

HIGH COURT OF JAMMU AND KASHMIR AT JAMMU

LPASW no. 106/2011
CMA no. 128/2011

Date of order: 22.04.2013

H. S. Raina v. State of J&K and ors.

Coram:

Hon'ble Mr. Justice M. M. Kumar, Chief Justice.
Hon'ble Mr. Justice Dhiraj Singh Thakur, Judge.

Appearing counsel:

For the Appellant(s) : Mr. D. C. Raina, Sr. Advocate.
Mr. Anil Verma, Advocate.
For the respondent(s) : Mrs. Seema Shekhar, AAG.
Mr. K. K. Pangotra, ASGI.

i)	Whether to be reported in Press, Journal/Media	:	Yes/No
ii/	Whether to be reported in Digest/ Journal	:	Yes/No

M. M. Kumar, CJ

1. The instant appeal under Clause 12 of the Letters Patent is directed against judgment and order dated 03.02.2011 rendered by the learned Single Judge, rejecting the claim made by the appellant-petitioner by taking him to have retired as Development Commissioner Power.

2. It is appropriate to mention that the appellant-petitioner was working as Chief Engineer, M&RE Wing and was to superannuate on 30.11.2001. On 29.11.2001, vide Cabinet Decision no. 79/14, he was allowed extension in service by one year. The formal order of extension was issued on 03.12.2001 on the retirement of one Shri H. S.Gupta from the post of Development Commissioner Power. The appellant-petitioner

was thereafter appointed as In-charge Development Commissioner Power on 30.07.2002 and he retired on 30.11.2002.

3. We had summoned the original record to find out whether the appellant-petitioner was ever given promotion as Development Commissioner Power or he was merely appointed as In-charge of the post. The record shows that vide Cabinet Decision no. 64/5 dated 4.4.2003 promotion of the appellant-petitioner in the grade of Power Development Commissioner was not approved. It is further appropriate to mention that vide Cabinet Decision no. 157/20 dated 27.11.2002 one Shri Jigmat Namgyal, Chief Engineer, was given promotion as Development Commissioner Power.

4. Having heard the learned counsel for the parties, we are of the considered view that the order passed by the learned Single Judge is fully supported by the original record and the appellant-petitioner cannot be considered to be promoted as Development Commissioner Power nor he can be held entitled to the salary and grade attached to the aforesaid post. Even otherwise the appellant-petitioner was given extension of one year after his superannuation and it would not be fair to give him promotion during the extended period of his service.

5. The appeal is wholly without merit and the same is hereby dismissed.

(Dhiraj Singh Thakur)
Judge

(M. M. Kumar)
Chief Justice

Jammu,
22.04.2013
Anil Raina, Secy.