
(2022) 05 J&K CK 0016

In the Jammu And Kashmir High Court

Case No : Writ Petition (C) No. 920 Of 2022, Civil Miscellaneous No. 2312 Of 2022

Dr. Reyaz Ahmad Mir

APPELLANT

Vs

Union Territory Of JK & Ors.

RESPONDENT

Date of Decision : 09-05-2022

Acts Referred:

Citation : (2022) 05 J&K CK 0016

Hon'ble Judges : Ali Mohammad Magrey, J;Puneet Gupta, J

Bench : Division Bench

Advocate : Jahangir Iqbal Ganai, Shah Faizan

Final Decision : Disposed Of

Judgement

Ali Mohammad Magrey, J

The Petitioner has challenged the Order dated 30th of April, 2022 passed by the Central Administrative Tribunal, Srinagar (for short 'the Tribunal') in OA No. 354/2022 filed by the applicant/ Petitioner herein, whereby and whereunder the learned Tribunal has declined to pass any interim orders in favour of the applicant/ Petitioner.

In the OA, the Petitioner has challenged the decision of the Administrative Council bearing No. 1/1/2022 dated 22nd of January, 2022, as circulated among all Administrative Secretaries vide No. GAD-MTGORBIV/200/2021-09-GAD dated 3rd of February, 2022, insofar as it pertains to the applicant/ Petitioner herein and has an effect of withdrawing the post of Lecturer, Periodontia, in Government Dental College, Srinagar against which the applicant/ Petitioner has been duly selected by the Jammu and Kashmir Public Service Commission. In the interim, the applicant/ Petitioner had sought a direction upon the Respondents not to advertise the post of Lecturer, Periodontia, in Government Dental College, Srinagar against which the applicant/ Petitioner has been selected vide notification dated 6th of August, 2021.

It is contended in the Writ Petition that the Petitioner was selected for the aforesaid post of Lecturer, Periodontia, but pending decision in a Petition bearing SWP No. 2561/2018 filed before this Court by an aggrieved candidate challenging the selection of the Petitioner herein, which Petition was, later on transferred to the Tribunal as TA No. 1600/2020, no formal appointment order was issued.

Needless to mention here that the Government, in terms of impugned notification dated 3rd of February, 2022, based on the decision of the Administrative Council dated 29th of January, 2022, directed all the Administrative Secretaries to withdraw all the posts referred to Jammu and Kashmir Public Service Commission/ Services Selection Board prior to 31st of October, 2019, for which selections have not been finalized till date, as also the posts in which there are litigations and cases pending in the Courts. Consequent to the said decision, the Respondent-General Administration Department, in terms of communication dated 30th of March, 2022, had asked the Respondent-Financial Commissioner, Health and Medical Education Department, to withdraw the posts, including the post of Lecturer which is subject matter of litigation in the aforesaid TA.

Mr Jahangir Iqbal Ganai, the learned Senior Counsel, appearing on behalf of the applicant/ Petitioner, submitted that the Petitioner has been selected for the post in question, but for the orders of this Court in the proceedings filed by the aggrieved candidate, the recommendations were withheld by the Commission and, therefore, the decision of the Respondents in withdrawing the post has violated the rights of the Petitioner guaranteed under the Constitution of India.

Having heard Mr Jahangir Iqbal Ganai, the learned Senior Counsel, on behalf of the Petitioner and after going through the pleadings on record, we are of the view that no useful purpose can be achieved by keeping the instant Petition pending as the only interim relief claimed by the applicant/ Petitioner before the learned Tribunal was that pending decision in both the proceedings, viz. (i) OA No. 354 of 2022 filed by the applicant/ Petitioner herein; and (ii) TA No. 1600/2020 filed by one of the aggrieved candidates, the Respondents be directed not to withdraw the post in question. On consideration of the matter and on examination of the pleadings on record, we have noticed that the selection against the post in question has already been made, but no recommendations have been made owing to the orders passed in TA No. 1600/2020 which is pending adjudication before the Tribunal. In that view of the matter, pending decision in both the aforesaid proceedings and in order to protect the lis, the learned Tribunal was required to pass some interim order thereby protecting the rights and interests of both the parties.

In the above background, we allow this Writ Petition to the extent of setting aside the orders of the learned Tribunal in not granting any interim relief to the applicant/ Petitioner and direct the Respondents not to advertise the post of Lecturer, Periodontia, Government Dental College, Srinagar, against which

selection is stated to have been made and is subject to challenge in TA No. 1600/2020 pending before the Tribunal, till such time the aforesaid TA as well as the OA filed by the applicant/ Petitioner are finally considered and further orders are passed in that behalf accordingly. We further direct the learned Tribunal to take up both, TA No. 1600/2020 and OA No. 354 of 2022, and decide the same expeditiously.

Writ Petition disposed of as above, along with the connected CM.