

Item No.6



Central Administrative Tribunal Jammu Bench, Jammu

T.A. No.8213/2020
S.W.P. No.1535/2011
WITH
T.A. No.2473/2021
S.W.P. No.1534/2011

Monday, this the 22nd day of March, 2021

(Through Video Conferencing)

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

TA No.8213/2020

Mirza Mohammad Umar Jan
S/o Mohammad Ashraf Mirza
R/o Gagan Shopian

...Applicant

(Ms. Suwaiba, Advocate)

VERSUS

1. State of Jammu and Kashmir through Commissioner Secretary Industries, Civil Secretariat.
2. Director Industries and Commerce, Kashmir Division
3. Director Handloom Development Department

..Respondents

(Mr. Rajesh Thappa, Dy. Advocate General)

TA No.2473/2021

Mirza Mohammad Shahnawaz
S/o Mohammad Ashraf Mirza
R/o Gagan Shopian

...Applicant

(Ms. Suwaiba, Advocate)

VERSUS

1. State of Jammu and Kashmir through Commissioner Secretary Industries, Civil Secretariat.
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ORDER (ORAL)

Mr. Justice L. Narasimha Reddy:

The applicants state that they were engaged as Stamping Assistant (Computer) on contractual basis, through an order dated 16.04.2008 by the Director, Handloom Development, Jammu. It is also stated that the conditions of service were modified from time to time. The grievance of the applicants is that at a subsequent stage, the respondents have discontinued them and they are not provided work, nor are the salaries being paid. They filed SWP Nos. 1535/2011 and 1534/2011 respectively, before the Hon'ble High Court of Jammu & Kashmir, with a prayer to direct the respondents to provide them, the work and then to pay salary also. The relief in the form of a direction to the respondents to extend them the benefit of promotion is also claimed.

2. The respondents filed counter affidavits in both the SWPs. According to them, the applicants were never engaged or appointed in whatever form by the respondents. It is stated that the so-called order dated 16.04.2008 does not contain the signatures of the Director and even after it was verified from the

official records, it was found to be not tallying with any order at all. They have further disputed the authenticity of the order dated 29.10.2008 (Annexure P-3) and the one of June, 2008 (Annexure P-4) filed by the applicants.



3. The SWPs have since been transferred to the Tribunal in view of the reorganization of the State of Jammu & Kashmir and renumbered as TA Nos. 8213/2020 and 2473/2021 respectively.

4. Today, we heard Ms. Suwaiba, learned counsel for applicants and Mr. Rajesh Thapa, learned Deputy Advocate General.

5. It appears that the applicants were deceived by someone by promising that he would secure employment to them. The applicants placed reliance upon an order dated 16.04.2008. It does not bear any signature of anyone, though it is said to have been issued by the Director, Handloom Development, Jammu. The respondents categorically stated that the number of the order, i.e., DHD/Estt/2471/1476-83 does not pertain to the appointment of any Stamping Assistant (Computer). The language of the order is also somewhat curious and it does not give any impression that it emanates from any Government office. For example, the last two sentence of the order reads:-

“.....The appointee shall join in the office of Asstt. Director Handloom Development Anantnag in the month of 1st week of June, 2008 from the date of issue of this order. The Asstt. Director Handloom shall allow to join the appointee on production of following documents.”

The Annexure P-3 said to have been issued in October, 2008. It reads:-



“The following officials already working in Camp office, Srinagar shall continue to work in Camp office Srinagar to look after the day to day work and receive all the official Dak etc and dispatch the same to Direction office, Jammu. The urgent paper shall be faxed to Head office Jammu. They shall work under the close supervision of Incharge Divisional Stores, Kashmir.

1. Sh. Mirza Mohd. Shahnawaz
2. Sh. Mohd. Umar

In addition, the Orderly-Cum-Chowkidars already working in Camp office, Srinagar shall continue to work in Camp office to watch and Ward of the Government building and property during winter months or till further orders.”

6. While in Annexure P-1 the applicants were required to report to the office of Assistant Director Handloom Anantnag, the order at Annexure P-3 shows that they were working in Camp Office, Srinagar. Another document, being Annexure P-4, does not contain any date and it is said to have been issued by the In-charge Director. This said to be correction in respect of the pay scale. The curious part of it, is that the order mentions as though the applicants were appointed as Junior Assistant, whereas the order dated 16.04.2008 mentions that the applicants are appointed as Stamping Assistant (Computer). When this is the nature of dispute of the basic facts, we find it difficult to grant any relief.

6. The T.A. are accordingly dismissed. There shall be no order as to costs.



(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

March 22, 2021
/sunil/jyoti/vb/ankit/