

**CENTRAL ADMINISTRATIVE TRIBUNAL  
JAMMU BENCH, JAMMU**

Hearing through video conferencing



**O.A.61/1034/2020**

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)**

Ajaz Ahmed, aged 37 years, Son of Sh. Arshad Ahmed, R/o Ward No. 03 Rajouri (J&K)

.....Applicant

(Advocate:- Mr. Navyug Sethi, vice Mr. Mohsin Bhatt)

**Versus**

1. Union Territory of Jammu & Kashmir, Through Commissioner/Secretary, Department of Rural Development & Panchayati Raj, Civil Secretariat, Jammu-180001
2. District Development Commissioner, Rajouri, (District Programme Coordinator MGNREGA)-185131
3. Director, Rural Development Department, Jammu - 180001.
4. Assistant Commissioner (Dev.), Rajouri-185131.
5. Block Development Officer, Rajouri, 185131.
6. Block Development Officer, Dooni, 185131.
7. Programme Officer, Block Doongi District Rajouri.

.....Respondents

(Advocate:- Mr. Rajesh Thappa, Id. Deputy Advocate General)

**O R D E R [O R A L]****Justice L. Narasimha Reddy, Chairman: -**

The applicant was initially engaged as Computer Assistant under Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA), on 15.06.2009. Thereafter, on a complaint received, the Under Secretary to Government, Govt. of Jammu & Kashmir, Department of Rural Development and Panchayati Raj, Jammu, the first respondent herein, addressed a letter dated 03.02.2020 to the 2<sup>nd</sup> respondent to discontinue the engagement made by the committee under MGNREGA, in respect of the applicant as the same was in violation of standing rules. Through an order dated 02.11.2020, the District Development Commissioner, the 2<sup>nd</sup> respondent herein, disengaged the applicant with immediate effect by stating that his engagement was in contravention to the rules/norms/guidelines in vogue.

2. This OA is filed challenging the impugned order dated 02.11.2020.
  
3. The applicant contends that his appointment was strictly in accordance with the rules after selection and there was absolutely no basis to mention that it was in contravention of any rules or norms. He further contends that the respondents did not issue any notice, muchless conducted any inquiry, before the order of disengagement was issued.



4. The applicant further contends that though an informal inquiry was conducted, it ended in his favour and the impugned order was passed without following the procedure prescribed under law.

5. We heard Mr. Navyug Sethi, representing Mr. Mohsin Bhatt, learned counsel for the Applicant and Mr. Rajesh Thapa, learned Deputy Advocate General, for the Respondents.

6. It is not in dispute that the applicant was appointed as Computer Assistant/Operator way back in 2009. He was regular member of the establishment. In case, there existed any acts of misconduct or defect in his selection and appointment, the appointing authority is under obligation to issue a charge memo. Admittedly, no charge memo was issued to the applicant. Though an internal inquiry is said to have been conducted, the finding is stated to be in favour of the applicant. The 2<sup>nd</sup> respondent passed an order dated 02.11.2020 and it reads as under:

“Sub:Complaint lodged by Sh.Narinder Kumar, R/o Village Udarni Tehsil, Kalakote and District Rajouri, J&K – (Complaint ID: DORLD/E2019/01294) – Disengagement of Sh. Azaj Ahmed, S/o Sh. Arshid Ahmed R/o Rajouri (Computer Assistant).

Ref: Govt. Order No.203 of RD & PR, J7K, Dated 09.08.2018.

ORDER NO.410 – DDCR OF 2020  
DATED: 02.11.2020

Pursuant to communication of Rural Dev. Department J&K vide No.RDD/CPGRAMS/18/2019, dated 3.2.2020, Services of Sh.Ajaz Ahmed S/o Sh.Arshid Ahmed R/o Rajouri working as Computer Assistant/Operator, Engaged under MGNREGA in RDD District Rajouri, are hereby disengaged, with immediate effect, as engagement is in contravention to the rules/norms/guidelines in vogue and without following due procedure.

Sd/  
District programme Coordinator, MGNREGA  
Rajouri"



7. A perusal of the same discloses that there is no reference either to the charge memo or notice, muchless, the report of the inquiry officer. The only reference is to the communication dated 03.02.2010, i.e., a letter from the Under Secretary to the 2<sup>nd</sup> respondent and it reads as under:

"Kindly refer to your letter No.DCR/2019-20/DVO/783, dated 10.01.2020 on the subject cited above. In this connection, I am directed to say that selection/engagement made by the committee in respect of Ajaz Ahmad S/O Arshed Ahmad Dar, R/o Rajouri as Computer Assistant/ Operator was in violation of standing rules and the Department has already issued Govt. order No.203 dated 09.09.2018 to discontinue all the engagements made under MGNREGA in contravention to rule/norms/guidelines in vogue and without following due procedure. You are requested to discontinue the concerned and a compliance report in this regard be sent to this department by/before 08-02-2020

Sd/  
Under Secretary to Government"

8. The regular employee of the department like the applicant herein cannot be dealt with in such a shabby manner. Even to discontinue a contractual employee before the expiry of the term, conducting of the inquiry or issuance of notice is mandatory. For a regular employee, the proceedings must commence with the issuance of a charge memo followed by conducting of due inquiry in accordance with service rules. Once the respondents did not follow any of these steps, the impugned order cannot be sustained at all.

9. We accordingly allow the OA and set aside the impugned orders. The applicant shall be reinstated into service forthwith. In case, the 2<sup>nd</sup> respondent intends to take action, he shall strictly follow the prescribed procedure. There shall be no order as to costs.



**(MOHD JAMSHED)  
MEMBER (A)**

**(JUSTICE L. NARASIMHA REDDY)  
CHAIRMAN**

**Dsn/vb**