

HIGH COURT OF AZAD JAMMU & KASHMIR

Writ petition No.2497/2016.
Date of institution 23.08.2016.
Date of decision 30.05.2022.

Malik Zaffar Ali Awan DSP Crime Branch Muzaffarabad Azad
Kashmir.

Petitioner

VERSUS

1. Azad Government of the State of Jammu & Kashmir through its Chief Secretary having its office at new Secretariat, Chatter Muzaffarabad;
2. Prime Minister of Azad Jammu & Kashmir Muzaffarabad, having its office at new Secretariat Chatter Muzaffarabad;
3. Secretary Home Department, having his office at new Secretariat Chatter Muzaffarabad;
4. Secretary E&S Education, having its office at new Secretariat Chatter Muzaffarabad;
5. Senior Superintendent Police Muzaffarabad, having its office at new Secretariat Muzaffarabad;
6. Deputy Inspector General Police (Region) Muzaffarabad, having its office at new Secretariat Muzaffarabad;
7. Additional Secretary Home Department, having his office at new Secretariat Muzaffarabad;
8. Inspector General Police, having his office at new Secretariat Muzaffarabad;
9. Awarding Committee through Chairman (Chief Secretary), having his office at new Secretariat Muzaffarabad.

Respondents

WRIT PETITION

Before:- Justice Syed Shahid Bahar, J.

PRESENT:

Waheed Bashir Awan, Advocate for the Petitioner.
Raja Zulqarnain Khan, Legal Advisor for the Police
Department.
Mr. Haider Rasheed Mughal, AAG for the State.

JUDGMENT:

Through this writ petition filed under Article 44 of Azad Jammu & Kashmir Interim Constitution 1974, the petitioner has sought direction for implementation of the order of the worthy Prime Minister dated 30.10.2015.

2. Precise facts of the captioned writ petition are that "Anjaman-e-Tajran Muzaffarabad" on 21.03.2013, gave its call for protest against the load shedding on their call and thousands of people gathered and they were stepped towards the precincts of Legislative Assembly and some were having weapons and 'Clubs' whereby, around comprising of thousands homo sapiens approximately blocked the main road of the capital and the crowd made an attempt to breach the law and for that they firstly hurl stones at forces and later on started firing on them without rhyme or reason ensuing injury on the leg of petitioner, therefore, he was promptly admitted to the hospital where he remained bedridden for two months, consequently, respondents No.5 forwarded a recommendation for grant of "Quaid-e-Azam Police Medal" to the petitioner wherein, it was elaborated that the petitioner performed his duties on 21.03.2013 with honesty, sincerity and with full devotion and due to firing he got injured, so, he is eligible for grant of aforesaid Medal. It has been stated that the official

respondents in this regard constituted an Inquiry Committee consisting of three members, who on 11.06.2014 rejected the version of the petitioner on political basis, so, the petitioner filed an appeal before the worthy Prime Minister who appointed respondent No.4 hearing office and respondent No.4 issued a letter to respondent No.6 and after hearing both the parties, respondent No.4 issued a recommendation on 23.02.2015, wherein, petitioner got recommended for grant of the "Quaid-e-Azam Police Medal" and forwarded the same to the worthy Prime Minister for further proceedings but respondent No.3 instead of forwarding the same to the worthy Prime Minister illegally dismissed the appeal on 25.03.2015 and against the aforesaid notification the petitioner filed a review application before the worthy Prime Minister who accepted the same and ordered respondent No.3 to proceed further in accordance with law. It has also been craved that respondent No.7 also filed review application before the worthy Prime Minister and the worthy Prime Minister on 30.10.2015, while setting aside all the proceedings initiated by respondent No.7, recommended the petitioner for "Quaid-e-Azam Police Medal" and ordered the Chief Secretary to proceed further but official respondents neither proceeded further the case

of the petitioner nor implemented the order of worthy Prime Minister, hence, this writ petition has been filed to issue direction to the respondents to implement the order of the worthy Prime Minister.

3. The writ petition was admitted for regular hearing on 26.01.2018 and the respondents were directed to file written statement but the needful has not been done, however, in the comments filed on behalf of Assistant Inspector General Police, the claim of the petitioner was refuted and it has been stated that in order to adjudge the real factual position a departmental Committee consisting of senior Police Officer was constituted and the said Committee after examining the facts, declared that no extraordinary performance has been shown by the petitioner, therefore, he is not entitled for grant of any such medal i.e. "Quaid-e-Azam Police Medal" and later on his appeal before the worthy Prime Minister was also dismissed for want of justification and lastly, it has been prayed that the petition may be dismissed being weightless.

4. The learned counsel for the parties argued the case according to their respective pleadings.

5. The case of the petitioner is that while performing his duties tooth and nail, he showed extraordinary performance and got injured due to hurling

of stray bullet from the crowd who were fulminating (protesting strongly) against the load shedding and later on SSP Muzaffarabad recommended him for "Quaid-e-Azam Police Medal". A perusal of record shows that on recommendation of the SSP Muzaffarabad for awarding Quaid-e-Azam Police Medal to the petitioner D.I.G Police Region Muzaffarabad constituted a Committee consisting of three senior Police Officers namely "Mohammad Yaseen D.I.G Police Region Poonch/Rawalakot, Dr. Liaqat Ali, D.I.G and Arfan Masood Kashfi, Assistant Inspector General Police Crime Branch Muzaffarabad who admitted in their report that due to firing Zaffar Ali Awan DSP/SDPO Muzaffarabad got serious injury in his right leg but the Committee forwarded the report to Inspector General Police in the manner that no extraordinary deed has been performed by the officer, therefore, he is not entitled for such Medal. Against the recommendations of the said Committee the petitioner preferred an appeal before the worthy Prime Minister who after necessary proceedings appointed Secretary Elementary and Secondary Education, respondent No.4, herein, as hearing officer who submitted his report on 23.02.2015 in the following manner: -

’سفارشات۔

بالا واقعات و جائزہ کے تناظر میں ایپیلانٹ مسٹر ظفر علی خان اعوان DSP سٹی کی جانب سے دائر کردہ اپیل بخلاف سفارشات اٹکواڑی کمیٹی زیر نمبر 7842 مورخہ 13.06.2014 کو پڑھائی جھٹتے ہوئے ایپیلانٹ کو اپنے فرائض منصبی کی ادائیگی میں محنت، لگن اور بہادری کا مظاہرہ کرنے کے سلسلہ میں حوصلہ افزائی کے لیے قائد اعظم میڈل کی عطا یگی کی سفارش کی جاتی ہے۔“

However, thereafter, the appeal filed by the petitioner, herein, for grant of “Quaid-e-Azam Police Medal” was dismissed (by himself preparing a note by the Deputy Secretary of the Prime Minister Secretariat and got sanctioned to consign the same into the record) on the grounds that the same is baseless and has been filed without any justification and against the aforesaid notification dated 25.03.2014, the petitioner, also filed a review application before the worthy Prime Minister and the Chief Secretary also filed a review application before the worthy Prime Minister and the worthy Prime Minister finally passed the following order:-

وزیر اعظم سیکرٹریٹ
آزاد حکومت ریاست جموں و کشمیر
منظر آباد۔

ایڈیشنل سیکرٹری داخلہ کی جانب سے دائر کردہ نظر ثانی پر دیئے گئے احکامات تاریخ اجراء سے منسوخ کیے جاتے ہیں۔ آفیسر سماعت کنندہ سیکرٹری ایلیمنٹری اینڈ سیکنڈری ایجوکیشن کی سفارشات زیر نمبر 901 مورخہ 23.02.2015 سے اتفاق کرتے ہوئے ملک ظفر علی اعوان DSP سٹی کے حق میں قائد اعظم میڈل بمعہ مرجع الاونٹسز کی منظوری دی جاتی ہے۔ مطابق احکام جاری ہوں۔“

So, when the serious injury of the petitioner in his right leg has been admitted by the departmental Committee and the Secretary Elementary and Secondary Education who was appointed by the worthy Prime Minister as hearing officer, who after detailed inquiry and probe declared the

petitioner to be entitled for "Quaid-e-Azam Police Medal" and lastly the worthy Prime Minister while setting aside all the previous orders upon the review application filed by Additional Secretary Home Department sanctioned the grant of Medal in favour of Malik Zaffar Ali Awan, DSP, the petitioner herein, then how can it be possible that a person injured during the official duty and got admitted in the hospital due to leg injury, is not entitled for such Medal. In my opinion, this act on part of the department is mala-fide as on the one hand they admitted the injury of the petitioner during duty hours in their report but contra, the Committee declared that he is not entitled for such Medal on the ground that no effective action has been taken by the petitioner to disperse the people. Equal treatment of the rights is the demand of law and no one should be discriminated on the basis of favoritism and nepotism. Everyone who performed his/her duty diligently and efficiently in connection with the affairs of State must be encouraged and he/she should have been bestowed with awards and other bonuses and incentives as per his/her performance but instead of doing so, the concerned department dealt with the matter in arbitrary manner.

6. Be that as it may, institutions like police department are rendering essential duties and no doubt

they are playing a vital role in the system of administration of justice as prosecuting, investigating and law enforcing agency, hence, burdened with heavy duty to uplift the morale of police officials/employees off and on by way of applauding and appreciating them for their good performances and badge them with crowns in accordance with law and policies without any discrimination and pick and choose as it will become a Confidence Building Measure (CBM) on part of the department. Order passed by the then worthy Prime Minister upon review application has attained finality, neither reversed by the authority nor challenged by anybody before any fora that too the same has been passed on cogent reasons in light of the report of the officer hearing and making probe of the matter, thus, the answering respondents could not sleep over the matter by making an inordinate delay and procrastination, as there is a renowned legal maxim i.e. "Fiat Justitiam Caelum" which is translated as ***"let justice be done though the heavens fall"***. Whenever and wherever, it seems that administrative justice is not being done by the authorities to an aggrieved person who come forward and knock the door of this Court resultantly keeping in view facts of the case, this Court is zealous to provide aid to aggrieved persons quo enforcement of their constitutionally

fundamental guaranteed rights and law conferred under Article 44 of the Azad Jammu & Kashmir Interim Constitution 1974, as in such like eventuality people cannot be left on mere mercy of authorities.

The synopsis of the above discussion is that the writ petition is accepted and the respondents are directed to implement the order of the worthy Prime Minister dated 30.10.2015 and submit the compliance report to the Registrar of this Court within two months.

Muzaffarabad.
30.05.2022 (Saleem)

-Sd-
JUDGE