



**Central Administrative Tribunal
Jammu Bench, Jammu**

**OA No. 933/2020
MA No. 1448/2020**

Today this the 03rd day of November, 2020

Through video conferencing

**Hon'ble Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Mohd. Jamshed, Member (A)**

Basharat Shaheen, age 47 years,
W/o Jehangir Ahmed Khan,
R/o At present Govt. Quarter A-12,
Old B.C. Road, Jammu – 180005.

...Applicant
(Mr. Arun Kumar, Advocate)

Versus

1. Union Territory of Jammu and Kashmir through Commissioner Secretary to Government General Administration Department Civil Secretariat, J&K Government, Srinagar/Jammu. (180001)
2. Financial Commissioner, Planning and Development Department and Estates, Civil Secretariat, Srinagar/Jammu. (180001)
3. Principal Secretary, Public Works Department, Civil Secretariat, J&K Government, Srinagar/Jammu. (180001)
4. Director Estates, J&K, Jammu. (180001)
5. Chief Engineer, PWD (R&B), Kashmir/Jammu.(180008)

...Respondents

(Mr. Amit Gupta, Additional Advocate General)

Order (Oral)



Mohd. Jamshed, Member (A):-

The applicant joined PWD Department of Jammu and Kashmir in 1999 as a Class – IV category employee under Chief Engineer PWD (R&B), Jammu. She was deputed to work with different offices including the Secretariat and the Estates Department. Her transfer from PWD Civil Secretariat to Directorate of Estates took place on 14.01.2004. Thereafter, the applicant requested for shifting of her lien to the Secretariat Subordinate Service. The applicant continued to make representations stating that she be permanently absorbed in the Secretariat Subordinate Service. The respondent did not approve of her permanent absorption in the Secretariat Subordinate Service and vide order dated 01.04.2016, transferred her to the office of the Chief Engineer, PWD (R&B), Kashmir and relieved her w.e.f. 02.04.2016.

2. The applicant challenged the order dated 01.04.2016 and relieving order dated 02.04.2016 by filing SWP No. 700/2016 in the Hon'ble High Court. The Hon'ble High Court stayed the operation of both these orders. However, on 29.05.2020, the counsel for the applicant submitted to the Hon'ble High Court that the prayer made in the Writ Petition has become infructuous, and it was closed accordingly.



3. The respondents passed order dated 16.10.2020 repatriating the applicant to the Office of Chief Engineer, PWD (R&B). Aggrieved by the same, the applicant filed the present OA, with a prayer to set aside the impugned order dated 16.10.2020 and 01.04.2016 and sought directions for her permanent absorption in the Directorate of Estates or to transfer her to the parent department i.e. Chief Engineer PWD (R&B), Jammu.

4. The applicant has been deputed to work in different offices including Directorate of Estates and the Subordinate Secretariat Service. She represented that she may be permanently absorbed in the Subordinate Secretariat Service or be repatriated to Directorate of Estates, Jammu. However, no action was taken by the respondents on her representations. Vide order dated 01.04.2016, the respondents posted her under Chief Engineer, PWD (R&B), Kashmir. The applicant had challenged the same by filing SWP No. 700/2016 in the Hon'ble High Court. The Hon'ble High Court stayed the operation of both these orders. However, on 29.05.2020, the counsel for the applicant submitted that the prayer made in the Writ Petition has become infructuous and the Hon'ble High Court ordered accordingly. Subsequent to these developments, the respondents passed the impugned order dated 16.10.2020,



repatriating the applicant to the office of Chief Engineer, PWD, (R&B), Kashmir from Civil Secretariat.

5. We heard Mr. Arun Kumar, learned counsel for the applicant and Mr. Amit Gupta, learned additional advocate general, at the stage of admission, through video conferencing.

6. The applicant is an employee of PWD Department of Jammu and Kashmir since 1999. On administrative requirements she was also deputed to work in other offices. Since she worked for a long time in the Jammu and Kashmir Secretariat, she has been making representations for her permanent absorption in the Secretariat from PWD Department. No action is taken by the respondents on these requests. Vide order dated 01.04.2016, the respondents transferred that the applicant to work as Orderly in the office of Chief Engineer, PWD (R&B), Kashmir and relieved her w.e.f. 02.04.2016. However, the applicant challenged the same by filing SWP No. 700/2016 in the Hon'ble High Court. The Hon'ble High Court stayed the operation of both these orders. However, on 29.05.2020, the counsel for the applicant submitted that the prayer made in the Writ Petition has become infructuous and the Hon'ble High Court ordered accordingly. The applicant has also quoted that vide order dated 27.12.2018, the respondents have adjusted one Mr. Farooq Ahmed Sheikh,



Sanitary Attendant to the post of Orderly and that her case should also be considered similarly by the respondents.

7. It is evident that this is a case of administrative deployment of the applicant by the respondents. She belongs to PWD department and has been deputed to work in different offices in the interest of administration and administrative requirements. It sometimes happens that an employee while working in a different office over a period of time feels more comfortable in continuing at the same place, however, this cannot be the justification for transferring the entire post or change of cadre, if it does not fit into the recruitment rules and administrative convenience. In this case, the applicant has only been repatriated to her parent department and to that extent, there is no harm either to her career or convenience. Efforts for adjustment in a particular post against any prescribed recruitment rules is something that needs to be discouraged. The case of one, Mr. Farooq Ahmed Sheikh is a different and the same is not comparable.

8. We do not find any merit in the contention of the applicant that her repatriation order should be set aside. There is also no merit in her claim for permanent absorption. However, she is free to continue to take up the matter in the department through official channel. We also direct that in case the applicant joins the new place of posting in terms of order



dated 16.10.2010 within 15 days of the receipt of this order, no coercive action shall be taken against her. The OA is accordingly disposed of. Pending MAs, if any, shall stand disposed of. There shall be no order as to costs.

(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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