

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

CPSW No. 461/2014

Showkat Ahmad Zarger

...Petitioner(s)

Through: Mr.S.H. Thakur, Advocate.

Vs.

Mr. Bashir Ahmad khan

...Respondent(s)

Through: Mr. Sheikh Feroz, Dy. AG.

CORAM:

HON'BLE MR JUSTICE JAVED IQBAL WANI, JUDGE

ORDER

05.07.2022

1. In the instant contempt petition, violation of order dated 24.06.2011 is alleged by the petitioner in terms whereof petition of the petitioner came to be disposed of. The petitioner in the petition had sought a direction against the respondents for appointing him on compassionate grounds in terms of SRO-43 on account of the death of his father being an employee of the respondent-department.
2. The writ petition came to be disposed of at its threshold without issuing a notice to the respondents in terms of order dated 24.06.2011 (supra) directing the respondents to accord consideration to the representations filed by the petitioner in accordance with the rules occupying the filed within a period of 8 weeks.
3. Record reveals that the order of disposal of the petition passed by this Court in favour of the petitioner was brought into notice of the respondents and a communication thereto came to be addressed in this regard by Deputy Secretary to the Government, CAPD Department to the Director, CAPD department dated 27.07.2011 requesting for taking of an appropriate action in the matter in terms of the judgment of the Hon'ble Court.
4. Upon failure of the respondents to consider the case of the petitioner in line with the order of this Court, the petitioner herein instituted the

instant contempt petition wherein a notice of show cause and also for filing of statement of facts came to be issued/passed by this Court on 31.07.2014.

5. Perusal of the record/minutes of the proceedings would reveal that the respondents ever since the institution of the contempt petition and consequent notice issued to them did not file any response thereto till 28.10.2021 on which date this Court while impleading the new incumbent-Director CAPD as party respondents granted three weeks further time for filing response and in the event of failure directed personal appearance of the Director CAPD.
6. Perusal of the record further tends to show that statement of facts/compliance report came to be filed thereafter on 23.11.2021 by the respondent. Upon coming of the matter for consideration on 03.02.2022, the counsel for the respondents was directed to produce the record of compassionate appointment case of the petitioner and in terms of order dated 11.03.2022 and 11.04.2022, counsel for the respondents was directed to place on record the copy of consideration order, in that the counsel for the respondents had reported that the claim of the petitioner had been rejected.
7. On 09.05.2022, counsel for the respondents produced copy of the consideration order dated 20.11.2021 and had also furnished the same to the counsel for the petitioner on the very said date.
8. As has been noticed in the preceding paras, the writ petition came to be disposed of on 24.06.2011, requiring the respondents to consider the case of the petitioner for compassionate appointment within a period of 8 weeks from the date copy of the order is made available to them. The said copy of the order admittedly had been served upon the respondents as is evident from communication dated 27.07.2011 suggesting that the respondents were aware about the order passed by this Court requiring them to accord consideration to the case of the petitioner within the time stipulated therein.
9. Ironically, the respondents without any explanation offered in the statement of facts have delayed the consideration of the case of the petitioner without assigning any reason thereto. The delay is writ large on the face of the record notwithstanding the rejection order issued by them rejecting the claim of the petitioner for appointment on

compassionate grounds. This Court refrains from expressing any opinion on the validity or otherwise of the consideration order, as the same is beyond its domain while considering the instant contempt petition, yet cannot lose the sight of the fact that the respondents have miserably failed to comply with the direction passed by this Court within the stipulated period, while disposing of the petition on 24.06.2011. The consideration of the case of the petitioner admittedly has taken the respondent almost more than a decade which consideration was required to be accorded otherwise within 8 weeks. The conduct and approach of the respondents seemingly is casual and unbecoming of public servants, which cannot be condoned having regard to the facts and circumstances of the case. While this Court disposes of contempt petition in the light of the consideration order passed by the respondents providing a liberty to the counsel for the petitioner to work out a remedy against the same, this Court cannot overlook the conduct and approach of the respondents in sitting over the matter without there being any plausible explanation offered by them in this regard. In the aforesaid facts and circumstances, the failure of the respondents in considering the case of the petitioner within the stipulated period though warrants framing of a rule against them yet taking a lenient view, this Court instead chooses to impose a costs of Rs. 50,000/- upon the contemnors-respondents to be paid to the petitioner for delayed compliance of the order passed by this Court. The costs shall be paid by the Commissioner Cum Secretary to CAPD, within six weeks from the date of passing of this Order and be recovered thereafter from the officers who have had failed to comply the Court order (supra).

10. Disposed of.

(JAVED IQBAL WANI)
JUDGE

SRINAGAR
05.07.2022
Junaid