
(2001) 03 J&K CK 0013

In the Jammu And Kashmir High Court

Case No : Service Writ Petition (SWP) No. 495 of 2000

Ghulam Ali Dar

APPELLANT

Vs

State of J&K and anr.

RESPONDENT

Date of Decision : 30-03-2001

Acts Referred:

Constitution of India, 1950 — Article 14, 16, 226
Jammu and Kashmir Civil Services (Classification, Control and Appeal) Rules, 1956 — Regulation 110A

Citation : (2003) 2 SCT 260

Hon'ble Judges : Tejinder Singh Doabia, J

Bench : Single Bench

Advocate : D.C. Raina, J.P. Singh, Advocates appearing for the Parties

Judgement

Tejinder Singh Doabia, J.—The learned counsel for the writ petitioner submits :

- i. That he was placed under suspension three years ago;
- ii. Some other persons were also placed under suspension. In the case of others the orders of suspension have been revoked.

2. The writ petitioner submits that in the cases of others (whose details are given in CMP No. 1747/2000) the State Government has reconsidered

their cases and decided to review the orders of the suspension, then there should be no impediment in the matter of considering the claims of the

writpetitioner for giving him similar treatment.

3. The learned counsel appearing for the respondents submits that an order of suspension is passed with a view to keep a Civil servant away from

associating himself with certain matters which are being looked into. In this sense, it cannot be treated as punishment. He submits :

- 1) That the case of the writ petitioner would be considered for revoking the

suspension in terms of Regulations governing suspension.

2) That in case the case of the writ petitioner is similar to those regarding which instances have been given by the writ petitioner, then similar

treatment would be given to the writ petitioner also

3) It is however submitted that even if the case of others in whose case orders of suspension have been revoked, is similar, the petitioner cannot

seek protection of Article 14 or 16 of the Constitution. It is urged that if concession has been given to certain officials, then no writ of Mandamus

can be issued to the effect that similar concession be shown to the petitioner.

4) That the instances quoted by the petitioner are not similar.

4. The argument raised at S. No. 3 (supra) that in case concession has been shown to certain persons and similar concession is not shown to a

particular person, that tantamounts to violation of Articles 14 and 16 of the Constitution, be examined at the first stage.

5. I am of the opinion, that no direction is required to be given to respondent State to show any concession to the petitioner. As a matter of fact,

when orders of revocation of suspension were passed in the case of others, it cannot be said that any concession was being given to those persons.

These cases were reviewed on month to month basis under the relevant Rules and thereafter decision was taken. Therefore, to say that petitioner

has absolutely no right to seek review or that his case be considered for promotion, is an argument which cannot be accepted.

6. In these circumstances, the petition is disposed of with the following directions :

i) That the case of the writ petitioner for revocation of suspension be considered in terms of the policy laid down that the case of employees under

suspension would be reviewed periodically;

ii) The State would examine the facts and figures given by the writ petitioner and also the facts and figures in the case of those persons whose

suspension has been revoked. If there is some similarity, then the State would take such decision as the competent authority is supposed to take in

the exercise of power, to secure ends of justices;

iii) Let the claims of the writ petitioner be also considered in terms of Regulation 110A of the J&K Civil Service Regulations. Let this be done

within a period of one month from the date representation is preferred by the writ petitioner. Even if a copy of this order does not become available to the petitioners, still they would adhere to the time frame fixed in this order. In case for any practical reasons it is not possible to decide the matter within the above stipulated period, the State can seek extension of time. This would be done before the expiry of time. The State would in that eventuality explain as to why steps were not taken on day today basis.