

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

Reserved on : 02.05.2024

Pronounced on: 20.05.2024

LPA No.113/2020

(in SWP No.802/2017)

Union Territory of J&K & others Appellant(s)/**Petitioner(s)**

Through: Mr. Syed Musaib, GA

versus

Rabia Shah**Respondent(s)**

Through: Mr. Zahoor A. Shah, Advocate

**Coram: HON'BLE MR. JUSTICE TASHI RABSTAN, JUDGE
HON'BLE MR. JUSTICE M.A. CHOWDHARY, JUDGE**

JUDGMENT

(Tashi Rabstan – J)

1. This Letters Patent Appeal is directed against the judgment dated 22.10.2019 delivered by the learned Single Judge in SWP No.802/2017, whereby the learned Single Judge, while allowing the writ petition, had directed the writ respondents-appellants herein to release the pay scale attached to the post of Law Officer, i.e., 9300-34000 with grade pay of Rs.4800 in favour of writ petitioner without any further delay. Writ respondents-appellants herein were also directed to consider the writ petitioner for promotion to the next higher post along with other eligible Law Officers in the department, of course, in accordance with the law and the rules governing the field.

2. The facts-in-brief, as gathered from the file, are that the writ petitioner being Law Graduate (Professional) joined the Forest Department in the year 1990 and discharged her duties as Law Officer in the Law Wing of the

Department. After performing her duties for a considerable period, she sought her confirmation and subsequent release of grade attached to the post of Law Officer. When nothing happened, she filed SWP No.2619/1991. Thereafter, on the assurance of writ respondents, the writ petitioner withdrew the petition and the writ respondents vide Government Order No.250-FST of 1999 dated 23.06.1999 placed the writ petitioner as Law Officer in the pay scale of Rs.6500-10500 for a period of six months or till the post is filled up by the competent authority. The writ petitioner again represented before writ respondents seeking her regularization against the post of Law Officer. Since the writ respondents failed to regularize her services, the writ petitioner filed SWP No.624/2012, which came to be decided by a Division Bench of this Court vide judgment dated 19.05.2015 directing the writ respondents to issue the order of regularization in favour of writ petitioner. When the writ respondents did not regularize the services of writ petitioner despite the direction of this Court, she filed contempt petition being No.13/2016. Ultimately, the writ respondents vide Government Order No.157-FST of 2016 dated 01.06.2016 regularized her services in the pay scale of Rs.6500-10500 (pre-revised). However, the controversy did not rest here.

3. The writ petitioner again filed SWP No.802/2017 claiming that the writ respondents have failed to release the appropriate grade pay attached to the post of Law Officer, i.e., 4800, instead they have placed the writ petitioner in the grade pay of Rs.4280 only. The learned Single Judge vide judgment dated 22.10.2019 directed the writ respondents-appellants herein to release the pay scale attached to the post of Law Officer, i.e., 9300-34000 with grade pay of Rs.4800 in favour of writ petitioner without any further delay. Writ respondents were also directed to consider the writ petitioner for promotion to

the next higher post along with other eligible Law Officers in the department, of course, in accordance with the law and the rules governing the field. Hence, the present appeal on behalf of writ respondents.

4. Heard learned counsel appearing for the respective parties, considered their rival contentions and also perused the file.

5. Admittedly, the writ respondents vide order dated 23.06.1999 had placed the writ petitioner as Law Officer in the pay scale of Rs.6500-10500 for a period of six months or till the post is filled up by the competent authority. It is also not in dispute that when the writ petitioner had represented before the writ respondents seeking her regularization against the post of Law Officer, her case was submitted to the then Chief Minister with the approval of the then Forest Minister for regularization of her services in the pay scale of Rs.9300-34000 plus grade pay of Rs.4800. However, when the writ respondents failed to regularize her services in the said pay scale, she filed SWP No.624/2012 and a Division Bench of this Court vide judgment dated 19.05.2015 had directed the writ respondents to regularize her services. Ultimately, the writ respondents vide Government order dated 01.06.2016 (supra) regularized the services of writ petitioner in the pay scale of Rs.6500-10500 (pre-revised), but failed to release the grade pay of Rs.4800 attached to the said post, rather the writ respondents placed the writ petitioner in the grade pay of Rs.4280.

6. It is not in dispute that the grade pay attached to the post of Law Officer was Rs.4800. Even the Division Bench in SWP No.624/2012 had decided the matter in favour of writ petitioner herein, but despite that she have been denied the grade attached to the said post without any rhyme or reason. Therefore, we are in agreement with the learned Single Judge that once the writ respondents

in terms of a valid Government order have regularized the services of writ petitioner against the post of Law Officer, there shall be no difficulty for them to release the appropriate pay scale as well as the grade attached to the said post. Further, once the writ respondents have failed to get the decision of this Court overturned declaring the writ petitioner eligible for regularization of her services against the post of Law Officer after they pursued the matter before all the possible forums including the Apex Court, they at this stage cannot turn around and say that the writ petitioner is not eligible to get the grade pay of Rs.4800 attached to the post of Law Officer.

7. Viewed thus, we are not inclined to take a view other than the one taken by the learned Single Judge. Accordingly, the appeal fails and the same is hereby dismissed. Connected miscellaneous application, if any, accordingly stands disposed of.

Srinagar 20.05.2024 (Anil Sanhotra)	(M.A. Chowdhary) Judge	(Tashi Rabstan) Judge
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Whether the order is reportable ?	Yes/No
Whether the order is speaking ?	Yes/No