
(2011) 08 J&K CK 0017

In the Jammu And Kashmir High Court

Case No : Service Writ Petition (SWP) No. 1473 of 2010

Gh. Mohi-ud-Din Malik and Others

APPELLANT

Vs

State and Others

RESPONDENT

Date of Decision : 29-08-2011

Acts Referred:

Citation : (2011) 3 JKJ 303

Hon'ble Judges : Mansoor Ahmad Mir, J

Bench : Single Bench

Judgement

Mansoor Ahmad Mir, J.—Petitioners have questioned Govt. Order No. 218-F of 2010 date 28.07.2010 issued by respondent No. 2, on

the grounds taken in the memo of writ petition.

2. Precisely the case of petitioners is that they are senior to private respondents but despite being eligible they have not been promoted, which has

adversely affected their rights, accordingly, it is prayed that the Impugned order be quashed,

3. In the reply filed, respondents 1 to 4 have specifically averred that the impugned order came to be passed in terms of judgment dated

19.7.2010 passed by this Court. Further it is averred that private respondents have not been promoted at all as required by Rule 2(h) of J&K Civil

Services (Classification, Control & Appeal) Rules, 1956, the impugned order came to be passed for smooth running of executive functions of the

department and the department is making promotions strictly as per rules.

4. Private respondents have also filed reply. It is stated that the petitioners were not eligible at the relevant point of time and have failed to make

grade in the examination which was held in the year 2008-09. The result was

declared vide Notification No. PSC/Exam/09/29 dated 27.8.2009

(annexure-1).

It is apt to reproduce the impugned order herein:

Sanction is hereby accorded to the placement of following Inspectors as I/c Commercial Taxes Officers in their own pay and grade pending

clearance by the Public Service Commission/ Departmental Promotion Committee:

1. Ajit Kumar (SC)
2. Neeraj Sharma 3. Sakhi Mohd. Khan
4. Raj Kumar Badgal (SC)
5. Rajesh Sharma (RBA)

The above arrangement shall, however, not confer upon them any preferential right of regular promotion which shall be made in accordance with

the rules.

This issues without prejudice to writ petition, if any, pending in any competent Court of Law.

The services of these I/c Commercial Taxes Officers are placed at the disposal of Commissioner Commercial Taxes for their further adjustment.

By order of the Government of Jammu and Kashmir.

5. While going through the impugned order, it is crystal clear that the private respondents have not been promoted on regular basis and came to be

placed as Incharge Commercial Tax Officers in their own pay and grade pending clearance by the Public Service Commission/Departmental

Promotion Committee. It has also been made clear that the said arrangement shall not confer any preferential right of regular promotion which shall

be made in accordance with rules. Thus, the impugned order on the face of it is not a promotion order.

6. Keeping in view the stand taken by the official respondents read with the averments contained in the writ petition and the reply of private

respondents, I deem it proper to admit the writ petition.

Ordered accordingly.

7. Heard learned counsel for the parties and with their consensus I dispose of the writ petition by providing the official respondents to make

promotion strictly in terms of the rules occupying the filed while keeping in view

the eligibility of petitioners as well as of private respondents at the relevant point of time. However, it is made clear that the impugned order shall not create any right or preferential right in favour of private respondents. This exercise shall be completed as early as possible, preferably within a period of three months from the date a copy of the order is made available by the petitioner to the official respondents against proper receipt.

8. Disposed of along with all CMPs.