



Central Administrative Tribunal Jammu Bench, Jammu

Hearing through video conferencing

O.A. No.61/0029/2020

This the 16th day of June, 2020

**Hon'ble Dr. Bhagwan Sahai, Member (A)
Hon'ble Mr. Rakesh Sagar Jain, Member (J)**

Farooq Ahmed, age 55 years
s/o Abdul Hafiz
r/o Horipura, Bhaderwah, Tehsil Bhaderwah
District Doda

(Mr. N D Qazi, Advocate)

..Applicant

Versus

1. Union Territory of J & K through
Secretary to Govt.
FCS & CA Department
Civil Secretariat, Jammu
2. Director, FCS & CA Department, Jammu
3. Rajinder Kumar
4. Neelam Kumari d/o Pyare Lal
5. Madan Lal s/o Bansi Lal
6. Ashok Kumar s/o Som Nath
7. Wahida Akhter d/o Manzoor Hafeez
8. Nitin Wadhera s/o Jagdish Raj
9. Harpal Singh s/o Sh. Prem Singh

All are presently posted as Tehsil Supply Officers in the office of Director
FCS & CCA Department, Jammu

(Mr. Amit Gupta, Additional Advocate General)

..Respondents

O R D E R (ORAL)

Dr. Bhagwan Sahai, Member (A):

Mr. Farooq Ahmed, r/o Haripura, Bhaderwah, District
Doda, has filed this O.A. on 15.06.2020, seeking quashing of
tentative seniority list of Tehsil Supply Officers/ Head
Assistants/ Supervisors/ Area Inspectors of Department of

FCS&CA, Jammu Division, as on 01.11.2019, vide letter dated 30.10.2019 issued by Director, FCS&CA, Jammu; and direction to the official respondents to reframe the tentative seniority list and place him above private respondents No. 3 to 9. He seeks further direction to the official respondents not to act upon the notified tentative seniority list for promotion to the post of Chief Inspectors, and to consider his representations and not to hold the Departmental Promotion Committee (DPC) till then.

2. We have heard applicant's counsel on 16.06.2020 when AAG, Mr. Amit Gupta also appeared on behalf of respondents, accepted the notice and argued.

3. The impugned order is notification of only tentative seniority list of Tehsil Supply Officers/ Head Assistants/ Supervisors/ Area Inspectors of the Department of FCS&CA, Jammu Division as on 01.11.2019. This is not a final seniority list. Even then, the applicant has challenged this tentative seniority list contending that the respondents have wrongly placed him in that list. He further contends that he was appointed as a class IV employee on 11.12.1981 and then was promoted as Junior Assistant in April, 1990, when the private respondents in the O.A. also joined as direct recruit Junior Assistants. Thereafter, all of them got promoted as Tehsil Supply Officers, vide order dated 02.12.2013. The applicant has averred that he should be placed in the tentative seniority list at Sl. No.7 but he has been wrongly placed at Sr. No.15, his

objections filed against the said tentative seniority list have not been considered by the respondents, but they are in the process of convening DPC for promotion to the posts of Chief Inspectors on the basis of that tentative seniority list. He has also attempted to benefit from Jammu & Kashmir High Court decision in SWP No.835/2004 in which the controversy as to whether a direct recruit is to rank senior to a promotee in case both of them are appointed on the same date, was decided, holding that for determining seniority of promotees and direct recruits, the promotee should be placed ahead of the direct recruits, but the respondents have not followed that High Court order in his case.

4. The respondents' counsel has contended that the impugned seniority list is only a tentative seniority list and not a final one, hence, it cannot be challenged.

5. We have considered the rival contentions of the counsels and material placed on record.

6. From perusal of the impugned order dated 30.10.2019 (Annex A), it is clear that the notification is of only tentative seniority list of Tehsil Supply Officers/ Head Assistants/ Supervisors/ Area Inspectors of the Department of FCS&CA, Jammu Division as on 01.11.2019. Thus this is not a final seniority list. In fact, paragraph (3) of the impugned notification has made it very clear that the tentative seniority list is for information of all concerned with the direction to convey their

objections, if any, within 21 days from issuance of that notification. It further states that the tentative seniority list is subject to outcome of the Writ Petition(s), if any, pending in the competent Court of law and the final seniority list was to be updated as on 01.12.2019.

7. In view of this clear position stated in the impugned notification, we do not find any merit in the contentions of the applicant. As per provisions of Section 19 of Administrative Tribunals Act, 1985, an O.A. can be filed before the Tribunal only against final order / decision of Government or other authorities. Since in the present case, without waiting for the notification of the final seniority list, the applicant has filed this O.A., it is at premature stage of the issue. The applicant has also not placed on record any decision of the respondents to hold the DPC for promotion to the posts of Chief Inspectors. Therefore, the applicant should wait for notification of the final seniority list, if not done so far, and if his grievance still survives, then he can file an O.A. challenging such seniority list.

8. With these observations, the O.A. is disposed of. No costs.

(Rakesh Sagar Jain)
Member (J)

June 16, 2020
/sunil/

(Dr. Bhagwan Sahai)
Member (A)