
(2021) 08 J&K CK 0006
In the Jammu And Kashmir High Court
Case No : Writ Petition (C) No. 1528 Of 2021

Akshay Koul And Others

APPELLANT

Vs

Union Territory Of J&K And Others

RESPONDENT

Date of Decision : 09-08-2021

Acts Referred:

Citation : (2021) 08 J&K CK 0006

Hon'ble Judges : Pankaj Mithal,CJ;Sanjay Dhar, J

Bench : Division Bench

Advocate : Shuja ul Haq, D. C. Raina, Sajad Ashraf

Final Decision : Disposed Of

Judgement

1. Heard Sh. Shuja ul Haq, learned counsel for the appellants and Sh. D. C. Raina, learned Advocate General, assisted by Mr. Sajad Ashraf, GA, for

the respondents.

2. The Writ Petition is directed against the order dated 2nd August, 2021 passed by the Central Administrative Tribunal, Jammu Bench, Jammu. The

Tribunal by the said order has declined to consider the application for grant of interim stay to the petitioners as it proposed to decide the Original

Application itself on the next date fixed.

3. The controversy allegedly involved before the Tribunal is that whether the petitioners who were appointed under the Prime Minister's Special

Package for Kashmiri Migrants notified vide SRO 412 of 2009 dated 30.12.2009 could be brought within the purview of S.O 194 of 2020 dated

17.06.2020 whereby amendments were made to SRO 202 of 2015.

4. It is submitted that the SRO 202 of 2015 was not applicable to the petitioners and, therefore, S.O 194 of 2020 cannot be applied.

5. Since the question involved before the Central Administrative Tribunal is of importance, it is better that the controversy is resolved finally rather

than keeping it pending and creating confusion for time to come. Therefore, the Tribunal has not erred in fixing an early date in getting the Original

Application decided.

6. The submission of learned counsel for the petitioners is that taking advantage of the pendency of the Original Application and the fact that no

interim order has been passed therein, the respondents are reducing their salary by applying S.O 194 of 2020.

7. In view of the aforesaid facts and circumstances, to balance the interest of both the parties, we dispose of this writ petition with the direction that

the Tribunal will endeavour to decide the Original Application of the petitioners on the date already fixed i.e., 20.09.2021 and in case for any reason, it

is not possible for it to decide the Original Application on the said date, at least the application for interim direction shall be considered and decided on

merits and till 20th September, 2021, no coercive steps shall be taken against the petitioners so as to reduce their salary or to effect any recovery from

the petitioners on the basis of S.O 194 dated 17.06.2020.

8. It is made clear that court has not expressed any opinion on the merits of the controversy i.e., pending before the Tribunal and it will be open for the

Tribunal to decide the matter in accordance with law without being influenced by the observation made hereinabove.

9. The writ petition is, accordingly, disposed of.