

IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

WP(C) 1834/2024 CM(4959/2024) CM(4960/2024) Caveat 2007/2024

KHURSHEED AHMAD RATHER

...Appellant(s)/Petitioner(s)

Through: Mr. Bhat Fayaz, Advocate

Vs.

UNION TERRITORY OF J AND K AND ORS

...Respondent(s)

Through: Mr. Mubeen Wani, Dy.AG for R 1 to 4.

Mr. Mir Suhail, Advocate for caveator.

CORAM:

HON'BLE MR. JUSTICE RAJNESH OSWAL, JUDGE

HON'BLE MR. JUSTICE MOHAMMAD YOUSUF WANI, JUDGE

ORDER

02.09.2024

1. Heard and perused the record.
2. This writ petition is directed against the order dated 07.08.2024 passed by the learned Central Administrative Tribunal, Srinagar Bench in O.A No. 416 of 2024 titled "Khursheed Ahmad Rather Vs. the UT of Jammu and Kashmir and Ors., and also the order dated 04.07.2024 passed by the respondent 3 by virtue of which the order dated 02.07.2024 has been withdrawn ab-initio.
3. Learned counsel for the petitioner has submitted that the petitioner has been transferred within a gap of 2 to 3 days and no reason has been assigned by respondent 3 while issuing order dated 04.07.2024.
4. Per contra, Mr. Mir Suhail learned counsel for the private respondent has submitted that the private respondent has only four months to superannuate and further he has been relieved from the

place of posting pursuant to impugned order dated 07.08.2024 passed by learned Central Administrative Tribunal.

5. Perusal of the record reveals that the respondent 3-Chief Education Officer vide order dated 02.07.2024 directed the mutual transfer of the petitioner and private respondent meaning thereby they were directed to swap their respective places of postings, however, corrigendum was issued on same day itself wherein expression “mutual transfer” was substituted by impression “transfer” only. Thereafter the respondent 3 vide order dated 04.07.2024 withdrew the order dated 02.07.2024. The petitioner assailed the order dated 04.07.2024 before the learned Central Administrative Tribunal on the ground that no reason was assigned in the order dated 04.07.2024, while withdrawing the order dated 02.07.2024. The learned Central Administrative Tribunal after hearing the parties vide order dated 07.08.2024 dismissed the application filed by the applicant/petitioner however, granted a liberty to the petitioner to submit a representation with the official respondents.
6. After having perused the order passed by the learned Central Administrative Tribunal, it is found that the learned Central Administrative Tribunal has taken note of submissions made by learned counsel for the private respondent that the private respondent had only six months to superannuate, and now only four months. The learned Central Administrative Tribunal did not find favour with the submission made by learned counsel for the applicant/petitioner that as the order was unreasoned, the same was

required to be quashed. After examining of the said order, we find that learned Central Administrative Tribunal has rightly determined the controversy and has refused to show any indulgence and has come to the conclusion that there was no merit in the claim projected by the petitioner and rightly so because the private respondent has only four months to superannuate and further no opportunity of hearing was required to be afforded to the petitioner. Not only this, the order dated 07.08.2024 of the learned Central Administrative Tribunal has been acted upon as is evident from the relieving order dated 21.08.2024. Learned counsel for the petitioner has relied upon some judgements which are not applicable to the case in hand in the facts and circumstances of the case.

7. Therefore we do not find any reason to show indulgence, as such, the present writ petition is dismissed.
8. At this stage learned counsel for the petitioner submits that the petitioner did not join at the present place of posting due to pendency of this writ petition, as such, the delay in joining the present place of posting be condoned. We request the respondent 3 Chief Education Officer to sympathetically consider request of the petitioner as made before us.
9. Disposed of.

(MOHAMMAD YOUSUF WANI)
JUDGE

(RAJNESH OSWAL)
JUDGE

SRINAGAR
02.09.2024
Ishaq