



**Central Administrative Tribunal
Jammu Bench, Jammu**

T.A. No. 74/2021
(SWP No.278/2017)

Monday, this the 22nd day of February, 2021

(Through Video Conferencing)

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Pradeep Kumar, Member (A)

Ghulam Mohammed Dar, Aged 54 years
S/o GhulamQadir Dar,
R/o RabtarGanderbal.

...Applicant

(M/s MY.Bhatt& Associates, for the applicant)

Versus

1. State of Jammu & Kashmir through
Commissioner cum Secretary to Government
Finance Department, Civil Secretariat, Srinagar/Jammu
2. Director, J&K Funds Organization, J&K,
Srinagar/Jammu
3. Deputy Director, Divisional Fund Officer,
Srinagar.
4. Chief Accounts Officer (CAO) District Fund Office,
Srinagar.
5. Accounts Officer B.L.I Funds, Srinagar

...Respondents

(Mr. SudeshMagotra, Deputy Advocate General for Mr. Amit
Gupta, Additional Advocate General)

ORDER (ORAL)

Mr. Justice L. Narasimha Reddy:



The applicant was employed as Assistant Compiler, District Fund Office, Srinagar. He was placed under suspension through an order dated 09.09.2004 in view of his detention in police custody for more than 48 hours. His suspension was extended from time to time. He filed SWP No.12/15 feeling aggrieved by the continued suspension. That was disposed of with a direction to the respondents to review the suspension. In compliance with the same, the respondents passed orders dated orders dated 25.10.2016 stating that the applicant was convicted for the offence punishable under various provisions of PC Act and was sentenced to undergo simple imprisonment for one year and accordingly it was not feasible to review the suspension. The applicant filed SWP.278/2016 before the Hon'ble High Court challenging the order dated 25.10.2016. According to him, the respondents ought not to have kept him under suspension for a long time.

2. On behalf of the respondents a detailed counter affidavit is filed. It is stated that the applicant was convicted in a criminal case under the provisions of PC Act and strictly speaking, he should be dismissed from service on the basis of his conviction.

It is also stated that there is no illegality in issuing the impugned order.

3. The SWP has since been transferred to the Tribunal in view of re-organization of the State of Jammu and Kashmir and re-numbered as TA No. 74/2021.



4. Today, we heard Mr. M. Y. Bhatt, learned counsel for the applicant; and Mr. Sudesh Magotra, Dy. Adv, General for Mr. Amit Gupta, Addl. Adv. Genral, for the respondents, and perused the records.

5. The applicant was placed under suspension in view of his having been arrested in relation to a criminal case. It appears that even the applicant did not challenge the order of suspension. It is only thereafter, that he filed a Writ Petition challenging the continuance of suspension. It is not in dispute that the Court of Special Judge, Anti-Corruption Bureau convicted the applicant through judgement dated 05.10.2015 and sentenced him to undergo imprisonment and to pay a fine. In the ordinary course, the respondents have to dismiss the applicant from service without any further enquiry. The mere fact that the applicant filed an appeal before the Hon'ble High Court does not make any difference. The curious part of the applicant was that he has not

challenged the order of suspension, but he is feeling aggrieved by the continuance of the suspension.

6. We do not find any merit in this TA and the same is accordingly dismissed. There shall be no order as to costs.



(Pradeep Kumar)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

February 22, 2021
/sunil/akshaya/sd