

**CENTRAL ADMINISTRATIVE TRIBUNAL  
JAMMU BENCH, JAMMU**

Hearing through video conferencing



**T.A.61/910/2020 (SWP.No.395/2002)**

This the 17<sup>th</sup> day of December, 2020

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

Anchal Singh, Aged 58 years, plus, S/o Late Sh. Raghbir Singh Jamwal, R/o Sarswati Market Patel Bazar, Purani Mandi, Jammu

.....Applicant

(Advocate:- Mr. Anuj Dewan Raina, vice Mr. D.C. Raina)

**Versus**

1. State of Jammu & Kashmir, Through Principal Secretary to Govt, Home Department, J&K Govt, Civil Sectt, Jammu.
2. Principal Secretary to Govt, Finance Department, J&K Govt, Civil Sectt, Jammu.
3. Director General of Police, J&K Govt, Jammu.
4. Dy. Inspector General of Police, Jammu Range, Jammu.

.....Respondents

(Advocate:- Mr. Sudesh Magotra, Id. Deputy Advocate General)



## ORDER

### [ORAL]

**Justice L. Narasimha Reddy, Chairman: -**

The applicant was initially appointed as a Prosecuting Officer in the year 1968 in the State of Jammu & Kashmir. In the year 1993, he became Senior Prosecuting Officer. On the ground that he went on Extraordinary Leave for 127 days in the year 1991, his service were terminated. Challenging the same, he filed WP.No.870 of 1991 before the Hon'ble High Court of Jammu & Kashmir. The Writ Petition was allowed on 04.03.1998, directing reinstatement of the applicant. The order was challenged in LPA.No.535/1998 by the respondents. The same was dismissed by the Hon'ble High Court on 24.12.1998. Consequently, the applicant was reinstated into service in 1999.

2. It is stated that at one stage, the respondents treated the period between 1991 and 1999 as 'dies-non', and with the intervention of the Hon'ble High Court, it was regularized.

3. The applicant was considered for promotion, in compliance with the directions issued by the Hon'ble High Court. The meeting of the selection committee was convened on 11.02.2002. The committee opined that the record of the applicant is extremely poor and accordingly did not recommend his case for promotion. Challenging the same, the applicant filed SWP.No.61/910/2020.



4. The applicant contends that there was absolutely no basis or justification for the selection committee, to treat his record as extremely poor. He contends that his record was clean and meritorious and that not a single ACR was rated as below average, muchless any adverse entries were made.

5. The respondents filed a reply opposing the Writ Petition. It is stated that in compliance with the directions issued by the Hon'ble High Court of Jammu & Kashmir, the selection committee met and on examining the record, it found the applicant as not fit for promotion. They contend that it is prerogative of the selection committee, to express its view and the Tribunal cannot sit as an appellate authority.

6. The Writ Petition has since been transferred to this Tribunal in view of re-organization of the State of Jammu and Kashmir and renumbered as TA.No.61/910/2020.

7. We heard Mr. Anuj Dewan Raina, vice Mr. D.C. Raina, learned counsel for the applicant and Mr. Sudesh Magotra, learned Deputy Advocate General, for the Respondents.

8. The career of the applicant as Prosecuting Officer started in the year 1968 and it went on smoothly till the year 1991. As a result of the legal battle, he was reinstated into service on 09.04.1999 and was extended the benefits. The promotion to the post of Chief Prosecuting Officer, is on the basis of selection. The selection

committee was convened on 11.02.2002, and it expressed the view that the service record of the applicant is extremely poor.



9. It is fairly well settled that the Court or Tribunal cannot sit as an appellate authority over the views, expressed by the selection committee. The very purpose of constituting the selection committee is to enable it to assess the fitness ability, desirability and efficiency of the persons under consideration. Law recognizes, only the right to be considered for promotion, but not right to be promoted. Once the applicant was considered for promotion and the selection committee did not recommend his name, there is nothing which the Tribunal can do about it.

10. It is only when an unsuccessful candidate alleges malafides against the findings of the selection committee, that there would exist a possibility to examine the record. In the instant case, the applicant did not allege any malafides against the findings of the selection committee. That being the case, the impugned order cannot be found fault with. The applicant retired from service way back in 2001.

11. We do not find any merit in the OA and the same is accordingly dismissed. There shall be no order as to costs.

(MOHD JAMSHED)  
MEMBER (A)  
Dsn

(JUSTICE L. NARASIMHA REDDY)  
CHAIRMAN