
(2002) 12 J&K CK 0022

In the Jammu And Kashmir High Court

Case No : Service Writ Petition (SWP) No. 2937 of 2002

Parkash Singh

APPELLANT

Vs

State and Others

RESPONDENT

Date of Decision : 27-12-2002

Acts Referred:

Citation : (2003) 2 JKJ 88

Hon'ble Judges : R.C. Gandhi, J

Bench : Single Bench

Advocate : Surinder Kour, for the Appellant; Ashok Parihar, AAG, for the Respondent

Final Decision : Dismissed

Judgement

R.C. Gandhi, J.—Heard learned counsel for the Caveators. Caveat disposed of.

2. Petitioner by means of this petition seeks direction to the respondents to extend his services by two years or allow him to continue till he attains

the age of superannuation i.e. 58 years and also allow him to work against the post of Zila Sainik Welfare Officer, Doda. He seeks further

direction to restrain the respondents from replacing the petitioner by appointing any other Zila Sainik Welfare Officer, till the petitioner attains the

age of superannuation.

3. Petitioner was appointed by the President of J&K Rajya Sainik Board in exercise of the powers under SRO No. 7 of 1971 read with SRO 87

of 1981 as Zila Sainik Welfare Officer, Doda vide Order dated 19.01.1998, for a period of three years or till he attains the age of 58 years,

whichever is earlier. The respondents vide Govt. Order No. 223 of 2001 dated 18-05-2001 extended the period of appointment for two years on

contractual basis w.e.f. 19-01-2001. The respondents now have advertised the post inviting applications from the desirous candidates. Feeling

aggrieved, the petitioner has approached this court seeking the relief prayed for.

4. Petitioner has asserted that he is required to be continued till he attains the age of 58 years as the petitioner is at present of the age of 56 years.

In support of his plea the petitioner has relied upon SRO No. 7 of 1971 and SRO 642 of 1972 whereby Rule 7 of SRO 7 of 1971 was amended

incorporating the provisions, which reads as under:

7. Qualifications and Method of Recruitment:

(1) xxxxxxxxxxxxxxxxxxxxxxxxx

(2) Appointment to the service either on contract basis or otherwise, shall be made in the manner as indicated in Schedule I; provided that when an

appointment is made on contract basis, the appointment shall have to execute an agreement in the form as indicated in Schedule II.

(3) The President, Jammu and Kashmir Soldiers, Sailors and Airmen's Board shall be competent to grant extension in the services/employment of

Secretary of the District, SS&A Board; provided that-

(i) xxxxxxxxxxxxxxxxxxxxxxxxx

(ii) No extension beyond the age of superannuation is granted in any individual case.

5. The petitioner has executed an agreement of his appointment with the respondents. A photocopy of the agreement has also been made available

by Mr. Ashok Parihar, learned AAG.

6. Heard learned counsel for the parties and perused the record.

7. The initial appointment of the petitioner was made on contract basis for a period of three years or till the petitioner attains the age of

superannuation, whichever is earlier. After a period of three years, his appointment has been extended for a further period of two years vide Order

No. Home-223 of 2001 dated 18-05-2001 w.e.f 19.1.2001. The petitioner by executing the agreement of appointment has accepted the terms

and conditions of the appointment. He at that time did not object or sought his continuation till the age of superannuation. It is a contractual

appointment for a period of two years which has out-lived its life by the efflux of time. Parties have also executed an agreement in this regard.

Petitioner could have a grievance against the respondents provided there is any breach of the agreement, which has not been pointed out.

8. It is also submitted by the learned counsel for the petitioner that respondents have considered the cases of other officers and extended their

appointments and the petitioner has also made a representation to the respondents for extension of his appointment and the respondents be

directed to consider the representation of the petitioner. The contractual appointment of the petitioner has to be governed by the terms and

conditions of the agreement/contract. Petitioner can make grievance only if there is any breach of the agreement/contract. It is also not made out

that the law places any obligation upon the respondents to consider such application/representation of the petitioner. No direction can be issued for

according such consideration. Respondents shall consider the representation of the petitioner on its own merits, if any filed.

9. In view of the above, no case for grant of the relief prayed for is made out petition is accordingly dismissed.