

**CENTRAL ADMINISTRATIVE TRIBUNAL
JAMMU BENCH, JAMMU**



Hearing through video conferencing

T.A./61/2312/2020 (SWP.No.2936/2019)

This the 19th day of November, 2020

**HON'BLE MR. JUSTICE L. NARASIMHA REDDY, CHAIRMAN
HON'BLE MR. A.K. BISHNOI, MEMBER (A)**

Tariq Hussain Age 47 years, S/o Ghulam Huder Mir, R/o Bhalla, Tehsil Bhalla District Doda.

.....Applicant

(Advocate: Mr. Sachin Gupta)

Versus

1. State of Jammu and Kashmir, through its Commissioner/Secretary, Health and Medical Education Department, Civil Secretariat, Jammu/Srinagar.
2. Director Health Services, Jammu.
3. Chief Medical Officer, Kishtwar.

.....Respondents

(Advocate:- Mr. Amit Gupta, Additional Advocate General)

O R D E R
[O R A L]

L. Narasimha Reddy, Chairman:

The applicant was working as Senior Assistant in the office of the Chief Medical Officer, Kishtwar, Jammu & Kashmir. Through an order dated 22.11.2017, the Chief Medical Officer placed the applicant under suspension by alleging the acts of embezzlement and misappropriation, and in contemplation of inquiry. Aggrieved by the said order, the applicant filed SWP (C) No. 2936 of 2019 before the Hon'ble High Court of Jammu and Kashmir. An interim order was passed on 16.08.2019.

2. The Writ Petition has since been transferred to this Tribunal on account of reorganization of State of Jammu and Kashmir and re-numbered as T.A No. 61/2312/2020.

3. The respondents filed objections/reply denying various allegations. It is also stated that the criminal case is pending against the applicant and it is not at all in the interest of justice to continue him on duties.

4. We heard Mr.Sachin Gupta, learned counsel for the Applicant and Mr.Amit Gupta, learned Additional Advocate General, for the Respondents.

5. The applicant was placed under suspension through an order dated 22.11.2017, in exercise of power under Sub-Rule (1) of Rule 31 of the Jammu & Kashmir Civil Services (Classification, Control & Appeal) Rules, 1975. The allegation against the applicant is that he misappropriated huge funds by diverting them into his account.

6. Across the Bar, it is stated that the applicant has since remitted the amount to the Government account. A criminal case is also instituted against the applicant, through an order dated 24.11.2017. Had it been a case where the suspension was on account of the arrest of the applicant, things would have been different altogether. The suspension was ordered even before the FIR came to be registered. Therefore, it needs to be examined as to whether the continued suspension of the applicant is warranted in the facts and circumstances of the case.

7. Though the allegations are serious, the fact remains that the applicant has since refunded the amount. The criminal acts attributed to him are under investigation in the criminal case. Whatever may have been the circumstances in which the applicant was placed under suspension, no useful purpose would be served by continuing him beyond a point. The applicant has already been reinstated into service.

8. We therefore dispose of this TA directing that in case working of the applicant at Kishtwar, not in the interest of the department, it shall be open to the competent authority to transfer him to any other place. Reinstatement of the applicant shall be without prejudice to the rights of the respondents to initiate disciplinary proceedings, if they otherwise contemplate them. The manner in which the period of suspension must be treated would depend upon the outcome of the criminal proceedings or disciplinary proceedings, as the case may be. There shall be no order as to costs.

**(A.K. BISHNOI)
MEMBER (A)**

**(JUSTICE L. NARASIMHA REDDY)
CHAIRMAN**

Dsn