

(2020) 06 J&K CK 0043

In the Jammu And Kashmir High Court

Case No : Civil Miscellaneous No. 2035, 2036 Of 2020, Writ Petition (C) No. 914 Of 2020

Sharan Gurdev Singh And Others

APPELLANT

Vs

Union Territory Of J&K And Others

RESPONDENT

Date of Decision : 16-06-2020

Acts Referred:

Administrative Tribunals Act, 1985 — Section 3(q), 28

Citation : (2020) 06 J&K CK 0043

Hon'ble Judges : Sanjay Dhar, J

Bench : Single Bench

Advocate : Jahangir Iqbal Ganai, Sheikh Umar Farooq

Final Decision : Dismissed

Judgement

Sanjay Dhar, J

1. The instant writ petition has been filed by the petitioners, seeking certain reliefs, which are reproduced as under :-

"a. Issue an appropriate writ, order or direction in the nature of Certiorari, quashing the Agriculture Order No. 144/Estt of 2020 dated 12.05.2020 and that of Agriculture Order No. 145/Estt of 2020 dated 14.05.2020 issued by respondent No. 2 and communication No. Agri/NG/Prom/84/2018-1 dated 12.05.2020 issued by respondent No. 1.

b. Issue an appropriate writ, order or direction in the nature of Mandamus, the respondents be directed to accord the benefit of promotion of the petitioners against the post of Junior Agriculture Extension Officers respectively from the date the Departmental Promotion Committee recommendation was accepted and the orders of promotion were issued in their favour, i.e., 05.11.2019, 03.12.2019 and 09.05.2020 respectively and also release the grade and salary attached to the post in favour of the petitioners from the date the petitioners had joined against the post of Junior Agriculture Extension Officers and have worked as such.

c. Such other writ, direction or order which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case may also be passed in favour of the petitioners and against the respondents alongwith the cost of litigation."

2. In view of the nature of the reliefs sought in the writ petition, learned senior counsel for the petitioners was asked to address the arguments on the question of jurisdiction of this Court to entertain the writ petition in view of establishment of a permanent Bench of the Central Administrative Tribunal (in brevity, 'the CAT') in Union Territory of the Jammu and Kashmir.

3. Learned senior counsel for the petitioners has fairly conceded that the issue involved in the instant writ petition is squarely covered by the definition of 'service matters' as contained in Section 3 (q) of the Administrative Tribunals Act, 1985 (hereinafter referred to as 'the Act'). However, learned senior counsel has vehemently contended that the instant writ petition involves interpretation and scope of order dated 20.12.2019 passed by a Co-ordinate bench of this Court in SWP No. 2727/2018 titled, "Dr. Syed Mudasir Rizvi and others Vs. State of J&K and others". According to the learned senior counsel, vide the said order dated 20.12.2019, the respondents were restrained from making further promotions against the posts of Junior Agriculture Extension Officers, but wrong interpretation of the said order by the respondents has led to issuance of the impugned orders bearing Agriculture Order Nos. 144/Est. of 2020 dated 12.05.2020 and 145/Est. of 2020 dated 14.05.2020, whereby promotions/posting of the petitioners as Junior Agriculture Extension Officers have been rescinded without following the principles of natural justice. It has been contended the issue involved in this writ petition relates to interpretation of aforesaid order dt.20.12.2019 passed by this Court, which can be done only by this Court. On this ground, it is urged by the learned senior counsel that in spite of the fact that the subject matter of the instant petition is a service matter, still the petition is required to be adjudicated upon by this Court and not by the CAT.

4. I have heard learned senior counsel for the petitioners and perused the writ petition and the documents attached thereto.

5. The petitioners may have a genuine grievance as to the manner in which order dated 20.12.2019 passed by this Court has been interpreted by the respondents while issuing the impugned orders and they may also be justified in contending that by virtue of the impugned orders, they have been visited with civil consequences without following the principles of natural justice. All these and such other contentions can be gone into by the CAT, which is the successor forum upon the extension of the provisions of the Act to the UT of Jammu and Kashmir and consequent establishment of a permanent Bench of the Tribunal in Union Territory of Jammu and Kashmir. There is no legal or any other impediment for the successor forum to go into the interpretation and effect of the orders passed by its predecessor forum.

6. The issues raised in the instant writ petition essentially pertain to the matters

relating to the conditions of service of the petitioners, which are admittedly the employees of the government of the Union Territory of Jammu and Kashmir. Therefore, in view of the provisions contained in Section 28 of the Act, the jurisdiction of the Courts including this Court in relation to the matters of instant nature stands ousted.

7. For the foregoing reasons, it is concluded that this Court lacks jurisdiction to entertain and adjudicate upon the instant writ petition. The same is, accordingly, dismissed. The petitioners are, however, at liberty to approach the CAT for redressal of their grievance, if any.