

(1998) 11 J&K CK 0012

In the Jammu And Kashmir High Court

Case No : Service Writ Petition (SWP) No. 1901 of 1997

Jagar Nath

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 30-11-1998

Acts Referred:

Constitution of India, 1950 — Article 14, 16

Citation : (1999) 1 SCT 793

Hon'ble Judges : T.S.Doabia, J

Bench : Single Bench

Advocate : Rakesh Sharma, Advocates appearing for the Parties

Judgement

T.S. Doabia, J.

Petitioner after passing Preuniversity course from the Jammu and Kashmir School Education Board, submitted application for post of Junior

Stenographer. Petitioner was appointed on ad hoc basis. This happened on 3rd of December 1980. Petitioner at that point of time was supposed

to pass test. Petitioner was unable to pass the test. He further succeeded in the test of L.D.C. which was conducted in the year 1986. He was

adjusted as such on 3rd of September, 1986. Petitioner continued to work. Further fact is that respondents issued seniority list on 1st of January

1989 relating to the posts of LDC wherein the name of the petitioner figured at serial No. 8. Petitioner submits that he made request that he be

promoted as U.D.C. He made this claim on the basis of his merits and also on the ground that he was member of Scheduled Caste. Representation

submitted by him is annexure 'B'. This claim of the petitioner was considered. Petitioner came to be appointed as U.D.C. Petitioner submits that

the order of promotion was issued on 18th of September 1996. This is sought to be evidenced by placing reliance on order issued on 18th of

September 1996. Copy of this is annexure 'C'. It is further submitted that Departmental Promotion Committee met. Instead of promoting the

petitioner on regular basis, respondent No. 4 came to be appointed on regular basis. Petitioner submits that he has been working as U.D.C.

without interruption w.e.f. 18th of September 1996, he had gained experience, there was no justification to promote respondent No. 4, by ignoring

the claims of the petitioner. Petitioner submits that he is entitled to get his claim considered over and above respondent No. 4.

Respondents have filed objections.

Other facts are admitted. However, with regard to the vacancy where respondent No. 4 has been appointed it is submitted that the petitioner was

junior to respondent No. 4. He was promoted against Scheduled Caste in the vacancy based on roster point. Order passed in this regard is said to

be annexure 'V'. This is dated 18th of September 1996. This is same order which has been placed on the record by the petitioner as annexure 'C'.

It is submitted that in the letter referred to above, it was mentioned that the above arrangements were on ad hoc basis and these were likely to be

reversed at any time. It is submitted that total strength of the cadre of U.D.C. is six. First six posts are meant for general category. It is seventh

post which was meant for the Schedule Caste category. All the first six appointees according to the roster point, belong to the general category. It

is submitted that all the eligible candidates were senior to respondent No. 4. Even respondent No. 4 is said to be senior to the petitioner. It is in

these circumstances it is stated that respondent No. 4 came to be promoted. Roster points have been placed on record as annexure VI.

In my opinion so far as respondent No. 4, and others who have been promoted U.D.C. were senior to the petitioner. Petitioner was given

promotion on ad hoc basis. This was on the basis of reservation quota. Roster point for reserved category falls at serial No. 7. If this be the

position then petitioner is not within right to contend that he was entitled to promotion over and above respondent No. 4.

This petition as such as is found to be without merit and is dismissed.