

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

CCP(S) No. 6/2021
CM Nos. 3500/2022 &
2397/2022

Raghuvinder Singh

....Petitioner/Appellant(s)

Through :- Mr. R. S. Thakur, Sr. Advocate with
Mr. Ashwani Thakur, Advocate.

V/s

UT of J&K and others

....Respondent(s)

Through :- Mrs. Monika Kohli, Sr. AAG.

Coram: HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE

ORDER
27.03.2023

The petitioner came to be appointed as Patwari in February, 1999. Upon seeing that his name does not figure in the list of 163 Patwaris who have come to be placed as Incharge Girdawars in their own pay and grade while those figuring at serial numbers 4 to 50 and 60 to 162 were all junior to him, the petitioner came to approach this Court with a writ petition bearing SWP no. 2740/2015 which came to be allowed in terms of an order dated 28.02.2019 by direction to the following effect:-

“This petition is, accordingly, disposed of with a direction to the respondents to consider the petitioner for placement as a Girdawar on the analogy of those, who are junior to him in the seniority list of patwaris, forming Annexure-B to order dated 14.05.2018”.

The writ respondents were obligated to comply with writ direction within three weeks. The order of consideration was directed to be issued with or without the vigilance clearance within given period of three weeks.

The present contempt petition came to be filed in February, 2020 when the Divisional Commissioner, Jammu Division, as being concerned official to order placement of the petitioner, failed to act within the Court given time.

It is after filing of the contempt petition that a status report dated 22.03.2022 came to be filed accompanied with an Order no. 102/3120/Ptw/2022/7231-36 dated 19.03.2022 passed by the Assistant Commissioner (Central) with the Divisional Commissioner, Jammu with the approval of the Divisional Commissioner, Jammu. This compliance report dated 22.03.2022 along with the accompanying order dated 19.03.2022 need to be read only to be rejected as the same runs counter to the direction of the writ court order.

A perusal of said order no. 102/3120/Ptw/2022/7231-36 dated 19.03.2022 makes it very clear that there is an express admission to the fact that 163 Patwaris had come to be issued with promotion orders to be placed as Incharge Girdawars even while APR/Vigilance clearances with respect to them were not received at the time when order no. DIV.COM JMU (ESTT.) 08 of 2015 dated 14.02.2015 came to be issued. Thus, even well before passing of an order dated 28.02.2019 by the writ court in SWP no. 2740/2015, the Divisional Commissioner, Jammu had the situation before him that notwithstanding non-availability of APR/Vigilance clearances with respect to 163 Patwaris they were still placed as Incharge Girdawars. It is by reference to this situation that the writ court had called upon the Divisional Commissioner, Jammu to order the promotion of the petitioner in parity with cases of said 163 Patwaris and, as such

it was not meant for the Divisional Commissioner, Jammu to single out the case of the petitioner to deny him placement as Incharge Girdawar on the plea that the General Administration Department J&K vide communications no. GAD(Vig) 31-NOC/2014/Divcom-J dated 14.11.2014 read with further communications no. GAD(Vig) 31-NOC/2014/Divcom-J dated 30.03.2015, GAD(Vig) 31-NOC/2017/Divcom-J dated 19.03.2018, GAD(Vig) 31-NOC/2019/Divcom-J dated 04.06.2019, GAD(Vig) 31-NOC/2018/Divcom-J dated 19.05.2020 has conveyed to the extent that the petitioner was involved in FIR no. 21/2003 Police Station, Vigilance in his capacity as Patwari Halqa Janglote, Kathua in which as a challan stood filed in a court of law.

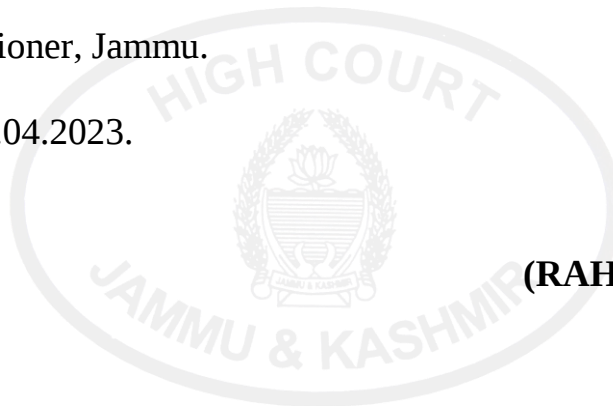
The Divisional Commissioner, Jammu has not provided and placed on record the copies of the aforesaid communications as annexures along his order no. 102/3120/Ptw/2022/7231-36 dated 19.03.2022. Furthermore, the Divisional Commissioner, Jammu has also not given any further detail as to when the aforementioned challan against the petitioner came to be filed and how the pendency of the said challan has been conveyed by the General Administration Department to be a disabling factor in the matter of complying with the direction of the writ court as given in order dated 28.02.2019.

This court is well within its right to say that the Divisional Commissioner, Jammu or for that matter General Administration Department Govt. of J&K in terms of the communications above referred have not addressed their mind to one aspect of the direction given in the order dated 28.02.2019 which is to the effect that order of consideration for placement of the petitioner as Girdawar, on the analogy of those junior to him in the seniority list of the Patwaris, was to be given with or without vigilance clearance.

Thus, it is on the basis of the Court direction that the placement of the petitioner as a Girdawar Incharge was and is meant to take place and which is not to be kept hostage to any vigilance clearance, as such the order dated 19.03.2022 so passed by the Divisional Commissioner, Jammu is rejected and he is directed to comply in letter and spirit with the direction of the writ court as given in the order dated 28.02.2019 by issuing an order of placement of the petitioner as Incharge Girdawar on parity basis as in the case of 163 Patwaris who despite being juniors to the petitioner came to be so placed as Incharge Girdawars in the year 2015.

Let the compliance report as directed be filed by the Divisional Commissioner, Jammu on the next date of hearing, failing which the consequence shall befall on the present incumbent serving as the Divisional Commissioner, Jammu.

List on 28.04.2023.



(RAHUL BHARTI)
JUDGE

JAMMU
27.03.2023
Shivalee