

(1998) 07 J&K CK 0003

In the Jammu And Kashmir High Court

Case No : Service Writ Petition (SWP) No. 630 Of 1998

Mohammad Ramzan Bhat

APPELLANT

Vs

State of J&K and others

RESPONDENT

Date of Decision : 20-07-1998

Acts Referred:

Central Civil Services (Classification, Control and Appeal) Rules, 1965 — Rule 31A

Citation : (1998) SriLJ 349

Hon'ble Judges : A.Q.Parray, J

Bench : Single Bench

Advocate : N.A.Kuchai, M.K.Attar, Advocates appearing for the Parties

Judgement

1. The moot point was projected in this matter by Mr. Kouchai, that perosn of petitioner, being a Block Development Officer, a gazetted post in

the Rural Development Department, being a gazetted officer, his appointment is with the Government. So it is the Govt. alone which can place him

under suspension so the suspension order having been passed by Director Rural Development Department, is without jurisdiction/competence.

2. Mr. Attar on behalf of respondents submitted that, as per Jammu and Kashmir Community Development Service Recruitment Rules, 1977, the

schedule appended to the said rules shows that there are three classes of Gazetted Officers. First is Dy. Director Panchayats, second is District

Panchayat Officer and third is Block Development Officer.

3. Mr. Attar submits that lowest rank of Gazetted Officers in the Rural Development Department is that of Block Development Officer. He further

submits that as per Schedule of CSR Vol. II, it is provided:

An officer is empowered to reduce, suspend, dismiss or punish in any permission

under rules any officer whom he or any officer subordinate to

him is empowered to appoint. (Major Heads of Departments shall further be competent to suspend is gazetted officer of the lowest rank

subordinate to them)"" This note regarding insertion of Major Head of Department seems to have been inserted in Schedule 1R vide F.D,

Notification SRO.62 the 25.02.1996.

4. Mr. Attar further developing on the arguments, has submitted that the Director Rural Development Department, being one of the Major Heads

of Department, is competent as such to place an officer of lowest rank of the gazetted officers under his administrative control under. He has also

supported the contention by referring to Rule 33 of Classification Control Appeal Rules.

'The appointing authority or any authority to which it is subordinate or any other authority empowered by the Government in this behalf may place

a Government servant under suspension.....

5. Mr. Attar wants to project that no doubt it is the appointing authority who is empowered to suspend a person, but nevertheless the rule has

further provided that it is also any other authority to which it is subordinate or any other authority empowered by the Government in this behalf, is

also competent to place person under suspension. So he submits that person of Director Rural Development Department, being Major Head of

Department and the person of petitioner as a Block Development Officer being subordinate to him and even otherwise the person of Major Head

of the Department having been empowered by the Government under SRO 62 of 1966 is within his competence to suspend person of Block

Development Officer.

6. So in view of submissions made by learned counsel for the parties, and the matter having been appreciated on that count, the order of

suspension seems to have been passed by the competent person and as such the pleas that the person of petitioner has been placed under

suspension by incompetent person does not rule. So the petition which is challenging the competence of suspending authority is dismissed.