

**IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR**

LPA No. 37/2021 in
WP(C) No. 1669/2019

Habibullah Shergogri

..... Appellant/petitioner(s)

Through: -
Ms. Arifa Jan, Advocate

V/s

Government of J&K and Ors.

..... Respondent(s)

Through: -
Ms. Maha Majeed, Advocate vice Mr. Mohsin Qadri, Sr. AAG

CORAM:

HON'BLE MR JUSTICE SANJEEV KUMAR, JUDGE

HON'BLE MR JUSTICE VINOD CHATTERJI KOUL, JUDGE

(ORDER)

30.04.2025

01. This appeal filed by the appellant under clause 12 of the Letters Patent Appeal is directed against the Judgment and order dated 14.05.2019 passed by the learned Single Judge of this Court (Writ Court) in WP(C) No. 1669/2019 titled *Habibullah Shergogri Vs. State of JK and Ors.*, whereby the writ Court has dismissed the writ petition filed by the appellant.

02. Briefly stated the facts leading to filing of this appeal are that the appellant came to be appointed as Follower (Cook) in the Jammu and Kashmir Police vide PHQ order No. 2941 of 1997 dated 07.10.1997 and was thereafter converted from the rank of Follower to the post of Constable vide PHQ order No. 1728 of 2001 dated 15.05.2001, having regard to the exceptional role played by the appellant in anti-militancy front. The appellant was promoted as Selection Grade Constable out of turn on

operational grounds vide PHQ order No. 2605 of 2014 dated 11.10.2014. Subsequently, the appellant was also awarded with SKPMG Medal for his exceptional role in anti-militancy front. This was done vide Govt. order No. 483-Home of 2016 in the year 2016. The appellant wanted further out of turn promotion on operational grounds and, therefore, approached the writ Court by way of SWP No. 925/2017, in which the appellant *inter alia* prayed for the direction to respondents to promote him on the basis of his performance in anti-militancy operations. The writ petition was disposed of vide order dated 22.05.2017, without its adjudication on merits. The writ Court directed the appellant herein to present the copy of the writ petition along with copy of order before the competent authority for appropriate action.

03. In compliance with order dated 22.05.2017, the respondents considered the claim of the petitioner, projected in SWP No. 925/2017 and rejected the same vide order No. 3005 of 2018 dated 24.07.2018. This order was accepted by the appellant. However, with a view to seek its implementation, the appellant filed WP(C) No. 1669/2019, in which the appellant prayed for writ of mandamus to the respondents to implement the consideration order passed by them and accord the appellant two out of turn promotions in view of his performance in anti-militancy front.

04. The writ petition was contested by the respondents by filing a reply affidavit before the writ Court. A categorical stand was taken that appellant had already availed two out of turn promotions for his exceptional role in anti-militancy front on two different occasions. It was submitted that the appellant was first promoted to the rank of Constable from Follower and

thereafter given another promotion to the rank of Selection Grade Constable in the year 2014. This reply affidavit was not rebutted by the appellant by filing any rejoinder.

05. The writ Court vide Judgment dated 14.05.2019, dismissed the writ petition on the ground that the consideration order stood already implemented and no direction to the respondents was called for.

06. Having heard learned counsel for the parties and perused the material on record, we are of the considered view that the Judgment passed by the writ Court is legally perfect, does not call for any interference by us. In the writ petition, indisputably, the consideration order which respondents passed in compliance with the order dated 22.05.2017 passed in SWP No. 925/2017 had not been challenged. As per consideration order and also reply affidavit filed in elaboration thereof, it is abundantly clear that the appellant who was initially recruited as Follower was given two out of turn promotions, one to the post of Constable by way of conversion and other to the post of Selection Grade Constable. Both these promotions were out of turn on operational grounds.

07. The respondents, however, did not find him entitled for third promotion as per the policy of out of turn promotion in vogue. In the order of consideration, the respondents have clearly mentioned that two promotions were given to the appellant.

08. Learned counsel for the appellant would further submit that the first promotion from the Follower to the post of Constable was a routine promotion and not out of turn promotion and, therefore, the appellant cannot be said to have been given two out of turn promotions, as was projected in

the consideration order. We cannot entertain this argument of learned counsel for the appellant for the reason that the consideration order dated 24.07.2018, supra was not subject matter of challenge before the writ Court. As a matter of fact, the appellant had accepted the consideration order and had only sought its implementation through the medium of writ petition, WP(C) No. 1669/2019.

09. In view of clear stand taken by the respondents, which was not rebutted by the appellant, the writ Court rightly accepted the plea of the respondents and concluded that nothing more was required to be done in terms of consideration order supra. We find no merit in this appeal, the same is, accordingly, **dismissed**.

(VINOD CHATTERJI KOUL)
JUDGE

(SANJEEV KUMAR)
JUDGE

SRINAGAR
30.04.2025
"Mohammad Yasin Dar"

