

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

LPA No. 24/2023
CM No. 1242/2023

1. Union Territory of J&K through Petitioner(s)/Appellant(s)
Commissioner/Secretary to Forest Department,
Civil Secretariat, Jammu.
2. Principal Chief Conservator of Forest, Van
Bhawan Jammu.
3. Chief Conservator of Forests, Jammu.

Through :- Mr. Amit Gupta, AAG.

V/s

Sonika Sharma Respondent(s)
D/O Sh. Kuldeep Raj Sharma
R/O H. No.365 MCJ 603
Lane No.14, Raj Pura, Jammu

Through :- Mr. Navyug Sethi, Advocate.

**Coram: HON'BLE MR. JUSTICE TASHI RABSTAN, JUDGE
HON'BLE MR. JUSTICE PUNEET GUPTA, JUDGE**

ORDER

28.02.2024

1. This letters patent appeal is directed against the interlocutory order dated 14.10.2022 passed by the learned Single Judge in CPSW No.153/2019 in SWP No. 1014/2018 titled '*Sonika Sharma v. Manoj Kumar Diwedi and others*' and a prayer is made to set-aside the impugned order.
2. While disposing of writ petition SWP No.1014/2018 on 23.05.2018, the following order was passed:

"Notice.

Mr. Rohit Kapoor, learned AAG waives notice on behalf of respondents. Learned counsel for the petitioner submits that he would feel satisfied in case the petition is disposed of with a direction to the respondents to act upon the waiting list of Junior Assistants, Forest Department, Divisional Cadre Jammu, issued on 23.01.2016 within a certain time frame. Statement of learned senior counsel is taken on record.

Accordingly, this writ petition is disposed of with a direction to the respondents to act upon the waiting list of Junior Assistants,

Forest Department, Divisional Cadre Jammu, issued on 23.01.2016 in reference of Advertisement Notice No.09 of 2013, dated 21.06.2013, item No.703, under rules, against the vacancy remained unfilled, if any, due to non-joining of some of the candidates in Open Merit category, if there is no legal impediment. Let this exercise be completed within a period of eight weeks from the date a certified copy of this order along with copy of the writ petition and its annexures are made available to them.

Disposed of as above, along with connected MP.”

3. Feeling dis-satisfied by the non implementation of the above order, the petitioner filed CPSW No.153/2019 in which following interlocutory order was passed on 14.10.2022, the operative part of it reads:

“Respondents are directed to reconsider the matter in view of the judgment passed by this Court sought to be implemented as required under law and in case of any impediment on the basis of life of the waiting list the same be processed for relaxation of rules. Let needful be done within a period of six weeks.”

4. It is the above order which the appellants pray to be set-aside.
5. Heard learned counsel for the parties and perused the entire file.
6. Perusal of the order dated 14.10.2022 would show that appellants had filed compliance report on 09.05.2022 where after considering the case of the petitioner, the appellant no.3-Chief Conservator of Forests, Jammu has rejected the case on 04.05.2022, as the same could not be considered due to legal impediment.
7. The direction passed in SWP No.1014/2018 on 23.05.2018 was the directions to the appellants to act upon the waiting list of Junior Assistants under rules, against the unfilled vacancies due to non-joining of some of the candidates in Open Merit category, only if there is no legal impediment.

8. In our view, the interlocutory order passed in the contempt petition is against the provisions of the Contempt of Court's Act as the court has exceeded its jurisdiction so far as it directs the appellants to extend the life of wait list by relaxing the rules. Otherwise too, the writ petition that was decided on 23.05.2018 was not decided on merits.

9. Viewed thus, the order dated 14.10.2022 to the extent that it directs *'and in case of any impediment on the basis of life of the waiting list the same be processed for relaxation of rules'* is set-aside. As such, the appeal is partly allowed to the aforesaid extent.

10. The writ petition was decided on 23.05.2018 and appellants were directed to consider the case of the petitioner within eight weeks from the date a certified copy of order was received upon them. However, the appellants had taken almost 4 years to consider the case of the petitioner.

11. In that view of the matter, the writ petitioner/respondent herein is at liberty to challenge the consideration order if he is so advised.

Jammu:
28.02.2024
Raj Kumar

(Puneet Gupta)
Judge

(Tashi Rabstan)
Judge

Whether the order is speaking? : No.

Whether the order is reportable? : No.