

**Central Administrative Tribunal
Jammu Bench, Jammu**



T.A. No. 1370/2021
(S.W.P. No.1746/2018)

Friday, this the 16th day of April, 2021

(Through Video Conferencing)

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

1. Khursheed Ahmad Chopan, aged 54 years
s/o Gh. Ahmad Chopan, r/o Kanispora, District
Baramulla
2. Zulafkar Ali Malik, aged 50 years
s/o Gh. Hassan Malik,
r/o Sonim Pattan, District Baramulla

..Applicants

(Mr. Gulzar Ahmad Bhat, Advocate)

VERSUS

1. State of J&K through
Commissioner/Secretary to Govt.
Public Health Engineering (I&FC) Department,
Civil Secretariat, Srinagar/Jammu
2. Chief Engineer, I & FC, Kashmir Srinagar
3. Superintending Engineer, Mechanical Circle,
I & FC, Srinagar
4. Executive Engineer, MID, Baramulla

..Respondents

(Mr. Amit Gupta, Additional Advocate General)

ORDER (ORAL)

Justice L. Narasimha Reddy:



The applicants are working as Helpers in the Mechanical Circle I&FC Department, Srinagar. Through order dated 24.07.2018, the applicant No.1 was transferred and posted to Mechanical Irrigation Division, Srinagar and through order dated 24.07.2018, the applicant No.2 was transferred and posted to Mechanical Irrigation Division, Shadipora. They filed SWP No.1746/2018 before the Hon'ble High Court of Jammu & Kashmir, challenging the said orders of transfer.

2. The principal contention urged by the applicants is that for the post of Helper, District is the Unit and there was absolutely no basis for the respondents to transfer them outside the District cadre. An interim order was passed by the Hon'ble High Court on 31.07.2018, staying the operation of the impugned orders.

3. The respondents filed a detailed counter affidavit. They admitted the fact that the post of Helper is one of District cadre. It is, however, stated that complaints were received against the applicants and that in turn warranted the posting outside the District.

4. The SWP has since been transferred to the Tribunal in view of the reorganization of the State of Jammu & Kashmir and renumbered as T.A. No.1370/2021.



5. Today, we heard Mr. Gulzar Ahmad Bhat, learned counsel for applicants and Mr. Amit Gupta, learned Additional Advocate General.

6. Both the applicants were working in Baramulla Division by the year 2018. Through separate orders, the applicants were transferred to Srinagar and Shadipora Divisions. Admittedly, those two places are outside the District of Baramulla. Once the post is of District cadre, the employee cannot be transferred outside the cadre, except on his request or on the basis of any other specific administrative order. In the instant case, the respondents state that the necessity to transfer the applicants outside their District cadre arose on account of serious complaints received against them.

7. It appears that the transfers were also punitive in nature and to ensure that the applicants do not meddle with ongoing inquiry. Be that as it may, in case the applicants have any objections for their being transferred outside the District, an alternative for the respondents is to shift them to any other place

within their cadre. If the situation warrants, it shall also be open to the respondents to place them under suspension.

8. We, therefore, allow the T.A. setting aside the impugned orders. However, it is left open to the respondents to take such measures, as are necessary, in the context of posting, as indicated above. There shall be no order as to costs.



(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

/sunil/dsn/sd/