

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH AT
SRINAGAR**

Reserved on: 28.10.2021

Pronounced on: 10.11.2021

RPSW No.20/2018

RAVINDER KUMAR

...PETITIONER(S)

Through: Mr. B. A. Misri, Advocate

Vs.

UNION OF INDIA & OTHERS

...RESPONDENT(S)

Through: Mr. T. M. Shamsi, ASGI.

CORAM: HON'BLE MR. JUSTICE SANJAY DHAR, JUDGE

(JUDGMENT)

1. Petitioner has filed the instant review petition seeking review of order dated 7th September, 2018 passed by the Writ Court, whereby writ petition of the petitioner was disposed of with a direction to the respondents to accord consideration to the claim of the petitioner on the same analogy as has been adopted in the case of Ghulam Hassan Baba who had been granted temporary status with effect from 01.09.1993 and was regularized in group 'D' post on 17.04.1997.

2. In the review petition it is contended that the Writ Court, while adjudicating the matter, has considered relief only to the extent of

regularization while as the other reliefs claimed by the petitioner have not been considered nor any finding has been returned by the Court.

3. The review petition has been resisted by respondents by filing a reply thereto. In their reply, respondents have submitted that the review petition is not maintainable as the writ petition has been disposed of on the basis of statement made by counsel for the petitioner.

4. I have heard learned counsel for the parties and perused the record including the record of the Writ Court.

5. The contention of review petitioner is that in the writ petition, besides claiming the relief of regularization, petitioner had also sought certain other reliefs which included a direction upon respondents restraining them from making any deduction in the pay and salary of the petitioner for the period corresponding to duration undergone in service under the directions of the Court dated 11.09.1996 and 24.06.1998 or from giving latent effect to the termination order set aside by judgment dated 22.04.2011. It is further averred that another direction asking the respondents to reckon the entire period towards the service without any break and to release other service benefits which shall accrue to the petitioner in consequence to regularization, was also sought but while disposing of the writ petition, the Writ Court only directed the respondents to accord consideration to the claim of petitioners regarding

regularization. It is contended that it was incumbent on the Writ Court to deal with each of the reliefs which petitioner had claimed in the writ petition and not confine it to only the relief regarding regularization. Thus, according to the petitioner, there is an error apparent on the face of record of the impugned order which is required to be corrected. Petitioner in support of his contentions, has relied upon the judgment of this Court in the case of **Aijaz Ahmad Bhat v. State & Ors., 2011 Supreme (J&K) 543.**

6. In order to determine merits of the contention raised by the learned counsel for the review petition, it would be apt to quote the contents of the order sought to be reviewed:

“01. By the nature of relief sought for, this writ petition is admitted to hearing and taken up for final hearing.

02. Mr. B. A. Misri, the learned counsel, appearing on behalf of the petitioner, states that he will feel satisfied in the event the instant writ petition is disposed of by directing the respondents to accord consideration to the claim of the petitioner as espoused therein within a reasonable timeframe.

03. in view of the aforesaid statement of the learned counsel for the petitioner, the writ petition is disposed of with a direction to the respondents to accord consideration to the claim of the petitioner on the same analogy as has been adopted in the case of Ghulam Hassan Baba who had been granted temporary status w.e.f. 01.09.1993 and was regularized in group D post on 17.04.1997. Needful, on the part of the respondents, be done strictly in accordance with the law and the rules governing the field within a period of four weeks’ from the date the certified copy of this order along with the writ petition with all its annexures is made available to them by the petitioner.

7. From a bare perusal of the aforesaid order, it becomes clear that the writ petition has been disposed of with the consent of learned counsel for the petitioner. It is clearly provided in the aforequoted order that the respondents have to accord consideration to the claim of the petitioner on the same analogy as has been adopted in the case of Ghulam Hassan Baba who had been granted temporary status with effect from 01.09.1993 and was regularized in group 'D' post on 17.04.1997.

8. A perusal of the writ petition reveals that in para (8), it has been clearly stated by petitioner that his case has direct equation with the co-employee Ghulam Hassan Baba who had been granted temporary status w.e.f. 01.09.1993. Since petitioner had claimed parity with aforesaid Ghulam Hassan Baba, therefore, the Writ Court directed the respondents to accord same treatment to the petitioner as had been accorded to Ghulam Hassan Baba while considering claim of the petitioner. The order of Writ Court is very clear that it is claim of the petitioner which he has raised in the writ petition which has to be considered by the respondents. Therefore, the contention of petitioner that only one part of his claim is to be considered by the respondents and other part is not to be considered by the respondents in terms of the order sought to be reviewed is not tenable.

9. Apart from the above, the order sought to be reviewed has been passed with the consent of learned counsel for the petitioner. Therefore,

it does not lie in the mouth of the petitioner to turn around and challenge the order which has been passed with his consent.

10. For what has been discussed hereinabove, I do not find any error apparent on the face of record of the order dated 07.09.2018 which would warrant exercise of jurisdiction of review by this Court. The review petition is, accordingly, dismissed.

(Sanjay Dhar)
Judge

Srinagar
10.11.2021
"Bhat Altaf, PS"

Whether the order is speaking: Yes/No
Whether the order is reportable: Yes/No

