



**POLICE HEADQUARTERS J&K JAMMU/SRINAGAR**  
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**Subject:** Review application of Ex-ASI Firdous Ahmad Giri EXJ815521 (36/Ktr) against Railways Police Hqrs; Order No.484 of 2013 dated 09-12-2013.

<b>Refn'ce:-</b>	i) SWP No.2350/2013 titled Firdous Ahmad Giri Vs. State and others ii) SWP No.2516 of 2013 titled Firdous Ahmad Giri Vs. State and others iii) RPHQ Order No.484 of 2013 dated 09-12-2013 iv) PHQ J&K order no. 733 of 2010 dated 03-03-2010.
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**ORDER NO: 217 OF 2018**

**DATED: 30-06-2018**

Whereas, this order disposes off review application submitted by Ex. ASI Firdous Ahmad Giri No. EXJ815521 (36/Ktr) (here-in-after to be referred as representee) requesting therein for revocation of his dismissal ordered by Railway Police Headquarters, Jammu (RPHQ) vide order No. 484 of 2013 dated 09-12-2013 seeking re-instatement into services. Brief facts of the case as per the details made available by IGP Railways J&K and as revealed in the dismissal order/PHQ order are given here under:-

Whereas, that the representee on his promotion to the rank of ASI, was adjusted in Railway Police vide PHQ order No. 191 of 2013 dated 22-01-2013 and that he had joined Railway Police Hqrs. on 09-03-2013.

Whereas, the representee was further posted in GRP Katra by then IGP Railways vide RPHQ order No. 64 of 2013 dated 09-03-2013 and on request, the representee was further attached with GRP Jammu.

Whereas, in the month of September-2013, the representee was transferred to GRP Kashmir vide RPHQ order No. 352 of 2013 dated 10-9-2013 where from he was deployed with GR Police Post Pattan.

Whereas, the representee himself entered his joining report in the Daily Dairy of GR Police Post Pattan and while doing so, he has allegedly mentioned that he has been posted in the Police Post Pattan on the directions of Sh. Kamal Kumar Saini-IPS, the then IGP Railways. It was further mentioned by him that the said IGP and SP Railways Jammu have grabbed some Railway land (along with one Subash Gupta R/O Jammu) and both the officers have secret shares in the said land. His representation has further revealed (that in the said report

written by representee) it has been alleged that both the officers threatened him of dire consequences, if he disclosed the same. In his report that he further stated that he was transferred in militancy prone area with the malafide intention of exposing him to high risk;

Whereas, Police Rule 518 explicitly envisages the procedure and the matter to be entered in the Register No. II i.e Daily Dairy and the Police Rule 116(5) restricts the Police Officer to record comments on the remarks made by a superior officer. If he considers that an erroneous view has been taken on his conduct etc. he may represent in the first instance;

Whereas, the act of entering report in such a manner in the daily diary is unwarranted and for this fact a departmental enquiry was ordered by IGP Railways on 31-10-2013, and entrusted to Shri Nazir Ahmad Dy SP GRP Lines, Srinagar.

Whereas, after completing the departmental enquiry, the enquiry officer submitted his findings to Railways Hqrs. In his recommendations, the enquiry officer had held that the representee had recorded a false/defamatory statement in the daily in the daily diary, which amounts to indiscipline and violation of Police Rule 518 and had recommended the dismissal of the representee from the service in terms of Rule 519 of Police Rules;

Whereas, Shri Kamal Kumar Saini-IPS then IGP Railways J&K accepted the recommendations of the enquiry officer and dismissed the representee from the service vide RPHQ J&K Order No. 484 of 2013 dated 09-12-2013;

Whereas, aggrieved with the dismissal, the representee filed a review petition against his dismissal order before IGP Railways on 23-12-2013, which was rejected vide RPHQ order No. 30 of 2014, dated 29-01-2014 assigning reasons thereon;

Whereas, representee filed review petition on 30-04-2013 as provided under Rule 374 of J&K Police Manual at PHQ against the dismissal order issued by IGP Railways vide order No 484 of 2013 dated 09-12-2013 but the review petition was rejected vide PHQ Order referred to above;

Whereas, subsequently the representee preferred instant review application at Police Headquarters requesting for revocation of his dismissal order on the following grounds:-

"that the order impugned was passed under influence of revenge and animosity" without satisfying the requirements of justice and the procedure laid down for conduct of proceedings Departmental enquiries;

Whereas, the instant revision application preferred by Ex. ASI Firdous Ahmad No. EXJ785785 against his dismissal from service by then IGP Railways vide Order No. 484 of 2013 dated 09-12-2013 came in the wake his earlier attempts which went in vain and his appeals came to be rejected by IGP Railways and subsequently he filed an appeal at PHQ which also ended in rejection;

Whereas, fresh facts and the circumstances were brought forth by the representee in the instant application, which warranted reconsideration of order on the following counts:-

1. That the competent authority i.e IGP Railways, who has passed the order of dismissal i.e Order No.484 of 2013 dated 09-12-2013 is the same officer against whom the delinquent official (representee) had entered a report in DD of GRP Pattan. The rule of natural justice demanded that the person against whom the subject official had made a complaint should not have been competent authority for passing the order of dismissal. This act of the competent authority has vitiated the enquiry conducted by the enquiry officer.

It was required that, if the subject had complained or had grudge against the competent authority then it was desired that competent authority should not have passed final orders that too of dismissal against the subject, the findings in enquiry, in that case, should have been forwarded to some other authority or Police Headquarters, which has not been done in the instant enquiry.

2. That it has also been observed that the representee had not been provided show cause notice before inflicting major punishment of dismissal upon him. The said condition of providing show cause notice was a prerequisite as per the mandate contained in police manual any deviation of the same has led to miscarriage of justice.
3. It has been further observed that the competent authority has passed the order of dismissal in hot haste, due to which the opportunity of fair hearing has not been provided to the delinquent official/representee and same is against the Rules of natural justice.
4. The competent authority has jumped conclusion without application of mind and without adhering to the procedure as laid down in J&K Police Manual, which has caused prejudice to the representee/subject.
5. That on face of the order, actions seems to be motivated by person reasons and have been taken unilaterally solely and exclusively without providing any opportunity to the subject to represent his case.

Whereas, in view of the observations enumerated above and in view of the interim directions passed by the Hon'ble Court in SWP No. 2516 of 2013 titled Firdous Ahmad Giri it is hereby ordered that :-

1. Order No. 484 of 2013 dated 09-12-2013 issued by IGP Railways is set aside and the representee Ex-ASI Firdous Ahmad Giri No. EXJ815521 (36/Ktr) is re-instated into services with immediate effect. He shall be taken of the rolls of Railways Hqrs.
2. A denovo enquiry is ordered into the matter on the aforesaid grounds which shall be conducted by Shri. Mohammad Yaseen Kichloo, CO JKAP 4<sup>th</sup> Security Jammu. The enquiry officer shall conduct the departmental enquiry, re-examine the issue from all its dimensions, elaborate the quantum of culpability in respect of the representee while taking into consideration circumstances of the case and shall forward findings with specific recommendations to PHQ within a period of one month.
3. Till the finalization of the denovo enquiry, the ASI Firdous Ahmad Giri No. EXJ815521 (36Ktr) shall remain attached with JKAP 4<sup>th</sup> Security Jammu till completion of Enquiry process.

DATE:

Whereas, this order disposes of the application of the representee Ex-ASI Firdous Ahmad Giri No. EXJ815521 (36/Ktr) (S.P Vaid) IPS, Director General of Police, J&K-Srinagar.

No:- Estt/Apl/36/2017/46573-76

Dated: 30-06-2018.

Copy to:-

1. IGP Jammu Zone for information n/a
2. IGP Railways J&K Srinagar for information and n/action;
3. Shri Mohd Yaseen Kichloo, CO JKAP 4<sup>th</sup> Security Jammu (Enquiry Officer) for necessary action;
4. SO II/Estt PHQ
5. Order Book/File for record.

*Ugik*  
30/6

AIG of Police (Pers)  
for Director General of Police  
J&K Srinagar.