
(2011) 05 J&K CK 0025
In the Jammu And Kashmir High Court
Case No : LPASW No. 273 of 2001

P.P. Mengi

APPELLANT

Vs

J and K State Project Construction Corp. and Others

RESPONDENT

Date of Decision : 12-05-2011

Acts Referred:

Citation : (2011) 2 JKJ 461

Hon'ble Judges : Sunil Hali, J; Mansoor Ahmad Mir, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. This Letters Patent Appeal is directed against the judgment and order dated 12.2.2001 passed by the learned Single Judge in SWP No.

866/1998, whereby the writ petition filed by the Appellant-writ Petitioner came to be dismissed (hereinafter for short, impugned judgment), on the grounds taken in the appeal.

2. The subject matter of the writ petition was order bearing No. 2821-29 dated 10.6.1998 (annexure 'H' to the writ petition), whereby

Respondent No. 3- Sh. G.L. Ganjoo, Sr. Accountant, was temporarily promoted as Accounts Officer. By the medium of writ petition the writ

Petitioner-Appellant had also sought promotion to the post of Accounts Officer from the date Respondent No. 3 was promoted as such.

3. Appellant-writ Petitioner was appointed as a Jr. Clerk in J&K State Project Construction Corporation (for short, JKPCC) in the year 1967,

was adjusted as Accounts Clerk in 1972, promoted to the post of Jr. Accountant in 1978 and Senior Accountant in the year 1984. Precisely his

grievance is that he was promoted as Sr. Accountant in the year 1984, whereas

Respondent No. 3 was promoted as such in the year 1985 and has made the foundation of his case on the basis of annexure 'A' to the writ petition-final seniority list. Accordingly it was contended that he is entitled to the relief prayed for in the writ petition.

4. Respondents 1 & 2 have specifically averred in their reply that Respondent No. 3 was officiating on the post of Sr. Accountant with effect from

November 1980, whereas Petitioner was officiating on the said post with effect from October 1984. Further it is contended that since an error had

crept-in in the seniority list of 1994 and tentative seniority list of 1997, therefore objections were invited from the officers concerned. The

objections furnished by various officers were examined by a Committee headed by General Manager, JKPCCL Ltd., Kashmir. The said Committee

confirmed Order No. 5754-65 dated 8.11.1985 containing annexure 'B' to the reply. The said order categorically spells out that Sh. G.L. Ganjoo-

Respondent No. 3 was figuring at Sr. No. 1, whereas writ Petitioner-Sh. P.P. Mengi and one Sh. Fayaz Ahmad Khan were figuring at Sr. Nos. 2

and 3 respectively.

5. It is also pleaded that while considering the case(s) for promotion various factors, i.e., seniority, performance etc. were taken in view.

6. The stand of Respondent No. 3 is that he was officiating as Sr. Accountant right from November 1980 and he was allowed charge allowance

vide Order No. 834-38 dated 12.5.1984 w.e.f. November 1980.

7. The writ court after taking into consideration the entire relevant record and pleadings of the parties held that in terms of order dated 8.11.1985

(supra), Respondent No. 3 is senior in all respects and writ Petitioner has not questioned the same till filing of the writ petition, thus caught by delay

and latches and dismissed the writ petition on that count. The writ court while dismissing the writ petition also held that Respondent No. 3 was

holding the charge of Senior Accountant with effect from November 1980 and has drawn charge allowance, thus had a better case and preference

as compared to writ Petitioner.

8. Mr. Bhardwaj, learned senior counsel has not been able to indicate as to how the Petitioner was senior to Respondent No. 3. He has not been

able to pin point that Respondent No. 3 was not holding the charge right from November 1980 and was allowed charge allowance.

9. We are of the considered view that the judgment of writ court is legally sound and needs no interference. Accordingly, the appeal is dismissed along with all CMPs.