

(2022) 09 J&K CK 0042
In the Jammu And Kashmir High Court
Case No : LPASW No.63 Of 2018

State Of J&K And Others

APPELLANT

Vs

Shaida Parveen

RESPONDENT

Date of Decision : 20-09-2022

Acts Referred:

Citation : (2022) 09 J&K CK 0042

Hon'ble Judges : Pankaj Mithal, CJ; Sindhu Sharma, J

Bench : Division Bench

Advocate : Faheem Nissar Shah, M. A. Qayoom

Final Decision : Disposed Of

Judgement

Pankaj Mithal, CJ

1. Heard Mr. Faheem Nissar Ahmad, learned GA for the appellants and Mr. M. A. Qayoom, learned counsel for the respondent.
2. The State of Jammu & Kashmir and others have preferred this appeal under Clause 12 of the Letters Patent against the judgment and order dated 17.04.2017 passed by the learned Single Judge deciding SWP No.419 of 2013 : Shahida Parveen v. State of J&K and others.
3. The petitioner-respondent in the above writ petition claimed re-designation of the post of Librarian as Chief Librarian with effect from 19.10.1992 when she acquired five years experience as Librarian and a further relief to provide her with avenues of promotion from the post of Chief Librarian to any other higher post.
4. The writ petition was disposed of with the direction to the appellants to release the pay-scale attached to the post of Chief Librarian in favour of the petitioner from the date she becomes eligible after completing five years experience as Librarian in tune with the judgment passed by this court earlier.

5. It may not be out of place to mention here that previously the petitioner-respondent had filed SWP No. 105 of 2009 seeking promotion on the post of Chief Librarian and the said writ petition was decided vide judgment and order dated 01.05.2010 holding that there is no need to wait for the vacancy of the post of Chief Librarian for promotion of the petitioner. The post of Librarian held by the petitioner can be re-designated as Chief Librarian in terms of the Government order in vogue which will be personal to the petitioner till the post is so held by her. Accordingly, appellants were directed to redesignate the post of Librarian held by the petitioner as Chief Librarian with effect from the date she has been granted the pay-scale attached to the post of Chief Librarian.

6. In pursuance to the above judgment and order, the post of Librarian on which the petitioner-respondent was working was re-designated as Chief Librarian with effect from 01.11.2005. The petitioner-respondent claimed that the said re-designation with effect from 01.01.2005 is incorrect and in fact she is entitled for such re-designation with effect from 19.10.1992.

7. In the above context, on the interim direction dated 29.03.2013 passed by the Court, the representation of the petitioner-respondent seeking retrospective effect to her re-designation as Chief Librarian was considered by the Secretary to the Government Technical Education, Youth Services and Sports Department vide order dated 22.04.2014. The said order after narrating the entire history of the petitioner's service held that the petitioner-respondent was granted the benefit of SRO 291 dated 01.06.1978 irregularly and, therefore, she is not entitled to any benefit with effect from 19.10.1992. The said order is final and conclusive as it has never been challenged by the petitioner-respondent in any forum. Therefore, so long as the said order stands, she cannot be granted retrospective re-designation as Chief Librarian with effect from 19.10.1992.

8. The judgment impugned in this appeal dated 17.04.2017 is nothing but reiteration of the earlier judgment dated 01.05.2010 wherein directions were issued to re-designate the post held by the petitioner as Chief Librarian with effect from she has been granted the higher pay-scale of Chief Librarian. The court has not specified the date from which the petitioner-respondent would be entitled to such re-designation. Once the authorities have granted re-designation to the post held by the petitioner that too with retrospective effect from 01.11.2005, the petitioner-respondent is not entitled to any further relief or retrospective re-designation from 19.10.1992.

9. The facts reveal that the petitioner-respondent was appointed as Assistant Librarian in Government Women Polytechnic, Srinagar, with effect from 22.08.1986 though the post advertised and against which the petitioner-respondent applied was that of Lecturer, Library Sciences. She was appointed as Librarian on 19.10.1987 in relaxation of the service conditions and on completion of nine years service on the post. She was granted in-situ promotion on 17.12.1997. Subsequently, on 12.01.1999 she was granted higher pay scale in terms of SRO 291 dated 01.06.1978 which had ceased to exist on promulgation

of the Jammu & Kashmir Technical Education (Gazetted) Service Recruitment Rules. The petitioner-respondent was granted second in-situ promotion on 01.11.2001 and thereafter the post of Librarian held by her was re-designated as Chief Librarian with effect from 01.11.2005. It is in this background that as the petitioner-respondent was not entitled to the higher pay-scale in terms of SRO 291 dated 01.06.1978 which had ceased to exist that it was found that the petitioner-respondent is entitled to re-designation of the post of Librarian as Chief Librarian only with effect 01.11.2005.

10. In the above background, the petitioner-respondent who was illegally appointed as Assistant Librarian without any advertisement or facing any competition has been granted all benefits. She has even retired 10 years ago without raising any protest.

11. Mr. Qayoom, learned counsel for the petitioner-respondent accepts that the petitioner is more than satisfied and there is no need for the appellant to press this appeal at this juncture.

12. In view of the overall facts and circumstances of the case, as the impugned judgment does not directs specifically for grant of re-designation of the post of Librarian as Chief Librarian with effect from 19.10.1992 and it only reiterates the directions given by the court in the earlier judgment and order dated 01.05.2010 which have been sufficiently complied with, we feel that this appeal is more or less of academic nature and virtually of no use. The appellants having granted the benefits to the petitioner-respondent in terms of the earlier judgment and order of this court cannot possibly have any grievance to file this appeal. The appeal, as such, stands disposed of with the above observations.