

Central Administrative Tribunal

Jammu Bench, Jammu



T.A. No. 1471/2020
(SWP No. 3291/2019)

Monday, this the 26th day of April, 2021

(Through Video Conferencing)

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Ms. Aradhana Johri, Member (A)

Syed Mohammad Shafi, Aged 54 years
 S/o Syed Murtaza Shah
 R/o Labertal District Budgam
 Kashmir.

...Applicant

(Mr. A M Dar, Senior Advocate assisted by Mr. Bhat Shafi,
 Advocate)

VERSUS

1. State of Jammu and Kashmir
 Through Principal/Secretary to Government
 Home Department
 Civil Secretariat, Jammu/Srinagar.
2. Director General of Police (PHQ)
 Jammu/Srinagar.
3. Rajinder Singh, Dy. S.P.
 C/o Director General of Police
 J&K, Sgr.
4. Karamvir Singh, Dy. S.P.
 C/o Director General of Police
 J&K, Sgr.
5. Narinder Singh Parihar, Dy. S.P.
 C/o Director General of Police
 J&K, Sgr.

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

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ORDER (ORAL)



Mr. Justice L. Narasimha Reddy:

The applicant and the respondent Nos. 3 to 5 were appointed as Sub Inspectors in the Jammu & Kashmir Police on 23.07.1994. The applicant was shown as senior to the respondent Nos.3 to 5. He was promoted to the post of Inspector on 01.07.2003. Thereafter, an order was passed by the Department on 11.10.2008 posting the respondent Nos.3 to 5 and certain others as In-charge Deputy Superintendent of Police (Dy. SP) on officiating basis for a period of 6 months or until the posts are filled on regular basis. The applicant, however, was promoted as Dy. SP on *ad hoc* basis on 11.07.2014. He made a representation to the respondents, complaining that he was denied his due, even while his juniors were promoted earlier.

2. On 28.09.2019, the Government issued an order directing that in respect of Inspectors, who were promoted on in-charge basis to the post of Dy. SP between 01.07.2003 and 02.01.2009, the regularisation shall take place without reference to the Jammu & Kashmir Public Service Commission. Since the applicant was promoted subsequent to 2009, he felt aggrieved. He filed SWP No. 3291/2019



before the Hon'ble High Court of Jammu & Kashmir, with a prayer to quash the order dated 28.09.2019 and to direct the respondents to promote him to the post of Dy. SP from the year 2008 and thereafter, to the post of Superintendent of Police on the basis of his seniority; and to extend him other consequential benefits.

3. The record discloses that the respondents did not file any counter affidavit.

4. The SWP has since been transferred to the Tribunal in view of reorganisation of the State of Jammu & Kashmir and renumbered as T.A. No. 1471/2020.

5. Today, we heard Mr. A M Dar, learned senior counsel assisted by Mr. Bhat Shafi, learned for applicant and Mr. Amit Gupta, Additional Advocate General.

6. It is not in dispute that the applicant was senior to the respondent Nos.3 to 5 in the post of Sub Inspector. That is evident from the order dated 23.07.1994. However, at the time of promotion to the post of Inspector, the deviation took place. While the applicant was promoted to the post of Inspector on 01.07.2003, the respondents No. 4 and 5 were promoted on 08.10.1998, and respondent No.3 was promoted



on 26.11.1998. In case the applicant had any grievance about his not being promoted as Inspector in the year 1998, when the respondent Nos.3 to 5 were promoted, he was expected to take necessary steps at that point of time. Even when he was promoted in the year 2003, he did not ventilate his grievance.

7. The in-charge arrangements for the post of Dy. SP were made at different points of time, for respondent Nos.3 to 5 on the one hand and the applicant on the other. To be precise, the respondent Nos.3 to 5 were placed as in-charge Dy. SPs on 11.10.2008, whereas the applicant was extended that promotion on *ad hoc* basis on 11.07.2014. At this stage, the applicant made a representation and thereafter the remarks were also forwarded by the lower authority to the higher authority to address his grievance.

8. Coming to the impugned order, it just provides for exemption of the Dy. SPs appointed on *ad hoc* basis between 01.07.2003 and 02.01.2009 from the purview of the Public Service Commission. 153 officials are covered by this. The respondent Nos. 3 to 5 figured at Sl.Nos.147 to 149. The last of the candidates is the one, who was promoted to the post of Inspector on 26.04.1999. The applicant, who was promoted on 01.07.2003, has to wait for his turn. When the impugned

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order dated 28.09.2019 was passed, the applicant made a representation. There existed an internal communication dated 17.08.2019, stating that the case of the applicant is under consideration.

9. We, therefore, dispose of the T.A., declining to interfere with the impugned order dated 28.09.2019, but directing the respondents to take steps, contemplated under the communication dated 17.08.2019 in accordance with law, within a period of two months from the date of receipt of a copy of this order.

There shall be no order as to costs.

(**Aradhana Johri**)
Member (A)

(**Justice I. Narasimha Reddy**)
Chairman

April 26, 2021
/sunil/jyoti/dsn/