

**CENTRAL ADMINISTRATIVE TRIBUNAL
SRINAGAR BENCH, SRINAGAR**

O.A. No. 291/2022

Date of Order: 5th April, 2025

C O R A M

HON'BLE MR. D.S. MAHRA, MEMBER(JUDL.)

HON'BLE MR. PRASANT KUMAR, MEMBER(Admn.)

Khazir Mohammad Dar, Age 70 years
S/O Mohammad Subhan Dar,
R/O Barzullah, Srinagar - 190005.

.....Applicant

By Advocate :
Mr. Faizan M Bhat

VERSUS

1. UT of J&K, through, Commissioner/Secretary to
Govt.

Revenue Department, Civil Secretariat,
Srinagar/Jammu - 190001/192101

2. Financial Commissioner (Rev), J&K,
Srinagar/Jammu 190001/180004.

.....Respondents

By Advocate :-
Mr. Waseem Gul, GA

ORDER (ORAL)
D.S. MAHRA, MEMBER [JUDL.]

01. Learned counsel for the applicant submits that the applicant was initially appointed in the Forest Department in the year 1960 and was subsequently appointed as Prosecuting Forest Ranger in 1969. While serving in the Forest Department, the applicant applied for the post of Naib Tehsildar in the Revenue Department as an in-service candidate through proper channel. Upon completion of the selection process, the applicant was appointed as Naib Tehsildar on 08.10.1973.

02. It is contended by Learned counsel for the applicant that despite having rendered continuous service in the Forest Department prior to his appointment in the Revenue Department, the benefit of his past service was not extended to him. Aggrieved by such denial, the applicant approached the Hon'ble High Court by way of Writ Petition bearing SWP No. 1202/2002. The Hon'ble High Court vide order dated 14.03.2012 disposed of the said

petition with following directions:

"11. Viewed thus, this writ petition succeeds. Respondents are directed to count services of the petitioner as rendered in the Forest Department on regular basis towards his service in the Revenue Department and to fix the seniority and to pay him all the consequential benefits as shall be permissible under rules."

03. Pursuant to the said order, the applicant filed another writ petition bearing SWP No. 438/2013 before the Hon'ble High Court. The said writ petition was finally decided by the Hon'ble High Court vide order dated 06.12.2013, wherein the Hon'ble High Court directed consideration of the applicant's claim for benefit of past service rendered in the Forest Department with all consequential benefits with following directions:

"As seen above, the Government order No: 138 Rev(NG) 2018 dated 27.07.2018 is clearly suggestive of the fact that the respondents have not given the benefit of seniority to the petitioner from the date from which he

is to be treated to be on the cadre of the Revenue Service while computing his earlier service in the Forest Department. This is clearly antithesis of the judgment dated 14.03.2012 passed in SWP No. 1202/2002. The stand taken by the respondents that seniority cannot be fixed from the time when the petitioner had not borne on the cadre of Revenue Service, cannot be accepted and needs to be turned down. Once the petitioner is held to be a member of the Revenue Service from the date when he entered into the Forest Service, he has to be treated with all the consequential benefits of being in the service including seniority, promotion, on induction in the Administrative Service in which his counterparts, who are similarly situated, have been taken. Respondents, as such, are directed and impressed upon to implement the judgment dated 14.03.2012 passed in SWP No.1202/2002 in letter and spirit. Any further attempt to thwart the implementation of the judgment will be at the peril of the respondents, as also conveyed earlier. The exercise regarding

implementation be concluded thus, expeditiously as far as practicable, preferably within a period of ten weeks from today.”

04. Learned counsel for the applicant submits that although a consideration order was subsequently issued on 27.07.2018, the respondents granted the benefit of past service only for the limited purpose of pension. He submitted that the Hon'ble High Court had clearly directed that the benefit of past service be granted with all consequential benefits, which includes seniority, promotion, induction in administrative service.

05. Per contra, Learned counsel for the respondents submits that in pursuance of the directions of the Hon'ble Court, respondents have passed a Government Order No. 345 of 2017 dated 22.11.2017, in terms whereof sanction was accorded to the counting of the services of the applicant, as rendered by him in the Forest Department on regular basis w.e.f. 05.02.1969 to 23.10.1973 towards his service in the Revenue department. Subsequently by virtue of

Government order No.138- Rev(NG) 2018 dated 27.07.2018 which is impugned in the present original application, sanction was accorded to the grant of consequential benefits viz Pay fixation/pensionary benefits, accruing as per rules on account of counting of services of the applicant rendered by him in the Forest Department w.e.f. 05.02.1969 to 23.10.1973 towards his service in the Revenue department. It is submitted that re-fixation of seniority in a new service on the basis of the service rendered by the applicant in the previous department and placing him before his counterparts who joined the department earlier to him, from a date when he was not even borne in the department is not covered under any of the provisions of service law, same is therefore, not permissible under rules. However, the incidental benefits like pay fixation/Pensionary benefits which may accrue to the applicant on account of enhanced length of service in view of counting of his service rendered in the Forest Department towards the Revenue Department is extended

in favour of the applicant.

06. He further submitted that seniority of the applicant as NT has been re-fixed from the date he became member of the Revenue Service, as under rules, he cannot be placed before the officials in the seniority list of NT, who were born on the Revenue Service before him. That it is respectfully submitted that in the event of placing the applicant in a re-fixed position (seniority) by early counting the services rendered in the Forest Department, the same shall have the far reaching ramifications across thousands of Government employees who have/may have joined a particular department while serving in the other (previous) departments for tens of years Besides, it will lead to legal crisis and administrative chaos.

07. Heard Learned counsel for both sides and perused the material available on record, including the orders passed by the Hon'ble High Court in SWP Nos. 1202/2002 and 438/2013.

08. It appears from the record that the respondents have not fully complied with the spirit and intent of the directions issued by the Hon'ble High Court. From a plain reading of the order dated 06.12.2013 and order dated 06-12-2018 SWP Nos. 1202/2002 and 438/2013 passed by the Hon'ble High Court, it is evident that the direction was not confined merely to pensionary benefits, but rather to grant the benefit of past service with all consequential benefits, including seniority, promotion, and induction in administrative service.

09. In view of the above, this Court finds that the consideration order dated 27.07.2018 does not conform to the mandate of the Hon'ble High Court. Accordingly, the said consideration order no. 138-Rev (NG) 2018 dated 27-07-2018 is set aside. The respondents are directed to release the benefits to the applicant in its true spirit and grant the benefit of past service rendered in the Forest Department with all consequential benefits, including

seniority, promotion, induction into administrative services, etc., by passing a reasoned and speaking order in accordance with law within a period of two months from the date of receipt of a certified copy of this order.

10.With these directions, the OA stands disposed of accordingly. No order as to costs.

(PRASANT KUMAR)
Member(Admn.)

(D.S. MAHRA)
Member(Judl.)

DEVENDRA TRIPATHI

