

(1997) 02 SC CK 0205
In the Supreme Court Of India
Case No : Civil Appeal No. 1997 of 1997

State of Jammu & Kashmir

APPELLANT

Vs

Sayeed Zaffar Mehdi

RESPONDENT

Date of Decision : 07-02-1997

Acts Referred:

Citation : (1997) 9 SCC 215

Hon'ble Judges : A. M. Ahmadii, C.J;Sujata V. Manohar, J;S. B. Majmudar, J

Bench : Full Bench

Final Decision : Disposed Of

Judgement

A.M. Ahmadi, C.J.,; S.B. Majmudar and; Sujata V. Manohar, JJ.-Special leave granted.

2. Heard counsel on both sides.

3. It is true that by the judgment delivered in Writ Petition No. 169 of 1984 the Court directed that the petitioner should be deemed to be in continuous service with all consequential benefits as admissible under the Rules. It was further stated that if any action is proposed to be taken on him for alleged overstaying on leave, it shall be taken in accordance with the principles of law and of natural justice after making proper inquiry in the matter under the Rules. It is true that this order not having been carried in appeal became final. That, however, does not mean that the respondent when refused promotion can move the contempt application in the same matter and seek the court's order for granting him promotion. The scope of the original writ petition was limited and did not include matters in regard to future promotions. In the contempt application it was not open to the court to enlarge the scope of the original petition and also direct promotion. It is a necessary to impress upon the High Court that contempt being a quasi-criminal matter, care should be taken to see that the scope of the original petition is not enlarged while making orders in contempt matters. The proper course for the respondent was to challenge the decision of the Government

refusing to grant him promotion and examine the same in accordance with law. We, therefore, set aside the impugned order dated 30-11-1994 as well as the order of the Division Bench dated 11-10-1996 and hold that the contempt application was misconceived and not competent. However, this will not preclude the respondent from questioning the refusal to grant promotion through proper process, if so advised. The appeal will stand so disposed of with no order as to costs.