

**(1999) 12 J&K CK 0009**  
**In the Jammu And Kashmir High Court**  
**Case No : S.W.P. No. 2206 of 1999**

Abdul Aziz Sheikh

APPELLANT

Vs

State of J & K

RESPONDENT

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**Date of Decision :** 29-12-1999

**Acts Referred:**

**Citation :** (2000) 3 SCT 970

**Hon'ble Judges :** Syed Bashir-ud-din, J

**Bench :** Single Bench

**Advocate :** M.S. Latief, Advocates appearing for the Parties

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## Judgement

Syed Bashiruddin, J.—Petitioner was transferred from the post of Assistant Director in Forest Protection Force to Kulgam Range Anantnag

Division as Range Officer vide order No. 424 of 1999 dated 4.12.1999 of Principal Chief Conservator of Forestsrespondent No. 2. However,

this order which comprised as many as 25 Range Officers was modified on 18.12.1999 vide order No. 441 of 1999 and the petitioner's posting

was shown as Range Officer Daksum Range, Forest Division Anantnag. This partial modification order of said original order No. 424 of 1999

dated 4.12.1999 is impugned in this petition. The grounds taken are that the petitioner who was posted to Kulgam Range originally was not even

given opportunity before the order was modified, so as to post him in Daksum without any administrative requirement in a mechanical and arbitrary

manner. This modification order is not in the interest of Government work, and this premature order cannot be passed by respondent No. 2

without administrative approval. No public interest is served by the order. The order is not passed bona fide and instead has been passed with

oblique motive to oblige some one near to the respondent No. 2.

2. Upon hearing counsel and on consideration it is found that the order No. 424 of 1999 dated 4.12.1999 (AnnexureP2) showing posting of

petitioner to Kulgam Range, has been modified by the order No. 441 of 1999 dated 18.12.1999 within two months or so. This modified order is

to be read as part of the original order No. 424 of 1999 dated 4.12.1999. The order is in fact passed in the interest of Government. No base is

laid in the pleadings (petition) to show that the order has been passed arbitrarily or with malice. Even nothing is on record to show that the order is

not passed in the interests of Government work or in the interests of administration. Merely using and reciting platitudes like not 'bona fide', 'mala

fide', 'not reasonable' 'to benefit favourites' and the like without supplying the factual and circumstantial base therefor, would not suffice. Such

omnibus and generalized pleas in absence of necessary particulars, facts and circumstances relevant thereto, would not in any case serve a legal

purpose. It is seen that the modification order is part of the earlier order. Both orders (Annexures P2 and P4) are in fact integral whole, so far as

effect of the order and posting of the Officers thereunder is concerned. The order read as a whole would reveal, petitioner's posting in the interest

of Government work. By ordering 'Daksum' the posting of petitioner in place of 'Kulgam' (with one and same Forest Division of Anantnag), no

injustice is caused to petitioner. As impression is gathered that as petitioner is a local of Kulgam, so he is lamenting his changed posting outside

Kulgam to Daksum. After all there is a presumption of legitimacy in respect of the Govt. orders. The official acts shall be deemed to have been

done in the manner they have been shown to have been done (unless shown otherwise, which is not the case here). The hardships or problems

concerning the employee's family, are matters for the employer to consider. It is relevant to quote their Lordships in State of Punjab v. Joginder

Singh Dhatt, AIR 1992 S.C. 2486 : 1991(2) SCT 294 (P&H)(DB) as under :

.....This court has time and again expressed its disapproval of the Courts below interfering with the order of transfer of public servant from one

place to another. It is entirely for the employer to decide when, where and at what point of time a public servant is transferred from his present

posting. Ordinarily the Courts have no jurisdiction to interfere with the order of

transfer. The High Court grossly erred in quashing the order of transfer of the respondent from Hoshiarpur to Sangrur. The High Court was not justified in extending its jurisdiction under Article 226 of the Constitution of India in a matter where, on the face of it, no injustice was caused.

3. In result, for the aforesaid reasons, as no case is made out for admitting the petition to hearing, therefore, the petition is dismissed, in limine.

Petition dismissed.