

Office of the Excise Commissioner J&K Government, Jammu.  
Rail Head Complex, Jammu

Subject: Promotion Order of Sh. Syed Sikander Shah S/o Syed Altaf Shah R/o Hartyain Tehsil/District Udhampur, Sh. Ravi Kumar S/o Late Bachan Lal R/o Gidder Gallian Jammu and Sh. Raghunandan Mishra S/o Late Sh. Inder Kumar Mishra R/o 124-A Gandhi Nagar Jammu in compliance to the order of the Hon'ble High Court dated 08/08/2013 passed in SWP No. 1721/2013, CMA No. 2503/2013.

Order No. 348 Of 2013

Dated: 12-11-2013

Whereas petitioner No 1 Syed Sikander Shah S/o Syed Altaf Shah was appointed as Excise Guard vide order No. 168/GR/86 dated 31/07/1986 issued by the Finance Department, petitioner No. 2. Ravi Kumar S/o Late Bachan Lal R/o Gidder Gallian Jammu was appointed as Excise guard vide Order No. 117/Adm/1998 dated 12/08/1998, and Raghunandan Mishra S/o Late Sh. Inder Kumar Mishra R/o 124-A Gandhi Nagar Jammu was appointed as Excise Guard vide Order No. 116ADM/1998 dated 12/08/1998 issued by the Excise Commissioner.

Whereas the Divisional Level DPC Jammu held a meeting on 28-03-2013, the decisions of which were endorsed to this office through minutes of meeting issued under No. 28/DPC/ACCTJ/Adm/83-84 dated 23-04-2013 wherein among other decisions the Committee has cleared the promotion of eligible Excise Guards as per seniority to the post of Sub Inspectors and recommended their cases to the Excise Commissioner/Commissioner Commercial Taxes for issuance of their promotion Orders as there is a joint seniority of Excise and Commercial Taxes Departments.

Whereas the Commissioner Commercial Taxes Department issued promotion orders in respect of the Guards belonging to the Commercial Taxes department cleared by the DPC vide his Order No. 91/Adm of 2013 dated 26-04-2013 and the promotion orders of Guards belonging to the Excise Department was yet to be issued.

Whereas Sh. Sikander shah, Sh Ravi Kumar and Sh. Raghunandan Mishra among the other Excise Guards were also cleared by the DPC for the promotion to the next higher post of Sub Inspector. But some of the Excise Guards aggrieved by the DPC approached the Hon'ble High Court Jammu through a writ petition bearing No. 990/2013 and CMA No. 1405/2013 titled Mohd Farooq Vs state and others. The Hon'ble Court passed an interim order dated 03.05.2013, the operative part of the order is reproduced as under:

**'Notice and appearance as under in the meanwhile subject to objections from the other side and till next date of hearing respondents are directed to maintain the status quo as on date'**

Accordingly promotion order of the Excise Guards was not issued in compliance to the Court Order dated 03/05/2013. However Syed Sikander Shah, Ravi Kumar and Raghunandan Mishra are not the party respondent in the writ petition filed by the petitioners.

Whereas Syed Sikander Shah, Ravi Kumar and Raghunandan Mishra also approached the Hon'ble court by medium of SWP No. 1721/2013 CMA No. 2503/2013 titled Syed Sikander shah Vs state and others. The Hon'ble Court has disposed off the SWP vide order dated 08/08/2013. The operative part of the order is reproduced as under

**"in view of submissions made by the learned counsel for the petitioners the present writ petition is taken up for final disposal, at this stage, without issuing notice to the respondents and disposed of with a direction to respondent no 2 to consider the claim of the petitioners in light of the recommendations made by the divisional level promotional committee vide its communication dt 23/04/13( Annexure C with the writ petition) under rules and pass appropriate orders within a period of two months from the date copy of the order is made available to respondent no 2"**

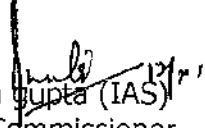
Whereas in view of the above Judgement of the Hon'ble Court an opinion from the Ld. Advocate general J&K Srinagar has been obtained in the similar case SWP No1233 of 2013 and CMA No 1783/2013 titled Bilal Ahmad v/s State and others. .

The Ld. Advocate General, has convey his opinion as under:-

**"it is settled position of law that when an interim order is issued, it is with respect to the subject matter of the lis and in between the parties which are mentioned in the said lis.as the promotion of Sh. Bilal Ahmad has not been challenged in the above WP, that is why he has not been arrayed as a party in the above referred two WP therefore the status quo order passed in the case on 03/05/2013 in CMA No. 1412/13 will not operate upon his case and his case will be guided and decided as per the orders of the Hon'ble court passed in SWP No. 1233/12 Bilal Ahmad Vs state and others.**

In the backdrop the Excise Commissioner can consider the claim of the petitioner Sh. Bilal Ahmad in light of the recommendations made by the Divisional Level Promotional Committee vide his communication dated 23/04/2013 under rules and pass appropriate orders accordingly.  
Opined accordingly"

Now therefore in compliance to the Judgement dated 08/08/2013 passed in SWP No. 1721/2013 and CMA No. 2503/2013 titled Syed Sikander Shah & others v/s State and others and in view of the Legal Opinion already obtained from the Ld. Advocate General in the identical case titled Bilal Ahmad Vs State & others the case of the petitioners being the similar nature is considered and sanctioned is hereby accorded to the promotion of Sh. Sikander Shah, Sh. Ravi Kumar and Sh. Raghunandan Mishra, Excise Guards as Sub Inspector in pay scale of 5200-20200 with a grade pay of Rs. 2400 w.e.f 28/03/2013, as approved by the DPC subject to clearance from vigilance organization and verification of category certificates if any.

  
Vineeta Gupta (IAS)  
Excise Commissioner  
J&K Govt., Jammu

Copy to the:

- No: ~~EC/Jammu/2013/2554-55~~ AF: 12-11-13
1. Principal Secretary to Govt. Finance Department for information.
  2. Commissioner Commercial Taxes Department, J&K Govt. for information.
  3. Additional Commissioner Commercial Taxes Department for information.
  4. Deputy Excise Commissioner (Executive) Jammu/Kashmir for information.
  5. Concerned file