

Central Administrative Tribunal Jammu Bench, Jammu



T.A. No.829/2021
(S.W.P. No.913/2009)

Tuesday, this the 30th day of March, 2021

(Through Video Conferencing)

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

1. Nazir Ahmad Quereshi
S/o Saif ud Din Quereshi
R/o Wdipora, Tehsil Handwara
District Kupwra
(Aged 48 yrs) presently posted as
I/C Assistant Executive Engineer
(Civil), C/O Chief Engineer, Generation Wing
Kashmir, Bemina, Srinagar.
2. Abdul Rashid Rather S/o Wali Mohammad Rather
R/o Arhama, Tehsil, Kangan, District Ganderbal
(Aged 50 yrs) presently posted as I/C Assistant Executive
Engineer (Civil), C/O Chief Engineer, Generation Wing
Kashmir, Bemina, Srinagar.
3. Adbul Rashid Kuchey S/o Sonaullah
r/o Manasbal, District Ganderbal
at present Asstt. Engineer(Civil)
C/o Chief Engineer, Generation Wing Kashmir
Bemina, Srinagar.
4. Nazir Ahmad Shah, S/o Ghulam Mohammad Shah
R/o Nuner, Ganderbal, Tehsil & District
Ganderbal (Aged 45 years), C/o Chief Engineer,
KCC/CID, PDC, Bemina, Srinagar.

..Applicants

(Nemo for applicants)

VERSUS

1. State of J&K through Commissioner/Secretary
To Govt. Power Development Department,
Civil Sectt. Srinagar/Jammu.

2. J&K Public Service Commission through its Secretary, Jammu/Srinagar.

...Respondents

(Mr. Sudesh Magotra, Deputy Advocate General)

ORDER (ORAL)



Mr. Justice L. Narasimha Reddy:

The applicants were appointed as Junior Engineer (Civil) in Public Works Department. They were taken on deputation to the Power Development Department (PDD). It appears that there did not exist any separate cadre of Engineers in PDD. The Junior Engineers, who came on deputation, approached the Hon'ble High Court of Jammu & Kashmir, seeking directions for creation of a cadre for their absorption. That, in turn, resulted in creation of a cadre in PDD. In the context of preparation of seniority list, the PDD went by the date of initial appointment of the persons in PWD and not by the date of absorption. According to them, several Junior Engineers, who were appointed much later in PWD, were absorbed in PDD earlier and those, who were seniors in the PWD, got absorption in PDD at a later point of time; and a situation has arisen where the anomaly has to be set at rest.

2. A tentative seniority list was published strictly in accordance with the date of appointment of the Junior Engineers in the parent Department, i.e., PWD and the objections were invited. At that stage, the applicants filed SWP No.913/2009

before the Hon'ble High Court with a prayer to direct the respondents not to effect the promotions and changes in the positions till the final seniority list of Junior Engineer (Civil) is published. A writ of certiorari was also sought with a prayer to quash the tentative seniority list dated 22.05.2009.



3. The applicants contend that the PDD happens to be an independent Department and the seniority needs to be determined in accordance with the date of initial deputation and not the date of appointment in the PWD Department.
4. The respondents filed a detailed counter affidavit, narrating the circumstances that led to publication of the tentative seniority list. They have also stated that the final seniority list would be published after considering the objections.
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.829/2021.
6. Today, there is no representation for the applicants and we heard Mr. Sudesh Magotra, learned Deputy Advocate General; and perused the records.



7. By any standard, the T.A. is premature. The very purpose of publishing a tentative seniority list is to invite objections from the affected persons. The applicants can very well submit their objections and await the publication of the final seniority list. From a perusal of the T.A. as well as counter affidavit, it is evident that the Junior Engineers (Civil), who were appointed in the PWD, slowly moved in PDD and started asserting their claim. In a way, they compelled the PDD to create an independent cadre of Engineers. They did not stop at that, and wanted to assert their own version, at every stage. The approach of the applicants is totally objectionable and they cannot take the Department for granted like this, particularly when they have chosen to come on deputation and thereafter absorption, on their own accord. The amount of disturbance caused in the PDD with the avoidable litigation can easily be imagined.

8. We do not find any merit in this T.A. It is accordingly dismissed. There shall be no order as to cost.

(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

March 30, 2021
/lg/sunil/vb/ankit/