

(1999) 12 J&K CK 0006

In the Jammu And Kashmir High Court

Case No : Service Writ Petition (SWP) No. 1883 of 1999

Sonaullah Dar

APPELLANT

Vs

State of J&K through Commr./Secy.PWD Sgr./Jammu.

RESPONDENT

Date of Decision : 01-12-1999

Acts Referred:

Constitution of India, 1950 — Article 226

Jammu and Kashmir Civil Service Regulations, 1956 — Regulation 52(B)

Citation : (2000) 4 SCT 98

Hon'ble Judges : Syed Bashir-ud-din, J

Bench : Single Bench

Advocate : S.A. Qadiri, Advocates appearing for the Parties

Judgement

Syed BashirudDin, J.—Petitioner initially a dailywager with Executive Engineer Mechanical Engineering Division Baramulla was appointed

and regularised as helper in the same Mechanical Division. He alleges that on his representation the Govt. transferred and posted petitioner in PHE

Division Budgam for a period of one year vide order No. 261PW of 1999 dated 13.10.1999. However, this order is not being implemented by

respondents. He made a representation which is still pending as the representation is not considered. He seeks mandamus for compelling

respondent Govt. officials to comply with the Govt. order.

2. Mr. Qadiri, counsel for the petitioner submits that the respondents 2 and 3 of Mechanical Engineering Department and respondents 4 and 5 of

Public Health Engineering Department, having failed to give effect to the order has pushed petitioner to the point where he had to file this writ.

3. The order of transfer on its face appears to be an order of transfer on deputation from Mechanical Division Baramulla to PHE Division Budgam

for a period of one year maintaining the lien and seniority of petitioner in his parent department. The order does not ipso facto confer any legal right

on petitioner. It is just like an order of transfer subject to the conditions specified under Regulation 52(B) of C.S.Rs. The relief of implementation

of such an order of an employee inter se departments of Govt. cannot be countenanced by the writ court, in so far as no legal rights of petitioner

have been violated. It may confer benefit on petitioner, but creates no rights in his favour. There is no obligation or duty cast on the respondents to

rush through to implement such an order. Though petitioner has represented before respondents 2 and 3, he should have been better placed by

making representation against the alleged inaction of concerned officer(s) to his/their superiors qua implementation of the order of the State Govt.

(respondent No. 1), which has issued the order. After all implementation of its orders is prime concern and responsibility of the Govt. It is for the

Govt. to look after its interest and to subserve interest of its administration. As custodian of public interest, the Government has to ensure that its

orders are carried out and honoured by its officials including middle and lower rung officers, faithfully, as committed disciplined members of the

services. The representation of the petitioner has to be considered by the competent authority(s) and disposed of promptly, if health, interest and

discipline of administration is to be maintained. In the wider spectrum, such course is normally dictated by public interest and good governance.

4. In result writ petition is not admitted to hearing and stands disposed of at threshold with the observation and in terms as above.

5. Petition dismissed.