11-1999

Copy forwarded to the:-

1. Commissioner/Secretary to Government , General
Administration Department.
2. Director , State Motor Garages, Jammu.
3. Shri Ali Mohammad Mir S/o Ghulam Rasool Mir R/o Reshi
Gund , Kupwara.
4. Government order file (w.3.s.c.)

(P.N. Bhagat) M/4

Under Secretary to Government,
Transport Department

S 11/11

Office of the Director
State Motor Garages
Jammu
23-76
10-11-99
2009