

**CENTRAL ADMINISTRATIVE TRIBUNAL
JAMMU BENCH, JAMMU**



Hearing through video conferencing

T.A.61/03990/2020 (SWP.No.1781/2003)

This the 21st day of January, 2021

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

Madan Mohan Sharma aged 60 years, S/o Shri Dina Nath Sharma,
H.No. 14, New Power Station, New Plots, Jammu.

.....Applicant
(Advocate: None present)

Versus

1. State of J&K through Commissioner-Secretary to Government, Education Department, Civil Sectt., Jammu.
2. Director School Education, Jammu.
3. Chief Education Officer, Jammu.

.....Respondents
(Advocate:- Mr Sudesh Magotra, D.A.G.)

O R D E R
[O R A L]

Justice L. Narasimha Reddy, Chairman: -

The applicant was working as Head Assistant in the office of the Chief Education Officer, Jammu, in the year 1999. He was transferred to another office in the same place through an order dated 24.04.1999. The applicant filed SWP.No.921/1999, before the Hon'ble High Court of Jammu and Kashmir, challenging the transfer order. An interim order was passed on 17.05.1999 and thereafter the Writ Petition was allowed on 20.09.1999, setting aside the order of transfer. As a result, the applicant joined duty in the same place on 30.09.1999.

2. Claiming salary for the period between 17.05.1999 and 30.09.1999, the applicant filed SWP.No.392/2000. The Writ Petition was disposed of, vide order dated 06.02.2002, directing that the salary for that period shall be paid, but the applicant shall forego his claim for officiating promotion as Section Officer during that period. The applicant got that benefit and thereafter made a claim for pay on account of officiating promotion as Section officer. Through an order dated 25.09.2002, the Chief Education Officer, Jammu, rejected the claim of the applicant. Challenging the same, the applicant filed SWP.No.1781/2003 before the Hon'ble High Court of Jammu and Kashmir.

3. The respondents filed a reply stating that the applicant has grossly misused the process of Court, and having given an undertaken that he would forego the claim for officiating promotion, he has once again filed the Writ

Petition for the same, and accordingly the claim was rejected through the impugned order.

4. The Writ Petition has since been transferred to this Tribunal in view of reorganization of the State of Jammu and Kashmir and renumbered as TA.No.3990/2020.

5. Today, there is no representation on behalf of the applicant. We heard Mr.Sudesh Magotra, learned Deputy Advocate General, for the Respondents.

6. A perusal of the TA discloses the extent to which, the applicant has misused the process of Court. He was transferred from one post to another in Jammu itself in the year 1999. That order was challenged and he remained out of duties for a period of four months on account of the pendency of Writ Petition. Thereafter, he filed another Writ Petition claiming salary for the period referred to above. The Hon'ble High Court has shown indulgence and granted relief, but observed that the applicant shall forego the claim on account of officiating promotion. Obviously, because the applicant was successful in the earlier rounds of litigation, and ignoring his own undertaking, he made another claim before the respondents. The impugned order was passed by referring to all the events meticulously. We take serious exception to the attitude exhibited by the applicant. On account of the illegal and unsustainable attitude of the applicant, not only the respondents, but also the Courts, were burdened with unnecessary work. But, for the fact that the applicant is a retired employee, we would have imposed heavy costs.

7. The TA is accordingly dismissed. There shall be no order as to costs.

(PRADEEP KUMAR)
MEMBER (A)

(JUSTICE L. NARASIMHA REDDY)
CHAIRMAN

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