

**(2018) 10 J&K CK 0030**

**In the Jammu And Kashmir High Court**

**Case No :** Service Writ Petition No. 2074 Of 2018, IA No. 1 Of 2018

**Sanjeeb Singh @APPELLANT@Hash State Of Jammu & Kashmir And Ors**

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**Date of Decision :** 08-10-2018

**Acts Referred:**

**Citation :** (2018) 10 J&K CK 0030

**Hon'ble Judges :** Sindhu Sharma, J

**Bench :** Single Bench

**Advocate :** Rajesh Bhushan

**Final Decision :** Disposed Off

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## **Judgement**

Petitioner is aggrieved of Order No.369-DRD of 2018 dated 27.08.2018 vide which he has been transferred from the Office of Integrated Water Shed Management Project Officer (IWMP) Samba to Block Rajgarh, District Ramban, and further prayer for suitable adjustment in suitable place considering the fact that the petitioner is physically challenged employee.

The brief facts relevant for considerations are that petitioner was selected by the Jammu and Kashmir Service Selection Board under the handicapped category for the post of Junior Statistical Assistant (Division Cadre) vide notification dated 23.02.2001. Petitioner joined the service of Planning Development and Monitoring Department in the year 2001 and was subsequently promoted as Statistical Assistant and is now presently working as Incharge Statistical Officer since 2014 in the Office of Project Officer, IWMP, Samba. Petitioner was transferred to Sengay-Lalak (Wanla) Leh but after considering the fact that the petitioner is suffering from locomotor disability and also physically challenged, he was shifted to the Director of Rural Development Department, Jammu vide order No.296-RD & PR of 2014 dated 21.10.2014 and vide order No.59-DRD of 2016 dated 23.01.2016 was deployed in the Office of Project Officer, IWMP Samba.

Contention of the petitioner is that his medical condition has aggravated over a period of time and, as such, his left leg is totally incapacitated and the petitioner is only able to walk by using a metal support which can be termed as an artificial

limb (Caliper) which makes the movement of the petitioner extremely difficult, it was considering this fact that the petitioner was shifted from Ladakh to the office of Director, Rural Development Department, Jammu.

Petitioner is aggrieved of order No.369-DRD of 2018 dated 27.08.2018 vide which the petitioner has been transferred to Block Rajgarh, Chanderkot, District Ramban. Learned counsel for the petitioner states that the office of Rajgarh is approximately 25 kms away from Chanderkot and situated at extremely difficult hills, for which, he has to cover more than 700 meters of distance by foot which includes the stairs. Petitioner further states that despite this difficulty, in compliance to the said order, the petitioner joined his new place of posting and suffered a fall while approaching his office premises on 28.09.2018, thus, was advised to return home, which he did with assistance. Thus, petitioner submits that due to his locomotor disability and the fall he has, it is extremely difficult for him to serve in this hilly terrain area, that is, present place of posting.

Learned counsel for the petitioner submits that the respondents had issued circular No.2-SWD of 2014 dated 19.05.2014 which states that

"There is a persistent demand from the physically challenged employees that they should preferably be posted in their native places or at least in their native district to avoid any inconvenience. The demand was examined in the department and it has been felt that same merits consideration owing to the challenges faced by these persons while performing duties."

Learned counsel has also placed reliance on a circular No.DSWJ/Estt/14437-62/06 dated 04.12.2006 in which the then Additional Commissioner under Persons with Disabilities Act had stated that the physically challenged Government employees should be accommodated to the place near their residence as far as possible.

Contention of the petitioner is that he approached respondent No.1 with representations dated 25.08.2018 and 29.08.2018 to consider the case of the petitioner in terms of the aforesaid circulars but till date the representations of the petitioner have not been considered. Learned counsel for the petitioner submits that he would feel satisfied, if this petition is disposed of at this stage by directing respondent Nos.2 and 3 to consider the representations made by the petitioner for suitable adjustment in view of the aforesaid circulars and of the fact that the petitioner is physically challenged Government employee whose special needs are required to be considered as expeditiously as possible.

In view of the submissions made above, this petition is disposed of at this stage by directing respondent Nos.2 and 3 to consider and decide the representations of the petitioner in view of the circular No.2-SWD of 2014 of the State and pass appropriate orders within a period of three weeks from the date, copy of this order along with the copy of the writ petition is made available to the respondents, the said decisions shall be communicated to the petitioner.

Disposed of.