



Central Administrative Tribunal Jammu Bench, Jammu

T.A. No. 1147/2021
(S.W.P. No. 321/2020)

Thursday, this the 27th day of May, 2021

(Through Video Conferencing)

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

Abdul Hameed Sheikh (aged about 40 years)
S/o Ab Gani Sheikh
R/o Litter Aglad Zainapora, District Shopian ... Applicant
(Mr. Mukhtar Ahmad Makroo, Advocate)

Versus

1. Union Territory of Jammu and Kashmir through Principal Secretary to Govt. Home Department Civil Secretariat, Srinagar/Jammu.
2. Director General of Police, Jammu and Kashmir
3. Additional Director General of Police Security/L&O/HG-CD/SDRF, Jammu/Srinagar.
4. Additional Director General of Police, CID, J&K, Jammu/Srinagar.
5. Inspector General of Police Kashmir, Srinagar.
6. Sr. Superintendent of Police Security Kashmir
7. Sr. Superintendent of Police, Anantnag.
8. Commandant 3rd Bn. Security.

... Respondents
(Mr. Amit Gupta, Additional Advocate General)

O R D E R (ORAL)**Mr. Justice L. Narasimha Reddy:**

The applicant was working as a Constable in the Jammu & Kashmir Police. He was deployed as Personal Security Officer to one Mr. Mohd. Maqbool Ganie, during the course of elections. Alleging that the applicant colluded with some terrorists, and that resulted in the snatching of weapons and ammunitions, the disciplinary authority passed an order on 10.01.2019, dismissing the applicant from service, by invoking power under Article 126 (2) of the Constitution of Jammu & Kashmir, which is similar to Article 311 (2) (b) of the Constitution of India. Challenging the same, he filed SWP No. 321/2020 before the Hon'ble High Court of Jammu & Kashmir.

2. 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. 1147/2021.

3. Today, we heard Mr. Mukhtar Ahmad Makroo, learned counsel for applicant and Mr. Amit Gupta, learned Additional Advocate General.



4. It is no doubt true that the applicant was dismissed from service without conducting any inquiry and by invoking the power under Article 126 (2) of the Constitution of Jammu & Kashmir. The fact, however, remains that the applicant preferred an appeal against the order of dismissal on 01.02.2019 to the Director General of Police and the same is pending. The SWP and thereby the TA become untenable once the appeal is pending. The appellate authority would be better suited to grant relief to the applicant. It is only when the remedy of appeal was not fruitful to the applicant, that he can approach the Tribunal. Obviously, because the SWP/TA is pending, the appellate authority does not appear to have taken up the matter.

5. We, therefore, dispose of the T.A., directing that the appeal preferred by the applicant against the order of dismissal shall be decided, within a period of six weeks from the date of receipt of a copy of this order. It shall be open to the applicant to enclose a copy of the appeal along with copy of this order.

There shall be no order as to costs.

(Tarun Shridhar)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

May 27, 2021
/sunil/jyoti/ns/sd