

(2020) 03 J&K CK 0006

In the Jammu And Kashmir High Court

Case No : Writ Petition (C) No. 686 Of 2020, CM No. 1483 Of 2020

Suhail Anwar Khan And Ors

APPELLANT

Vs

Union Territory Of Jk And Ors

RESPONDENT

Date of Decision : 09-03-2020

Acts Referred:

Citation : (2020) 03 J&K CK 0006

Hon'ble Judges : Ali Mohammad Magrey, J

Bench : Single Bench

Advocate : Mir Majid Bashir, H. Aman Ali

Final Decision : Dismissed

Judgement

1. In the instant petition, the petitioners have prayed for the grant of following relief(s) in their favour:

â??(i) Writ of Mandamus commanding the respondents to absorb the petitioners along with other similarly circumstances persons in

respondent Motor Vehicles Department and till then not to disturb the status of the petitioners in the respondent department and allow them

to continue their services in the respondent department has been done by the respondents in case of some blue eyed persons.

(ii) Writ of Mandamus commanding the respondents to release the pending salary/ C.P. Fund of the petitioners for the months of November

& December 2019 and January and February 2020 along with the pending salary of 2 months (January & February) of the year 2015.

(iii) Any other appropriate relief, writ or order as this Honâ??ble Court may deem fit and proper may be passed in favour of the petitioners

and against the respondents.â??

2. The relief claimed by the petitioners, as detailed out hereinabove, is based on their deployment in the Motor Vehicles Department pursuant to order

No. JKSRTC/GM/A/571 dated 29th of May, 2009, followed by Government Order Nos. 02-TR of 2013 dated 10th of November, 2013; 21-TR of

2016 dated 26th of February, 2016; 39-TR of 2016 dated 4th of April, 2016; 56-TR of 2017 dated 20th of July, 2017; and 84-TR of 2017 dated 26th of

October, 2017. The petitioners, earlier in point of time, claim to have filed SWP No. 1940/2018; IA No. 01/2018 for seeking the same relief claimed

herein this petition. The said petition, as stated, came to be disposed of by this Court vide order dated 16th of August, 2018, directing the respondents

to accord consideration to the claim of the petitioners as detailed in the said petition. The petitioners contend that despite aforesaid directions passed

by this Court, the respondents have not considered the case of the petitioners.

3. Learned counsel for the petitioners, when pointedly asked as to how the present petition for the relief claimed is maintainable even on merits when

the petitioners, admittedly, are holding their substantive position in the State Road Transport Corporation and are only, at the most, on deputation in the

Motor Vehicles Department, could not convince the Court.

4. Law is settled on the issue that Government employees on deputations have no right to seek continuation on such deputation for all times to come or

claim absorption therein on permanent basis. The Honâ??ble Supreme Court, in case titled â??Kunal Nanda v. Union of India & Anr.â??, reported

as â??(2000) 5 Supreme Court Cases 362â??, has held that the basic principle underlying the deputation itself is that the person concerned can

always and at any time be repatriated to his/ her parent department to serve in his/ her substantive position therein at the instance of either of the

departments and that there is no vested right in such a person to continue for long on deputation or get absorbed in the department to which he/she had

gone on deputation.

5. Again, in case titled â??Union of India v. S. N. Panikarâ??, reported as â??(2001) 10 Supreme Court Cases 520â??, the Apex Court of the

country repeated and reiterated the law with regard to deputation by holding that a deputationist cannot claim either a right to the post in question nor

can he claim absorption on permanent basis to the post in question.

6. In view of the above legal position enunciated by Honâ??ble the Supreme

Court, the instant petition merits dismissal and is, accordingly, dismissed in limine, alongwith the connected CM. However, since in the earlier petition filed by the petitioners, this Court directed the respondents to consider the claim of the petitioners, therefore, the petitioners shall be at liberty to file appropriate proceedings for seeking implementation of the said order, in case same has remained unimplemented so far.