

HIGH COURT OF JAMMU AND KASHMIR
AT JAMMU

SWP No. 158/2014

MP No. 190/2014

Date of Order: 12.08.2016

Inder Jeet

Vs. State of J&K & ors.

Coram:

Hon'ble Mr. Justice Ramalingam Sudhakar, Judge.

Appearing Counsel:

For the Petitioner(s): None.

For the Respondent(s): Ms. Deepika Mahajan, DyAG.

i/	Whether to be reported in Press/Media	:	Yes/No
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ii/	Whether to be reported in Digest/Journal-Net	:	Yes/No
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1. The writ petitioner challenges Government Order No. 31-RD & PD of 2014 dated 23.01.2014 whereby respondent No. 6 has been transferred and posted in place of the petitioner, i.e., AEE, REW Sub Division Vijaypur. In the said order it has been stated that respondent No. 6 has been posted against an available vacancy whereas Petitioner claims that he is working in the said place and there is no such vacancy available. Petitioner claims that under the garb of the impugned order, respondent Nos. 2 to 5 are compelling him to handover the charge to respondent No.6 which is not permissible as in the said Government order the petitioner has not been transferred to any other place from REW Sub Division Vijaypur and further prays that the respondents be directed not to disturb the present status of the Petitioner as AEE, REW Sub Division Vijaypur.

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2. This Court showed indulgence by granting the interim order dated 28.01.2014 and stayed the Government Order NO. 31-RD & PR of 2014.

3. The writ petition is admitted. Post admission notice.

4. Ms. Deepika Mahajan, Deputy Advocate General accepts notice on behalf of respondents.

5. Objections have not been filed. However, Ms. Mahajan Deputy Advocate General states that due to efflux of time, the period is already over. She further states that the petitioner has served more than two years in one place by virtue of interim order and now he cannot continue in the said post based on an interim order of the Court.

6. Be that as it may, by virtue of the interim order passed by this Court, the petitioner has served more than two years at the same place and he cannot continue for ever. This is moreso in view of the Full Bench Judgment passed by this Court in case titled **Syed Hilal Ahmad & ors. vs. State of J&K & ors.** decided on 31.08.2015 **reported in 2015 (3) JKJ 398 (HC)**, where this Court has already held that the transfer is an exigency of service and, therefore, by virtue of an interim order, petitioner cannot seek to continue forever.

7. In such view of the matter, if the petitioner has not been transferred to any other post in the meanwhile, and if he continue the same position by virtue of the interim order, he is at liberty to make representation to the authority concerned for placing him at

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the appropriate place as per the transfer policy. Such representation should be made within two weeks from the date of receipt of copy of this order. The authority concerned shall take a decision in this matter preferable within four weeks thereafter. Till such time, the status of the petitioner shall not be disturbed.

8. The writ petition is disposed of as above.

(Ramalingam Sudhakar)
Judge

Jammu:
Sunita.
12.08.2016