

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR**

**WP (C) No. 2477/2023
CM No. 5859/2023**

Reserved On: 9th of September, 2026.
Pronounced On: 25th of September, 2026.
Uploaded On: 25th of September, 2026.

Whether the operative part or
full Judgment is pronounced: **Full.**

Rafiq Ahmad Chowhan, (42 Years)
S/O Noor-ud-Din Chowhan
R/O Bulinar Hafrada, Tarthpora,
District Kupwara.

... Petitioner(s)

Through: -

Mr Sheikh Manzoor, Advocate with
Mr Shabir Ahmad Shah, Advocate.

V/S

- 1. Union Territory of Jammu & Kashmir,**
Through Commissioner/ Secretary to Government,
Home Department, Civil Secretariat,
Srinagar/ Jammu.
- 2. Director General of Police,**
Jammu & Kashmir, Srinagar/ Jammu.
- 3. Inspector General of Police, J&K,**
Zonal Police Headquarters (ZPHQ),
Srinagar.
- 4. Deputy Inspector General of Police,**
NKR, Baramulla.
- 5. Senior Superintendent of Police,**
Kupwara.

... Respondents

Through: -

Mr T. A. Lone, Dy. AG vice
Mr Mohsin-ul-Showkat Qadri, Sr. AAG.

CORAM: HON'BLE MR JUSTICE M. A. CHOWDHARY, JUDGE.

(JUDGMENT)

01. The Petitioner, through the medium of the instant Writ Petition filed under Article 226 of the Constitution of India, seeks a direction upon

the Respondents, more particularly Respondent No.5-Senior Superintendent of Police, Kupwara, to issue formal engagement Order in his favour as SPO on the strength of Order dated 21st of August, 2015 issued by Respondent No.2 and, accordingly, allow him to perform his duties as SPO.

02. The Petitioner claims that his brother, namely, Ab. Majeed Chowhan, who was working as SPO and posted in Special Operations Group (SOG) Villigam, got killed by unknown gunmen in April, 2007; that in the said incident, the house of the Petitioner was also burnt and the Petitioner, along with his family members, had a narrow escape to their life; that as a measure of rehabilitation, the Respondents processed the case of the Petitioner for his engagement as SPO in place of his deceased brother and, accordingly, in terms of Order dated 21st of August, 2015, the Respondent No.2-Director General of Police, J&K granted approval for engagement of the Petitioner, along with another candidate to be engaged as SPOs in the Police Organization.

03. It is further stated by the Petitioner that the Respondent No.5, thereafter, got the particulars, character and antecedents of the Petitioner verified from different agencies, however, failed to issue the formal engagement Order in favour of the Petitioner; that the Petitioner filed various representations/ applications before the Respondents from time to time seeking formal engagement order in his favour based on the Order issued by the Respondent No.2, however, his case remained pending in the office of Respondent No.5, on one pretext or the other. On the basis of this factual backdrop, it has been finally prayed that the Petition of the Petitioner be accepted and the Respondents, more particularly Respondent No.5 be directed to issue formal engagement Order in his favour as SPO on the strength of Order dated 21st of August, 2015 issued by Respondent No.2 and, accordingly, allow him to perform his duties as SPO.

04. Upon notice having been issued, the Respondents have filed their Reply/ Objections, *inter alia*, stating therein that the approval for

engagement of the Petitioner as SPO was issued by PHQ, J&K vide Order dated 21st of August, 2015, on which date, the age of the Petitioner was 26 years and 08 months, however, the Petitioner did not bother to appear in the office of Respondent No.5 for his joining within the stipulated period of time, but physically approached the office of Respondent No.5 on 23rd of December, 2019 for his joining, i.e., after a gap of more than four years from the issuance of aforesaid approval Order; that the report sought from SSP, Handwara revealed that the brother of the Petitioner, who was working as SPO, was killed by unknown terrorists in the year 2007 during an encounter at Bulinard forests and after sacrifice of his life for the integrity of the nation, the family members of the said deceased have received *ex-gratia* relief of ₹2.00 lacs, besides the widow of the deceased, namely, Saleema Begum, was also engaged as an SPO, who is presently performing her duties at Police Station Viligam under belt No. 279/SPO.

05. The Respondents, in their Reply/ Objections, have further pleaded that that the approval of the Petitioner for his engagement as an SPO was accorded by PHQ, J&K on operational grounds and not under rehabilitation scheme in place of his brother, as claimed by the Petitioner in his Petition; that the Petitioner was supposed to join immediately without any delay, however, on 23rd of December, 2019, that is after a gap of four years and four months from the date of issuance of aforesaid approval Order, the Petitioner approached/ applied for his joining, in the office of Respondent No.5, when his age had reached as 31 years and 13 days, thereby having crossed the required upper age limit of 28 years; that the educational qualification of the Petitioner is 8th pass, whileas, the required qualification for engagement of SPO is 10th pass or above, as such, the Petitioner is otherwise not eligible for engagement as SPO.

06. Heard learned Counsel for both the sides, perused the pleadings available on record and considered the matter. I have also gone through the record, as produced by the Respondents through their Counsel.

07. Although, the Petitioner has claimed that he was engaged as an SPO since his brother, namely, Ab. Majeed Chowhan, who was working as an SPO, had got killed in April, 2007 and that he, along with his family, had a narrow escape when their house was burnt. He, therefore, claims to have been engaged as an SPO vide Order dated 21st of August, 2015, when approval was granted for his engagement along with another candidate by Respondent No.2-Director General of Police, J&K. The Respondents, however, submit that the approval for engagement of the Petitioner as an SPO was granted by PHQ, J&K on operational grounds and not under the rehabilitation Scheme in place of his brother, as claimed by him in his Petition, however, the Petitioner instead of joining immediately without any delay, approached the Respondents on 23rd of December, 2019, i.e., after a gap of four years and four months from the date of issuance of aforesaid approval Order. The Respondents have, thus, claimed that the Petitioner approached for joining as an SPO in the office of Respondent No.5-Senior Superintendent of Police, Kupwara, when his age had reached as 31 years and 13 days, thereby having crossed the required upper age limit of 28 years, besides, the educational qualification of the Petitioner was only 8th pass, whileas, the required qualification for engagement as an SPO is 10th pass and above and, as such, the Petitioner was otherwise not eligible for engagement as an SPO.

08. The case set up by the Petitioner is that, after the accord of approval by the PHQ, J&K, for his engagement as an SPO, he was not issued any formal Order to report to submit his joining or report for duties and that he had been approaching the Respondents to submit his joining report which was not received by them, inasmuch as, the Respondent No.5 had not passed any formal order in this behalf.

09. Since, the approval for engagement of the Petitioner as an SPO had been granted on 21st of August, 2015, as such, the crucial date for reckoning of his age and educational qualification was that date and not

when he had approached the Respondent No.5 for submission of his joining report.

10. On perusal of the approval order for engagement of the Petitioner as an SPO, as issued by the PHQ, J&K on 21st of August, 2015, it is apparent that the said Order clearly provides that the Senior Superintendent of Police, Kupwara/ Respondent No.5 herein will issue formal engagement order in respect of the Petitioner herein against available vacancy of SPO, subject to clearance of verification. Therefore, with the tone and tenor of the aforesaid Order of approval, it cannot be construed that either age or educational qualification were left to be decided by Respondent No.5-Senior Superintendent of Police, SSP Kupwara. Even if these requirements were to be fulfilled at the time of joining report to be submitted by the Petitioner, the same have to be construed in reference to the year 2015, that is when approval had been accorded for his engagement and not later in point of time.

11. The Respondents, particularly Respondent No.5, in absence of issuance of any engagement order pursuant to PHQ Order to engage the Petitioner as SPO, cannot take the plea at this stage that the Petitioner was over-age and was not having the requisite qualification, when he himself failed to act upon the orders of the PHQ issued way back in the year 2015.

12. Viewed thus, the present Writ Petition is **allowed** with a direction to the Respondent No.5 to consider the appointment of the Petitioner as an SPO, having regard to his age and qualification in the month of August, 2015, that is, when approval for engagement of the Petitioner as an SPO was accorded by PHQ, J&K, and pass appropriate orders in the matter as per Rules. The Respondent No.5, as expected, is directed to pass the consideration order within a period of six weeks from the date of receipt of certified copy of this Judgment.

13. Record, as produced, be returned to the Respondents through their Counsel, against proper receipt.

14. Writ Petition is, thus, **disposed** of on the above terms, along with the connected CM.

(M. A. CHOWDHARY)
JUDGE

SRINAGAR
September 25th, 2026
"TAHIR"

i. Whether the Judgment is approved for reporting? **Yes.**

