
(2019) 11 J&K CK 0051

In the Jammu And Kashmir High Court

Case No : Writ Petition (C) No. 3361 Of 2019, CM No. 6744 Of 2019, Caveat No. 2014 Of 2019

Raman Uppal

APPELLANT

Vs

State Of Jammu And Kashmir & Ors

RESPONDENT

Date of Decision : 20-11-2019

Acts Referred:

Jammu And Kashmir Civil Services (Classification, Control And Appeal) Rules, 1956 — Rule 31

Citation : (2019) 11 J&K CK 0051

Hon'ble Judges : Ali Mohammad Magrey, J

Bench : Single Bench

Advocate : Arif Sikandar, Asifa Padroo

Final Decision : Disposed Of

Judgement

Ali Mohammad Magrey, J

Caveat No. 2014/2019

1. With the appearance of Ms. Asifa Padroo, learned AAG, Caveat as lodged shall stand discharged.

WP (C) No. 3361/2019

2. In the instant petition, the petitioner has challenged Government Order No. 07 JK (HUD) OF 2019 dated 13.11.2019 in terms whereof the petitioner while working as In-charge Executive Engineer, LAWDA is placed under suspension with immediate effect and directed to remain attached to Housing & Urban Development Department, Civil Secretariat, Jammu and Kashmir, Jammu, on the grounds detailed out in the petition with particular reference that the order impugned amounts to punishment as the petitioner has been placed under suspension on the same grounds by respondent No.2- Vice Chairman in terms of Order No. 38-LDA of 2019 dated 17.06.2019 on the complaint filed by the delegation of Rakh-i-Arth alleging corruption/receipt of illegal gratification for

allotment of the plots to the Dal dwellers at Rakh-i-Arth. It is submitted that respondent No.3 constituted the Enquiry Officer i.e. Vice Chairman which on enquiry was found not having substance resultantly the petitioner was reinstated in service vide Order No. 48-LDA of 2019 dated 09.07.2019, but the petitioner was relieved from the post of In-charge Executive Engineer LAWDA and was directed to report Housing and Urban Development Department. This order was questioned by the petitioner before this Court in WP (C) No. 2405/2019 and this Court in terms of the order passed on 16.07.2019 while recording submissions of the learned counsel for the petitioner, stayed the order with directions to the respondent No.2 and 3 to allow the petitioner to work as Executive Engineer, LAWDA in tune with the Government Order No. 36- HUD of 2017 dated 17.02.2017, unless the Government passes any further orders in this regard. It is submitted that Government has passed the order impugned on the complaint which had become subject matter of the enquiry qua the suspension made by the Vice Chairman LAWDA vide Order No. 17.06.2019. Learned counsel for the petitioner further submits that order is punitive in nature and the petitioner has been deprived of his continuation on the post against which consideration has been passed by valid Government Order. It is further submitted that the impugned order contains allegation and assertion based on no material.

03 Ms. Asifa Padroo, learned AAG appearing for the caveators/respondents submits that the suspension is not a punishment as declared by a catena of judgments delivered by this Court and the Hon'ble Supreme Court of the Country. She further submits that on the serious allegations, the petitioner has been found involved in mis-appropriation of the Government money as also adopting corrupt practices of dereliction of duty.

4. Heard the learned counsel for the parties, perused the record and considered the matter.

5. Court is not inclined to interfere with the impugned order as the suspension has been ordered within the four corners of the rules, enabling the Government to place the petitioner under suspension pending enquiry. The Government has the power to place any Government servant under suspension in exercise of the powers conferred under Rule 31 of the J&K Civil Service (CC &A) Rules, 1956 pending enquiry or in the matters wherein the Government contemplates to conduct enquiry. Court cannot interfere with the powers of the Government unless such powers is exercised arbitrarily or malafidely. Perusal of the impugned order reveals that there is no arbitrariness noticed in the order.

6. Without making any observation or recording any finding, it is considered proper to dispose of this writ petition by issuing certain directions which are necessitated because the petitioner has been placed under suspension on the allegations of having indulging in the corrupt practices in allotment of plots to the Dal dwellers on the selective basis which on enquiry ordered by Vice Chairman LAWDA was found not having substance in the following manner:-

1. Petitioner shall file detailed representation before the respondent No.1 who has passed the impugned order furnishing all the details qua the complaints filed against the petitioner before the LAWDA on the subject and decision taken earlier regarding placing petitioner under suspension and subsequently reinstating him within one week.
2. Respondent No.1 shall review the suspension of the petitioner on receipt of the representation within 10 days and pass appropriate orders and in the meanwhile, petitioner shall be given suspension allowances.
7. In the above background, this writ petition is disposed of accordingly along with connected CM.