

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

CCP (D) No. 45/2024

Duni Chand Sagotra

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

Through: Mr. Abhishesh Sharma, Adv.

Vs.

Achal Sethi & Anr.

...Respondent(s)

Through: Ms. Monika Kohli, Sr. AAG for 1
Mr H. A. Siddiqui, Sr. AAG for 2

CORAM:

HON'BLE MR. JUSTICE ATUL SREEDHARAN, JUDGE (Through VC)
HON'BLE MR. JUSTICE RAJESH SEKHRI, JUDGE

ORDER
05.02.2025

The present contempt petition has been filed for the enforcement of the order passed by the learned Division Bench in SWP No. 1055/2017 filed by the contempt petitioner who is a Retired Judge of the District Judiciary of the Union Territory of J&K. The contempt petitioner retired as a District and Sessions Judge and had filed the writ petition seeking quashment of communication dated 30.12.2015 by which the representation preferred by him for regularization of his promotion as District and Sessions Judge w.e.f. December 2001 to April 2007 and for grant of Selection Grade was rejected. In the operative portion of the order passed by the learned Co-ordinate Bench, the writ petition was allowed and the respondents were directed to regularize the promotion of the petitioner as District and Sessions Judge w.e.f. December 2001 to April 2007 and award all consequential benefits.

Against the said order, the High Court preferred a review petition which was considered by an elaborate order and dismissed the same by an order dated 15th February 2022. Against the said order passed by the learned Co-ordinate Bench dismissing the review petition, the High Court preferred a Special Leave Petition being SLP No. 15366/2022 against the principal order dated 09.06.2017 and the order passed in review petition dated

15.02.2022 which were dismissed in *limini* with the Supreme Court observing that there is no necessity to interfere with the said orders.

Learned counsel for the State submits that a supernumerary post has already been created to accommodate the contempt petitioner for the relevant period.

Learned counsel appearing for the High Court has also submitted that the consequential benefits will be paid for the period of December 2001 to April 2027 within a period of 30 days from today. As there has been considerable delay caused to the contempt petitioner as far as payment of consequential benefits are concerned, the same shall now bear interest of 6% per annum which shall be on the total amount of all consequential benefits to be given to the petitioners from 09.06.2017 till payment.

At this juncture, learned counsel appearing for the High Court submits that the supernumerary post was created only in the year 2024 and the part of the burden should be shared by the State. We reject this contention as the State could have only created the supernumerary post, had the High Court not preferred a review petition against principal order and thereafter taken both the orders to the Supreme Court by challenging the same in Special Leave Petition.

In this particular case, the fault is not at the door step of the State. Under the circumstances, the additional burden has to be borne by the High Court and not by the State.

The contempt petition stands disposed of. However, if the said amounts are not released in favour of the petitioner within a period of 30 days from the date of this order, the contempt petitioner is at liberty to file an application to revive the contempt petition.

(RAJESH SEKHRI)
JUDGE

(ATUL SREEDHARAN)
JUDGE

SRINAGAR:
05.02.2025
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