

(2001) 06 J&K CK 0001

In the Jammu And Kashmir High Court

Case No : Service Writ Petition (SWP) No. 1309 Of 1998

Rafiq Ahmad Dar and Connected Matters

APPELLANT

Vs

State of J&K & Ors.

RESPONDENT

Date of Decision : 28-06-2001

Acts Referred:

Citation : (2010) 8 JKJ 592 : (2009) 3 JKJ 293

Hon'ble Judges : B.P.Saraf, J; Muzaffar Jan, J and S.K.Gupta, J

Bench : Full Bench

Advocate : M.I.Qadiri, M.A.Goni, M.A.Khanday, M.A.Khan, A.Bedar, M.M.Dar, M.Ayoub Bhat, J.Iqbal, F.A.Bhat, A.Chesti, M.A.Qadiri, A.Andrabi, B.A.Dar, M.S.Reshi, M.A.Wani, G.Q.Bhat, M.I.Dar, M.A.Chashoo, S.A.Naik, I.Sofi, A.M.Dar, Zahoor A.Shah, A.Haqani, O.Singh, A.R.Dar, M.Aijaz, A.M.Magray, M.A.Qayoom, R.A.Jan, Z.A.Qureshi, Z.A.Shah, Advocates appearing for the Parties

Judgement

Dr. B.P. Saraf, Chief Justice.

1. Heard learned counsel for the petitioners, namely, M/s Z.A. Shah, Z.A. Qureshi, R.A. Jan, M.A. Qayoom, A.M. Magrey, M. Aijaz, B.A. Dar,

A.R. Dar, O. Singh, A. Haqani, Zahoor A. Shah, A.M. Dar, I. Sofi, S.A. Naik, M.A. Chashoo, M.I. Dar, G.Q. Bhat, M.A. Wani, M. A. Reshi,

A. Andrabi, M.A. Qadiri, A. Chesti, F.A. Bhat, J. Iqbal, M. Ayoub Bhat, M.M. Dar, A. Bedar, M.A. Khan, M.A. Khanday and others. Also

heard Mr. M.A. Goni, learned Advocate General on behalf of the respondent State.

2. The learned Advocate General informed the Court that the State Government has decided to allow all the petitioners appointed against migrant

vacancies to continue till an appropriate scheme for their regularisation is formulated, or till the concerned migrant employees return to their duties

in Kashmir Valley, whichever happens earlier. To allay the apprehension of the

learned counsel for the petitioners, the learned Advocate General also made it clear that in the event of any of the migrant vacancy post becoming a clear vacancy post on any count, or any of such, post having already become a clear vacancy post, those petitioners, who are already working on those migrant vacancy posts, shall be considered for regularisation on such posts.

3. The learned counsel for the petitioners wanted a direction to be given to the Government that in the event any of the petitioners is required to give up the job due to the return of the migrant to the Valley or for any other reason (except in disciplinary proceedings), the order of his ouster should not be given effect to for a period of one month to enable the petitioner concerned to avail of such remedy as may be available to him under the law including approaching this Court. The learned Advocate General stated that no such direction is required as the State Government will not give effect to any such order of ouster for a period of one month from the date of communication.

4. The above statement of the learned Advocate General is accepted and taken on record. The learned Advocate General has also furnished a copy of the communication dated 24.04.2001 received by him from Deputy Secretary to Government General Administration Department. The same is also taken on record.

5. In view of the above, by consent of the learned counsel for the petitioners, all writ petitions including those listed in the supplementary cause list for the day, alongwith the contempt petitions and interim applications accompanying all these writ petitions, are disposed of in terms of the following consent order:

i) The State Government shall allow all the petitioner appointed against migrant vacancies to continue till an appropriate scheme for their regularization is formulated, or till the concerned migrant employees return to their duties in Kashmir Valley, whichever happens earlier.

ii) In the event of any of the migrant vacancy post becoming a clear vacancy post on any count, or any of such post having already become a clear vacancy post, those petitioners, who are already working on those migrant vacancy posts, shall be considered for regularisation on such posts in accordance with law.

iii) In the event any of the petitioners is required to give up the job due to the return of the migrant to the Valley or for any other reason (except in disciplinary proceedings), the order of his ouster shall not be given effect to for a period of one month to enable the petitioner concerned to avail of such remedy as may be available to him under the law including approaching this Court.

6. It was stated at the Bar that in the above list some writ petitions are there which have not been admitted so far and have been clubbed with those writ petitions which stand already admitted. We direct that those writ petitions in this group, which have not been admitted so far, shall stand admitted. We issue rule in all those cases. Learned Advocate General accepts notice. By consent, all these petitions are taken on board for hearing and disposed of in terms of the above order.

7. In the result all the writ petitions alongwith interim applications and contempt petitions stand disposed of in terms of the above consent order.