Sr. No. 23

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

Case: CCP(S) No. 190/2024 IN
WP(C) No. 3550/2019

Tej Krishan Koul ..... Petitioner(s)/Appellant(s)

Through :- Mr. Syed Aaqib Mujtaba, Advocate vice
Ms. Saba Atiq, Advocate

Vs

Shailendra Kumar Commissioner Secretary Animal and Sheep Husbandry and Fisheries Deptt. and Anr. .....Respondent(s)

Through :- Mr. Suneel Malhotra, GA

CORAM:
HON'BLE MR. JUSTICE WASIM SADIQ NARGAL, JUDGE

ORDER
23.12.2024

01. The instant contempt petition has been preferred against the order/judgment dated 27.09.2019 passed by this Court by virtue of which the writ petition preferred by the petitioner was disposed of with a direction to the respondents to place the case of the petitioner before the Departmental Promotion Committee for consideration under rules. Since the aforesaid direction was not complied with, the petitioner has preferred the instant contempt petition in which notice was issued on 07.06.2024.

02. Status report has been filed on behalf of the respondents in which the respondents have taken a stand that the case of the petitioner has been accorded consideration and has been found devoid of any merit and, accordingly, stood rejected vide order No. 273-DAHJ of 2024 dated 14.10.2024 and along with the

compliance report, the respondents have placed on record detailed consideration order dated 15.10.2024.

03. I have perused the detailed consideration order, which has been placed on record by the respondents while filing the compliance report, a perusal whereof reveals that in compliance to the order dated 27.09.2019 passed by this Court, the Departmental Promotion Committee was conducted on 22.08.2024 whereunder the following decision was made.

> **"The Method for filling up the post of Junior stenographer is 100% by direct recruitment, in terms of J&K Animal Husbandry (subordinate) Service Recruitment Rules, 2021 notified vide SO-435 of 2021 Dated :- 24.12.2021."**

04. Accordingly, the case of the petitioner was rejected being found devoid of any merit. The case of the petitioner has been rejected on the strength of the aforesaid consideration order by placing reliance upon Jammu and Kashmir Animal Husbandry (Subordinate) Service Recruitment Rules 2021, which were notified vide SO-435/2021 dated 24.12.2021 and on the other hand, the direction which is sought to be complied with through the medium of the instant contempt petition pertains to the year 2019 i.e. 27.09.2019 whereby, a direction was issued to place the case of the petitioner before the Departmental Promotion Committee for consideration under rules.

05. Thus, it was incumbent on part of the respondents to have accorded consideration to the case of the petitioner by placing reliance upon the Rules which were in vogue in 2019 by placing his case before the Departmental

Promotion Committee but the respondents in flagrant violation of the order passed by this Court has placed reliance upon the Rules of 2021, which have been promulgated vide SO-435/2021 and has come into force w.e.f. 24.12.2021.

06. Thus, the rejection of the case of the petitioner on the basis of the aforesaid rules is in derogation to the mandate and spirit of the order/judgment passed by this Court, which has assumed finality. Thus, the aforesaid rules cannot be applied retrospective to the detriment of the petitioner and the respondents were under a legal obligation qua the petitioner to have accorded consideration to the case of the petitioner in conformity with rules, which were in vogue in 2019 when the aforesaid order/judgment came to be preferred.

07. Confronted with the same, learned counsel for the respondents fairly concedes to the aforesaid proposition of law and, accordingly, assures the Court that the fresh consideration be accorded to the case of the petitioner strictly in tune with the rules, which were in vogue in 2019 and, accordingly, he seeks six weeks further time to comply the aforesaid order/judgment passed by this Court which has assumed finality.

08. In the aforesaid backdrop, no fruitful purpose will be served to keep this contempt petition alive and, accordingly, the same is disposed of by directing the respondents to convene the Departmental Promotion Committee afresh and place the case of the petitioner before the said Departmental Promotion Committee and accord consideration strictly in tune with the order/judgment dated 27.09.2019 in conformity with the rules which were in vogue at that relevant point of time when the aforesaid order/judgment came to be preferred.

09. Let the case of the petitioner be placed before the Departmental Promotion Committee within a period of six weeks from today and subject to the placement of the same before the DPC within the aforesaid period, the case of the petitioner be accorded due consideration within two weeks thereafter on the basis of the decision, which is likely to be taken by the said Departmental Promotion Committee, the proceedings in the instant contempt petition are ***closed***. Rule, if any, shall stand discharged.

10. It is, however, made clear in case the aforesaid direction is not complied with within the aforesaid period, the petitioner will be liberty to revive the instant contempt petition and in that eventuality, coercive measures shall be taken against the respondents.

11. The contempt petition is ***disposed of***, accordingly.

(WASIM SADIQ NARGAL)
JUDGE

JAMMU
23.12.2024
Mihul

Mihul Singh
2024.12.24 10:40
I attest to the accuracy and
integrity of this document