

Central Administrative Tribunal Jammu Bench, Jammu



T.A. No. 61/16/2020
(S.W.P. No. 1791/2005)

Thursday, this the 08th day of April, 2021

(Through Video Conferencing)

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

Bharat Sharma, age 36 years, S/o Sh. O.P.Sharma,
R/o Paloura Top, Jammu.

..Applicant

(Mr/Ms. Rahul Bharti, Advocate)

VERSUS

1. State of Jammu and Kashmir through Additional Chief Secretary, Home Department, J & K Govt., Civil Secretariat, Jammu.
2. Director General of Police, J & K Govt., Jammu.
3. Inspector General of Police, Jammu Zone, Jammu.
4. Deputy Inspector General of Police, Jammu-Kathua Range, Jammu.
5. Rajesh Anand, Sub-Inspector, C/o SSP, Jammu.
6. Sanjeev Khajuria, Sub-Inspector, C/o S.S.P.Traffic, Jammu.
7. Bhupinder Singh, Sub-Inspector, C/o SSP Traffic, Jammu.
8. Inderjeet Singh, Sub-Inspector, C/o P.H.Q., Jammu.
9. Manoj Kumar, Sub-Inspector, C/o P.H.Q., Jammu.

..Respondents

(Mr. Sudesh Mangotra, Deputy Advocate General)

ORDER (ORAL)**Justice L. Narasimha Reddy, Chairman:**

The applicant was appointed as Sub Inspector in Executive wing of Jammu & Kashmir Police, on 25.01.1995. It is stated that after being appointed, the applicant and his other batchmates were sent for training. Three years thereafter, a seniority list was published on 30.11.1998. The applicant was shown at Serial No.350, and the respondents 5, 6 and 7 at Serial Nos.500, 501 and 522 respectively. It is also stated that the respondents 8 and 9 did not figure in the list at all. Another seniority list was published on 28.01.2003. This time, however, the respondents 5 to 9 were not only included, but also were placed above the applicant.

2. The applicant filed SWP.No.1791/2005 challenging the seniority list dated 28.01.2003. He pleaded that once his seniority was fixed in the year 1998, and he was placed above the respondents 5, 6 and 7, there was absolutely no basis to change his position subsequently. He has taken the plea that in case, the respondents 5 to 9 were assigned in any manner, by the assignment of seniority, or their absence, in the list published on 30.11.1998, the only course open to them was to challenge the same in the Court of law, and that having taken place, there was no basis for changing his seniority to his detriment at a later stage.

3. On behalf of the official respondents, a reply is filed. It is stated that the respondents 5, 6 and 7 were appointed under sports category, and their seniority was wrongly fixed in the year 1998. As regards, the respondents 8 and 9, it is stated that their names were wrongly omitted though they are appointed earlier to the applicant.

4. The record does not contain any reply of the respondents 5 to 9.

5. Today, we heard Mr.Rahul Bharati, learned counsel for the Applicant, and Mr.Sudesh Mangotra, learned Deputy Advocate General, on behalf of the official respondents. There is no representation on behalf of the unofficial respondents 5 to 9.

6. It is a matter of record that in the seniority list dated 30.11.1998, the applicant was placed at Serial No.350, whereas the respondents 5, 6 and 7 were shown at Serial Nos.500, 501 and 522 respectively, and the names of the respondents 8 and 9 do not figure in the list at all. The possibility to change the positions in that seniority list would have caused if only it was a tentative one and the representations were received objecting to the tentative positions. Once it is a final seniority list, finality gets attached to it. If any Sub Inspector felt aggrieved by the places assigned in the seniority list, the only course left to him was to take the matter to the appellate authority, if there exist a provision for that or to challenge it in the Court of law. None of those steps have taken place.

7. Another seniority list was published in January 2003. Except that the names of the persons, who are appointed subsequent to the publication of seniority list on 30.11.1998, are to be added, there would not have been any scope to tinker with the seniority that was assigned in the year 1998.

8. It appears that the respondents 5 to 9 made certain representations in 2003 taking exception to the positions assigned to them in the seniority list of the year 1998. They were taken into account and the positions were changed in the seniority list dated 28.01.2003. Such course is totally impermissible in law. Even where a competent authority proposes to exercise the power to revise the seniority, the minimum requirement is to issue a notice to the affected parties before altering the seniority list to their detriment. We do not find any such notice being issued to the applicant.

9. Viewed from any angle, the action of the State authorities in changing the position of the applicant in the seniority list vis a vis the respondents 5 to 9, cannot be sustained in law.

10. We, therefore, allow the OA and set aside the change of position of the applicant in the seniority list dated 28.01.2003. We direct that the seniority assigned to the applicant in the seniority list dated 30.11.1998, vis a vis respondents 5 to 9, shall remain intact in the subsequent seniority list also. In case, the applicant was denied any benefit of promotion vis a vis respondents 5 to 9, the same shall be restored to him, within a period of

two months from the date of receipt of a copy of this order. However, he shall not be entitled to be paid any arrears, nor the respondents 5 to 9, if promoted, shall be liable to be reverted. There shall be no order as to costs.

(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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