

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

**Case No. :- CPSW No. 183/2016 IN
SWP No. 2056/2010**

Satish Kour and Ors.

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

Through: Ms. Deepali Arora, Advocate

Vs

Shafiq Raina, Secy. C.A.P.D.D and Anr.

..... Respondent(s)

Through: Mr. Sumeet Bhatia, GA

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

**ORDER
12.08.2024**

01. It has been brought to the notice of this Court by Mr. Zubair Ahmad, Commissioner/Secretary to the Govt., Department of Food, Civil Supplies & Consumer Affairs Jammu/Srinagar, that pursuant to the order/judgment passed by this Court on 17.09.2013, he has already sent proposal for financial concurrence to the Finance Department and now it is the Finance Department, who has to accord consideration. He further submits that once the concurrence is accorded by the Finance Department, the matter will be remitted back to him and then ultimately the same has to be placed before the competent authority i.e. Lieutenant Governor for final approval and subject to the final approval, the rules are required to be notified.

02. He further submits that once the rules are notified, then in compliance to the order/judgment passed by this Court dated 17.09.2013, he has to constitute a Departmental Promotion Committee (DPC) for according consideration to the claim of the petitioners for promotion in accordance with such rules which are yet to be notified and this exercise for constituting the DPC will take only a week's time on his part.

03. He further submits that he is waiting for final concurrence of Finance Department and, accordingly, as and when the financial concurrence is received, then the matter will be placed before the competent authority.

04. The instant contempt petition is pending before this Court since 2016 for implementation of the order/judgment which was passed way back on 17.09.2013 and the instant contempt petition is by way of second round of litigation.

05. Learned counsel for the petitioner has apprised this Court that since the order/judgment passed by this Court mentioned (supra) was not complied with, petitioner was constrained to file contempt petition in the earlier round of litigation before this Court which was registered as Contempt (SWP) No. 224/2014 and the same was disposed of by virtue of order dated 04.09.2015. In the said contempt petition, the respondents have filed statement of facts in which they have taken a specific stand that in 2015, the Government has initiated a process for framing Recruitment Rules and in the interregnum, J&K Secretariat Subordinate Service Recruitment Rules, 1988 have been applied to the employees of the Divisional Commissioner Protection Forum as regards their method of recruitment and condition of service.

06. In light of the stand taken by the respondents way back in 2015, a direction was issued that till such time, as the service specific rules are framed by the Government with regard to the employees of the Divisional Consumer Protection Forum, their cases be considered in accordance with J&K Secretariat Subordinate Service Recruitment Rules, 1988, to which, learned counsel appearing on behalf of the Government at that relevant point of time, made a categorical statement before the Court that the petitioners' cases would be

considered for promotion under the Rules that have been made applicable to the petitioners in the intervening period.

07. In the aforesaid backdrop, a direction was issued to the respondents to consider the case of the petitioners within three months from the date a copy of the said order was made available to the respondents. Much water has flown since then. Mr. Zubair Ahmad, Commissioner/Secretary to Govt., Department of Food, Civil Supplies & Consumer Affairs Jammu/Srinagar, who is present in person submits that the order/judgment passed by this Court dated 17.09.2013 stands complied with, as he already made draft rules and have already forwarded the same for its financial concurrence before the Finance Department, which has to accord final approval as on date and thus, there is no willful disobedience on his part.

08. Since the issue in the present contempt petition is pending for the last more than 11 years, this Court in the peculiar facts and circumstances deems it proper to array Principal Secretary to Government, Finance Department also as a party respondent in the instant contempt petition on whose behalf, Ms. Aparna Gupta, Advocate has appeared vice Mr. K.D.S Kotwal, learned Dy. AG. The learned counsel is directed to apprise this Court with regard to the financial concurrence in the instant matter by filing compliance report within one week, positively.

09. It is made clear that in case financial concurrence is accorded, then the Commissioner/Secretary to Govt., Department of Food, Civil Supplies & Consumer Affairs Jammu/Srinagar is directed to place the case before the competent authority within one week thereafter, so that necessary approval is accorded and the rules are notified accordingly. Subject to notifying the rules Mr. Zubair Ahmed Commissioner/Secretary to Govt., Department of Food, Civil

Supplies & Consumer Affairs Jammu/Srinagar is directed to constitute the DPC so that the order/judgment passed by this Court is complied with in its letter and spirit by considering the claim of the petitioner for promotion in accordance with such rules within one week thereafter.

10. Let the entire exercise be concluded within the aforesaid period. This Court is further of the view that since the order/judgment insofar as, Mr. Zubair Ahmed Commissioner/Secretary to Govt., Department of Food, Civil Supplies & Consumer Affairs Jammu/Srinagar is concerned, he has already complied with the direction passed by this Court and in the aforesaid backdrop, this Court deems it proper to exempt Mr. Zubair Ahmed Commissioner/Secretary to Govt., Department of Food, Civil Supplies & Consumer Affairs Jammu/Srinagar from his personal appearance.

11. List on 18.09.2024.



(Wasim Sadiq Nargal)
Judge

JAMMU
12.08.2024
Mihul