



Central Administrative Tribunal Jammu Bench, Jammu

T.A. No.5084/2021
(S.W.P. No.2012/2010)

Friday, this the 28th day of May, 2021

(Through Video Conferencing)

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

Dr. N C Prabhakhar , age 62 years
s/o late Shri P N Prabhakhar
r/o Plot No.527, Sector 4
Channi Himmat, Jammu

... Applicant
(Mr. Razad Sudan, Advocate *vice* Mr. Anil Sethi, Advocate)

Versus

State of Jammu & Kashmir through
... Respondents
(Mr. Rajesh Thappa, Deputy Advocate General)

O R D E R (ORAL)

Mr. Justice L. Narasimha Reddy:

The applicant was an officer in the Planning Department. By the year 1999, he became eligible to be considered for induction into Kashmir Administrative Service (KAS). He was also issued a notice dated 03.07.1999 requiring him to appear in the interview. It is stated that the applicant participated in the interview and was also short-listed. However, by the time



the order of appointment was issued, he was imposed the punishment, vide order dated 22.01.2001.

2. Earlier, the applicant filed SWP No.243/2001 before the Hon'ble High Court of Jammu & Kashmir, with a prayer to direct the respondents to induct him into KAS. An interim order was also passed therein. However, once he came to know the reason for denial of his induction was the order of punishment dated 22.01.2001, he filed SWP No.293/2001 before the Hon'ble High Court, challenging the said order. The applicant retired from service in the year 2008. After his retirement, SWP No.293/2001 was allowed by the Hon'ble High Court on 06.02.2009, setting aside the punishment.

3. The applicant filed SWP No.2012/2010 before the Hon'ble High Court, with a prayer to direct the respondents to induct him into KAS, from the date when he became eligible and to grant him, all the consequential benefits. He narrated the sequence of events, that followed ever since he retired from service.

4. The record discloses that the respondents did not file any counter affidavit.



5. The SWP has since been transferred to the Tribunal in view of reorganization of the State of Jammu & Kashmir and renumbered as T.A. No.5084/2021.

6. Today, we heard Mr. Razad Sudan, learned counsel *vice* Mr. Anil Sethi, learned counsel for applicant and Mr. Rajesh Thappa, learned Deputy Advocate General.

7. The applicant no doubt, was considered for induction into KAS in the year 1999. However, before any benefit could be conferred upon him, he was imposed the punishment on 22.01.2001. SWP No.293/2001 was filed, challenging the said order. The applicant retired from service while the said SWP was pending.

8. It may be true that the Hon'ble High Court allowed SWP No.293/2001 on 06.02.2009, and has set aside the order of punishment dated 22.01.2001. However, any consequential benefits could have been granted only in that SWP. The applicant did not seek leave of the Hon'ble High Court to split the cause of action, and to claim the relief separately. The principle of constructive resjudicata comes into play.



9. Further, the induction into KAS is not automatic. It is only on clearance by the Selection Committee, that the appointing authority can consider the induction. By the time the hurdle in the way of the applicant was removed, he was not in service. The question of granting the consequential benefits would arise mostly in the cases of promotions, which are not based upon selection. The induction into KAS is almost on par with fresh recruitment.

10. We do not find any basis to grant relief to the applicant at this stage. The T.A. is accordingly dismissed. There shall be no order as to costs.

(Tarun Shridhar)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

May 28, 2021
/sunil/rk/ankit/sd/