

CENTRAL ADMINISTRATIVE TRIBUNAL

JAMMU BENCH, JAMMU

Through Video Conferencing

Reserved on 15.09.2020

Pronounce on 08.10.2020

HON'BLE MR. RAKESH SAGAR JAIN, MEMBER (J)

HON'BLE MR ANAND MATHUR, MEMBER (A)

OA No.62/610/2020

1. Ghulam Nabi Dar, aged about 29 years, S/o Abdul REhman Dar, R/o Limber Tehsil Boniyar District Baramulla. Place of employment: District Police Lines Srinagar, Belt No.610-IRP/3rd Bn.
2. Aijaz Ahmad Khan, aged about 30 years, S/o Mohmmad Fareed Khan, R/o Naganari Tehsil Uri District Baramulla. Place of employment : District Police Lines, Srinagar, Belt No.615-IRP/3rd Bn.
3. Javeed Ahmad Bhat, aged about 31 years, S/o Ab. Satar Bhat, R/o Kalaroos Tehsil and District Kupwara. Place of employment: District Police Lines, Srinagar, Belt No.615-IRP/4th BN.

..... Applicants

(By Advocate: Mr. Mansoor Ahmad Mir)

Versus

1. Union Territory of Jammu and Kashmir through Commissioner/Secretary to Home Department Civil Secretariat, Srinagar, Jammu.

2. Director, General of Police Jammu and Kashmir Jammu/Srinagar.
3. Additional Director General of Armed Police Jammu and Kashmir, Srinagar.
4. Inspector General of Police Kashmir Zone, Srinagar.
5. Inspector General of Police Armed/IRP Kashmir, Srinagar.
6. Commandant IPR 3rd Battalion Parihaspora Baramulla.
7. Commandant IPR 7th Battalion Waien Kupwara.
8. Senior Superintendent of Police Srinagar Kashmir.
9. Principal Commandar Training Center Lethpora Pulwama Kashmir.

.....Respondents

(By Advocate: Mr. Rajesh Thappa)

O R D E R (Oral)

Per - Rakesh Sagar Jain, Member (J)

Applicants Ghulam Nabi Dar and others seek the following reliefs:

- "A. Order of quashment be issued in favour of the Applicants and against the respondents for quashing the impugned Order No.829 of 2020 dated 11.08.2020 issued by the respondent No.8 (Annexure-A-4) and also of the order dated 12.11.2019 issued by the respondent No.9 (Annexure-A-5) to the extent of Applicants as the impugned orders stands passed in violation of SRO 202.
- B. A direction be issued in favor of the Applicants and against the respondents commanding them to revert and post the applicants back to their parent

districts (Baramulla and Kupwara) in accordance to their service conditions laid down under SRO 202 particularly in view of exception attached to clause 8 of SRO 202 since the applicants have been appointed against available vacancy on the basis of being a resident of backward area."

2. Applicants also seek the interim relief that since the impugned order no.643/2019 dated 18.11.2019 issued by impugned order no.829/2020 dated 11.08.2020 has been passed in violation of SRO 202, therefore, by way of interim directions, the respondents be directed to revert the applicants back to their parent districts in terms of their service conditions laid down under SRO 202 of 2015 particularly in view of exception attached to clause 8 of SRO 202.

3. We have heard and considered the arguments of learned counsel for the applicants and learned counsel AAG for the respondents and gone through the material on records.

4. Looking to the facts of the case as well as the nature of final relief and the interim relief sought by the applicants, it is apparent that grant of interim relief would practically give the main relief sought in the O.A. In this regard, we may refer to ***Assistant Collector Vs. Dunlop India Ltd., AIR 1985 S.C. 330*** wherein the Hon'ble Apex Court observed that:-

"5. We repeat and deprecate the practice of granting interim order which practically give the principal relief sought in the petition for no better reason than that a prima facie case has been made out, without being concerned about the balance of convenience, the public interest and a host of other relevant considerations".

And in ***P.R. Sinha Vs. Inder Krishan Raina & others, 1996 SCC (1) 681***, it was held by the Hon'ble Apex Court that:-

"This court has pointed out repeatedly that while entertaining the writ petition the High Court should not pass interim order, the nature of which is to grant a relief which can be granted only at the final disposal of such writ petition".

5. Looking to the law laid down by the Hon'ble Apex Court, we are of the opinion that the grant of interim relief in the present case would practically give the principal relief sought in the O.A. Therefore, the prayer of applicants seeking interim relief is rejected.

6. Learned AAG is directed to file counter affidavit within 2 weeks. Thereafter, learned counsel for applicants shall file rejoinder affidavit, if any, within one week. Put up file for further orders on 18.11.2020.

(Anand Mathur)
Member (A)

(Rakesh Sagar Jain)
Member (J)

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