

(2019) 01 J&K CK 0014

In the Jammu And Kashmir High Court

Case No : Service Writ Petition (SWP) No. 223 Of 2018, 48 Of 2019, IA No. 01 Of 2019

Syed Showkat Ahmad Qalander @APPELLANT@Hash State Of Jammu & Kashmir And Ors

Date of Decision : 28-01-2019

Acts Referred:

Citation : (2019) 01 J&K CK 0014

Hon'ble Judges : Ali Mohammad Magrey, J

Bench : Single Bench

Advocate : Arif Sikander Mir, Asifa Padroo, Arifa Jan

Judgement

1. In this petition, being SWP No. 48/2019, the petitioner has assailed the validity of Forest Order No. 604 of 2018 dated 24th of December, 2018, in terms whereof he has been posted as Block Officer, Gutlibagh, Block Mansbal Range, Sindh Forest Division, on the grounds detailed out in the petition with particular reference that the posting of the petitioner amounts to his demotion from the post of Range Officer.

2. In an earlier round of litigation, the petitioner has already approached this Court through the medium of writ petition, being SWP No. 223/2018, wherein he had questioned his transfer from Hari Parbat Range, Urban Forestry Division, Srinagar, to DFO, Urban Forestry Division, Srinagar, as ordered in terms of Forest Order No. 61 of 2018 dated 3rd of February, 2018. It needs must be said that in terms of the earlier order of posting dated 3rd of February, 2018, Shri Waqas Wadoo, respondent No.4 in SWP No. 223/2018, was directed to look after the Hari Parbat Range, Urban Forestry Division, Srinagar on temporary basis.

3. In the said writ petition (SWP No. 223/2018), this Court, in terms of order dated 18th of December, 2018, while registering the status of both the petitioner as well as Shri Waqas Wadoo (respondent No. 4 therein), both substantively holding the posts of Forester, had asked the Principal Chief Conservator of Forests to post the petitioner and Shri Waqas Wadoo (respondent No.4 in the said petition) commensurate to their status and report compliance. It is in this

backdrop that the Principal Chief Conservator of Forests has passed the impugned order dated 24th of December, 2018, which has, now, been called in question by the petitioner in SWP No. 48/2019.

4. Mr Arif Sikander Mir, the learned counsel for the petitioner, submits that the main grouse of the petitioner constraining him to file the instant petition is as regards the posting of the petitioner as a Forester and not as a Range Officer, which position, as per the learned counsel, the petitioner has been holding right from the year 2013. In order to bring home this argument, the learned counsel has invited attention of this Court to the series of orders issued in this behalf by the Principal Chief Conservator of Forests, being Forest Order Nos. 298 of 2013 dated 25th of September, 2013; 192 of 2014 dated 23rd of July, 2014; 219 of 2015 dated 21st of October, 2015; and 171 of 2016 dated 6th of September, 2016. The learned counsel contends that the petitioner figures at S. No. 61 in the seniority list published by the respondents vide Forest order No. 569 of 2018 dated 17th of November, 2018 and that upto serial No. 309 of the said list, all KFC trained Officers have been made incharge Range Officers. The learned counsel for the petitioner further submits that the order dated 18th of December, 2018, passed by this Court in SWP No. 223/2018, asking the Principal Chief Conservator of Forests to make posting of the petitioner and the respondent No.4 therein commensurate to their status has become the subject matter of a Letters Patent Appeal, being LPA No. 206/2018, wherein the Division Bench, on consideration of the matter and in terms of order dated 31st of December, 2018, directed the parties to maintain status quo. It is contended that though the respondent Principal Chief Conservator of Forests had already passed order dated 24th of December, 2018, posting the petitioner as well as Shri Waqas Wadoo (respondent No.4 in SWP No. 223/20158/ appellant before the Division Bench), but the same was not brought to the notice of the Division Bench.

5. Having regard to the above factual discourse as also the fact that the Division Bench is already seized of the matter, therefore, it shall be appropriate to have the response of the respondents as to how they are dealing with the matter in view of the orders passed by the Division Bench of this Court and also explore the possibility of having the matter amicably settled.

6. In the above background, let a notice go to the respondents for filing their objections.

7. Ms Asifa Padroo, the learned Additional Advocate General, waives notice on behalf of the respondents. She undertakes to file objections on behalf of the respondents on or before the next date of hearing. The objections, to be filed by the respondents, shall also clearly indicate as to what procedure has been adopted by the respondents in placing various Foresters as Incharge Range Officers in view of the stand taken by the petitioner that some of his juniors have been placed as Incharge Range Officers.

8. Registry to list this matter on 12th of February, 2019, alongwith SWP No.

223/2018.

9. At this stage, Mr Arif Sikander Mir, the learned counsel for the petitioner, was persistently asking for interim orders to be passed in the matter, however, since the Division Bench has already passed the direction of status quo in the matter of postings of the concerned parties, in terms of order dated 31st of December, 2018, on the subject arising out of the orders passed in the case of the petitioner, therefore, it goes without saying that the status quo, as passed by the Division Bench, will also apply to the case of the petitioner herein as well.

10. Copy of this order be provided to Ms Asifa Padroo, the learned Additional Advocate General, under the seal and signatures of the Bench Secretary of this Court.