

(2009) 07 J&K CK 0011

In the Jammu And Kashmir High Court

Case No : Service Writ Petition (SWP) No. 1617 Of 2005

Surinder Singh Jamwal

APPELLANT

Vs

State & Ors.

RESPONDENT

Date of Decision : 31-07-2009

Acts Referred:

Citation : (2009) 3 JKJ 519

Hon'ble Judges : Sunil Hali, J

Bench : Single Bench

Advocate : R.Koul, Seema Shehkar, B.S.Salathia, Advocates appearing for the Parties

Judgement

1. Taking benefit of providing employment under a Half Million Job's Scheme, unemployed Graduates and Post Graduates were adjusted as

Stipendiary Volunteers at a monthly stipend of Rs. 220/. Government Order No. 450GD of 1975 dated 24/2/1975 provided for immediate

adjustment of stipendiary volunteers against seven vacancies in the grade of Rs. 280500. The aforementioned order further envisages that 33% of

future direct vacancies (non technical) in the pay scale of Rs. 280520 in different departments will be earmarked for stipendiaries of volunteers

service corps. Taking benefit of the aforementioned order, petitioner, who was appointed as stipendiary volunteer came to be adjusted as Junior

Assistant in the pay scale of Rs. 200320 in the year 1975. Seeking benefit of Government Order No. 450GD of 1975 dated 24/2/1975, petitioner

was required to be adjusted in the pay scale of Rs. 280520.

2. The State Government vide SRO No. 422 dated 14/7/1976 established State Roads Transport Corporation (SRTC) resulting conversion of

Government Transport Undertaking (GTU) in SRTC. An option was sought from the employees of erstwhile GTU for their absorption in the

SRTC or to retain their status as government employee for purposes of pensionary benefits available to them under the government rules. The

petitioner being employee of the GTU opted for pensionary benefits as were available to him under government rules. After his adjustment in the

GTU, petitioner sought implementation of Government Order No. 450 GD of 1975 dated 24/2/1975 for being placed in the pay scale of Rs.

280520. His request for the same remained unattended. Having failed to obtain any response from the respondents in this regard, petitioner was

impelled to file Writ Petition bearing SWP No. 2222/2001 in this court, which came to be disposed of on 24/7/2002 with a direction to the

respondents to accord consideration for extending benefit to the petitioner of Government Order No. 450 GD of 1975. It was in pursuance to the

direction of this court that the respondents issued Government order No. 43 TR of 2004 dated 27/9/2004 according sanction to the Supernumerary

Post of Booking Manager in the pre-revised pay scale of Rs. 280520 from 24/2/1975 to 19/10/1978 in the Corporation. The petitioner after the

issuance of the aforementioned order of according retrospective benefit of higher pay scale, sought for consequential benefits of the higher pay

scale and status in this regard. He claims that the benefit which would accrue to him on account of his retrospective promotion, would entitle him to

become General Manager w.e.f. 21/11/1999 when his junior namely Ghulam Rasool Wani came to be appointed as such. There is other aspect of

the matter also which relates to the appointment of petitioner as Depot Manager w.e.f. August, 1988 in response to advertisement notice dated

6/5/1988. Petitioner sought his appointment as direct recruit.

3. The respondents instead of granting due benefit of promotion to the petitioner which accrued to him from time to time, vide order dated

4/10/2005 rejected claim of petitioner both in terms of status and monetary benefit after he was designated as Depot Manager in the year 1975. It

is this order, which is the subject matter of challenge before this court.

4. I have heard the learned counsel for the parties and perused the record.

5. Short grievance of the petitioner is that after he was accorded retrospective benefit of pay scale of Rs. 280520 w.e.f. 1975, he is entitled to

receive all consequential benefits in terms of status and monetary. He claims that determination of consequential benefits was to be made taking into consideration the benefits which have been conferred on the persons who were juniors to him both in GTU and SRTC. The appointment of petitioner as Depot Manager in pursuance to the advertisement issued in the year 1988 will not take away his right to seek benefit of order dated 2421975.

6. On the other hand, stand of the respondents is that petitioner was granted benefit of Government Order dated 2421975 and Supernumerary Post of Booking Manager was created w.e.f. 2421975 to 19101978, but having applied for the post of Depot Manager in the direct recruitment quota, petitioner is not entitled to any future benefit in pursuant to order No. 43 TR of 2004 dated 2792004.

7. Petitioner's entitlement to the benefit of Government Order dated 2421975 was by way of a policy decision taken by the State Government to

place all the stipendiaries in the pay scale of Rs. 280520. After having found him entitled to the said grade by creating Supernumerary Post, the

petitioner would be entitled to all the consequential benefits including monetary as well as in status. Mere fact that the petitioner had applied in the

direct recruitment quota in the year 1988, would not disentitle him from seeking the benefit of Government Order No. 45 GD of 1975 dated

2421975. It would be wrong to aver that petitioner after having been appointed as direct recruit in the year 1988 would loose his status of an

employee of the erstwhile GTU. The respondents did not take into consideration this fact while issuing Government Order No. 43 TR of 2004

dated 2492004. By virtue of this order, petitioner was given retrospective benefit of the grade w.e.f. 1975. The plea taken by the respondents in

the impugned order is nullified by issuance of the aforesaid order. The petitioner was entitled to all consequential benefits both in terms of

promotion and monetary after the issuance of Government Order dated 2792004.

8. I accordingly allow this writ petition and direct the respondents to grant the petitioner all consequential benefits in pursuance to Government

Order No. 43 TR of 2004 dated 2792004. Petitioner would be given same benefits as have been given to S/Shri J.C. Kotwal and Ghulam Rasool

Wani, who were junior to him. Let this exercise be completed by the respondents

within a period of three months from the date copy of this order is received by them.