

(2006) 04 J&K CK 0007
In the Jammu And Kashmir High Court

Ali Mohammad Sheikh

APPELLANT

Vs

State and Others

RESPONDENT

Date of Decision : 17-04-2006

Acts Referred:

Citation : (2007) 1 JKJ 212

Hon'ble Judges : Bashir. A. Kirmani, J

Bench : Single Bench

Judgement

Bashir A. Kirmani, J.—The petitioner working as Senior Assistant on substantive basis in respondent/department was transferred from

Frozen Semen Project, Ganderbal to Live Stock Development Office Handwara against an available post vide order No. 598-DAHK of 2004

dated: 23.2.2004 whereupon he joined his new place of posting where one Ghulam Qadir Bhat Sr. Assistant was already posted. The 3rd

respondent too had posted another Sr. Assistant namely Khazir Mohammad Beigh in said office who was however asked by respondent/Director

to report back in the office of Chief Animal Husbandry Officer, Kupwara, while Ghulam Qadir Bhat, aforesaid was directed to report at Artificial

Breeding Station, Kupwara against his lien post. Both these orders were respectively passed on 12.7.2004 and 22.7.2004, pursuant where to the

Live Stock Officer, Handwara under his order dated: 24.7.2004 relieved 5th respondent and directed the other Sr. Assistant Ghulam Qadir Bhat

to handover his charge to petitioner for getting himself relieved thereafter. Prior to that vide order dated: 17.7.2004 the said Officer had asked

petitioner to take complete charge of Accounts Section and Establishment Section which he did. After all this exercise, the respondent/Director,

vide his order No. 264-DAK of 2004 dated: 19.11.2004 posted respondent No. 5 in petitioners place at Handwara directing him to report to

District Veterinary Hospital, Kupwara for further posting. Aggrieved thereby the petitioner challenges the same on the grounds that it has been

passed under political influence even after petitioner had joined his place of posting pursuant to order of July, 2004 and was now sought to be

transferred there from only after four months which should that impugned order was not proper and had been arbitrarily passed only to

accommodate respondent No. 5 to petitioners detriment, particularly because he has been transferred to DEH, Kupwara where no post of Sr.

Assistant is available and as such has no place to join. Materials appended with the petition include copies of above said transfer orders etc.

2. I have heard learned Counsel and considered the matter. It appears that vide order No. 598-DAHK of 2004 dated 23.2.2004 petitioner was

transferred and adjusted in the office of Live Stock Development Officer, Handwara against available vacancy of Sr. Assistant, in compliance

where to petitioner appears to have joined on 10.6.2004 i.e. around six months after the order was passed. Where he was during all this time is

not shown any where on records. Next in the row is Director's letter to concerned Chief Animal Husbandry Officer, whereunder while expressing

his displeasure at transfer orders passed by said officer without concurrence, he asked him to retain respondent No. 5 in his office with a further

instruction that Sr. Assistant Ghulam Qadir Bhat would report to Artificial Breeding Centre, Kupwara. Acting thereupon the Live Stock Officer

relieved respondent No. 5 on 24.7.2004 directing him to report to office of Chief Animal Husbandry Officer, Kupwara. He also observed that

Ghulam Qadir Bhat would be relieved after he hands over the charge to petitioner in full, whereafter, on 17.7.2004 under his order bearing endtt.

No. 242-44 he asked the petitioner to take whole charge of Accounts Section and Establishment Section in the office. While all this was in

process, the Director issued the impugned order and posted respondent No. 5 in petitioner's place at Handwara directing him to report to

Superintendent of DVH, Kupwara for further duty, to be paid only against proper attendance.

3. Before proceeding further it would perhaps be appropriate to observe that in view of the orders/communications on record as aforesaid, the

respondent/department does not appear to be in a good shape, for the reason that only has Director concerned issued conflicting orders within a short span of time, but concerned District Officer too appears to have been over reaching by not taking the Director into confidence while passing orders of adjustment/transfer in his District. This shows them both in bad light and exfacie suggests that instead of acting in bonafide discharge of their duties, they have been conducting official business quite casually and perhaps signing on dotted lines presumptively to please somebody somewhere which to say the least, is unbecoming of good administrators, who, as pillars of the Government are charges with responsibility of running the administration in strict accordance with norms and rules of business.

4. While saying so, however, I feel that it may not be proper to interfere with the transfer orders aforesaid at this level, even though they have their own stories to tell, because, ultimately it is the respondent/Director and other administrative Officers only who can best judge the suitability of the postings of their subordinate staff, in accordance with the right man at right place, principle, and accordingly it would be appropriate to leave the matter to the administrative wisdom of respondent/Director, for its consideration in fullness to set right, whatever has gone wrong.

5. Accordingly the petition is admitted and disposed of with an observation that impugned order shall remain in abeyance till 31st of May, 2006.

By that time the respondent/Director shall reconsider the same alongwith earlier order of petitioner's posting to Handwara and other orders purporting to have been passed by concerned District Officers and Live Stock Dev. Officer, Handwara regarding transfer and posting of Sr.

Assistants, and if necessary either accordance the same or para appropriate orders in strict accordance with norms. Thereafter the aggrieved party, if any, shall be at liberty to seek redressal in appropriate manner if so advised.