

**CENTRAL ADMINISTRATIVE TRIBUNAL
JAMMU BENCH, JAMMU**

Hearing through video conferencing

T.A. No. 61/3135/2020



This the 10th day of May, 2021

HON'BLE MR. RAKESH SAGAR JAIN, MEMBER (J)
HON'BLE MR. ANAND MATHUR, MEMBER (A)

Gopal Krishan Age 48 years, S/o Anchal Dass, R/Ward No 17, Near Nagri Ada Kathua, At present posted as Incharge Chief project Officer, National Fish Seed Farm Kathua, C/o Director Fishers Department, Govt of J&K.

.....Applicant

(Advocate:- Ms. Rani Kiyala for Mr. Sandeep Bhat)

Versus

1. State of Jammu & Kashmir through its Commissioner cum Secretary Animal/Sheep/Fisheries Department, Civil Secretariat, Jammu (J&k).
2. Director, Fisheries Department, Jammu.
3. Abdul Majid Tak, S/o Late Ghulam Hussain Tak, R/o New Colony Sopoe, A/p Private Colony Baghi Mehtab Srinagar.
4. Gh. Mohi-ud-Din Wani, S/o Sh. Gh-ud-Din Wani R/o Rohomu, Tehsil & District, Pulwama.

.....Respondents

(Advocate: Mr. Amit Gupta, learned A.A.G.)

**O R D E R
[O R A L]**

(Delivered by Hon'ble Mr. Anand Mathur, Member-A)

The applicant Gopal Krishan is aggrieved of the order of promotion/regularization dated 24.10.2017 by virtue of which, to his exclusion, his juniors i.e., Respondent No. 3 and 4 have been promoted to the post of Deputy Director in the Department of Fisheries. The reason for the applicant's exclusion is an enquiry pending against him which was initiated in the year 2017 on the basis of a complaint dated 04.07.2017 filed by Respondent No. 3 questioning educational qualifications of the applicant. Simultaneously, Respondent No. 3 also approached the Hon'ble High Court of J&K & Srinagar and obtained an interim order dated 19.08.2017 in SWP No. 1624/2017 titled



Abdul Majik Tak Vs State of J&K and Ors by virtue of which the Department was restrained from promoting the applicant herein till the final culmination of the enquiry. The Writ Petition was finally disposed of in terms of judgement dated 02.12.2019 in which the Hon'ble High Court directed the official respondents to examine the findings submitted by the enquiry committee and pass consequential orders within a period of one month. In the meanwhile, the applicant had also filed a SWP No. 2820/2017 titled Gopal Krishan Vs. State of J&K and Ors before J&K High Court at Jammu. This petition was disposed of by the Hon'ble High Court vide its order dated 18.09.2018 with a direction to the respondents to complete the enquiry against the applicant within a period of 08 weeks. The order further made it clear that in case inquiry is not completed within the stipulated period, the applicant shall be deemed to have been exonerated of the charges levels against him. The aforementioned order was ex parte modified in LPA No. 186/2018 titled Abdul Majid Tak Vs. State of J&K and Ors vide order dated 26.11.2018. It was ruled that the default clause namely exoneration of the writ petitioners on non completion of enquiry will not come into play. This order also contains the statement of the Respondent Department that the enquiry against Gopal Krishan has been concluded and submitted to the competent authority for its decision which shall be taken expeditiously. The case of the applicant is that in January 2021 he was orally communicated by the Respondents that he has been finally exonerated in the enquiry. Despite conclusion of the enquiry, the competent authority has not issued any order in this regard.

2. Learned counsel for the applicant submits that the applicant would be satisfied, if a time bound direction is issued to Respondent 1 and 2 to decide the case of the applicant

in the light of enquiry report so submitted and consider his case for promotion to the post of Deputy Director and subsequent placement.



3. We have heard Mr. Ankur Sharma, learned counsel for the applicant and Mr. Amit Gupta, learned A.A.G. for the respondents and perused the records.

4. Looking to the limited prayer made by the learned counsel for the applicant, we dispose of the T.A. with direction to the competent authority amongst the respondents to consider the case of the applicant in the light of inquiry report so submitted and further consider his case for promotion to the post of Deputy Director from the date of his acquiring eligibility along with all consequential benefits as per rules and regulations, provided he does not suffer from any impediment or disqualification and is eligible to be considered for promotion

5. It is made clear that we have not entered into the merits of the case.

6. There shall be no orders as to cost.

(ANAND MATHUR)
MEMBER (A)

Arun

(RAKESH SAGAR JAIN)
MEMBER (J)