

**HIGH COURT OF JAMMU AND KASHMIR AT SRINAGAR  
(Chief Justice's Secretariat)**

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Subject : Fixing of Seniority of Shri Manzoor Ahmad Bhat presently posted as Junior Assistant/Criminal Clerk in the Addl. Designated Court TADA/POTA, Srinagar.

**ORDER**

No. 583

Dated: 08-08-2016

Whereas, Shri Manzoor Ahmad Bhat was initially temporarily appointed as Junior Assistant by Principal District & Sessions Judge, Srinagar vide his order No. 2720-24 dated 05.12.1996 and posted as copyist in the Court of Chief Judicial Magistrate, Srinagar against the vacancy caused by posting of Ms. Jabeena Akhter, Copyist, as Typist in her own pay and grade in the Court of Principal District & Sessions Judge, Srinagar in place of Shri Ghulam Nabi Bhat (Typist under suspension).

Whereas, Shri Ghulam Nabi Bhat was subsequently reinstated vide Order No. 6 dated 22.07.1997 and Shri Manzoor Ahmad Bhat, in apprehension that he may be ousted in wake of reinstatement of Shri Ghulam Nabi Bhat, filed a Service Writ Petition diaraized as SWP No. 2144 of 1997 against the High Court. Alongside the Writ Petition, the applicant filed a CMP for grant of interim injunction. The Hon'ble Court on 07.05.1997 was pleased to pass the following order:

*"Issue notice in the CMP also returnable within the same period. In the meanwhile, subject to objections of other side, respondents are directed not to discontinue services of the petitioner with the further direction to respondent No. 2 not to proceed ahead with the selection process till objections are filed and considered.*

Whereas, the stay order was subsequently modified on 09.02.1998 and the respondents were allowed to proceed with the selection process for rest of the posts and the applicant was directed to be allowed to continue in service on the post held by him till final disposal of Writ Petition.

Whereas, the Hon'ble Court was pleased to dispose of the Writ Petition on 02.08.2011. The operative portion of the judgment is reproduced hereunder:-

*"Keeping in view all aspects of the matter coupled with the humanitarian aspect of the matter i.e., service of the petitioner for last more than 14 years without noticing any*

thing adverse entitle the petitioner for continuation in accordance with the terms of order of the appointment.

Petitioner has been appointed by the Competent Authority (respondent No. 1-District Judge) who is the appointing authority. The order of appointment in favour of the petitioner till date neither revoked nor challenged; therefore, position of the petitioner as Junior Assistant and continuation thereof for last more than 14 years in the exceptional circumstances is not open for interference unless otherwise permissible in due course of law. Consequential benefits to which petitioner shall be entitled in accordance with rules shall be considered for release thereof.

Petition accordingly, succeeds, as such shall stand disposed of along with connected CMP."

Whereas, the matter was placed before Hon'ble the Chief Justice for consideration and appropriate orders. His Lordship on consideration of the case passed the following order on 17.08.2011:

***"LPA should be filed. Necessary steps may be taken immediately."***

Consequently, the Judgment was challenged before Hon'ble High Court by way of filing an LPA bearing No. 242/2011.

Whereas, the LPA has been disposed of by Hon'ble Division Bench on 07.08.2014. The operative part of the Judgment is reproduced hereunder:-

*"The respondent initially appointed without advertising post and therefore, de horse rules can be at the most taken to have been appointed on adhoc basis. He after rendering continuous and uninterrupted service for seven years would be entitled to regularization and to his appointment on substantive basis. It is pertinent to point out that even in terms of Jammu & Kashmir Civil Services (Special Provision) Act, 2010 an adhoc, contractual or consolidated employee is to be regularized in case he has completed seven years of service as such on the appointed day and satisfies all other requirements laid down under section 5 of the Act. The respondent in the circumstances would be entitled to regularization of his appointment w.e.f 05.12.2003 and thereafter to be considered for promotions as would become due to him.*

Vived thus, the writ Court Order called in question in Letter Patent Appeal is modified as under:

*The writ petitioner/ respondent namely Manzoor Ahmad Bhat S/o Gh. Qadir Bhat R/o Dhobi Mohalla, Batamallo, Srinagar*

initially appointed as Junior Assistant vide Order No. 2720-24/DJS dated 05.12.1996 shall be taken to have been regularized as Junior Assistant in the grade of Rs. 3050-75-3950-80-4910 w.e.f 05.12.2003 and all benefits including promotions, annual increments etc. due to him, taking his date of substantive appointment as 05.12.2013, shall be worked out and released in favour of the respondent.

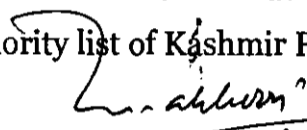
Whereas, the benefits including promotions, annual increments etc. which had been reflected to be released in favour of the official with effect from 05.12.2013 in LPA No. 242/2011 in para 14 (i) of the order dated 07.08.2014 had been directed by Division Bench to be read with effect from 05.12.2003 in an order passed in IA No. 278/2014 on 01.01.2015.

Whereas, in light of the judgement/order supra of the Hon'ble Division Bench, the services of Shri Manzoor Ahmad Bhat were regularized as Junior Assistant vide High Court Order No. 98 dated 18.05.2015 with effect from 05.12.2003.

Whereas, before according promotion(s) and releasing increments etc. in favour of Shri Manzoor Ahmad Bhat, his seniority is required to be fixed taking his initial appointment as 05.12.2003.

Whereas, the matter was examined with reference to the records and it was found that seniority of Shri Manzoor Ahmad Bhat is to be fixed in the seniority list of Senior Assistants immediately after Shri Manzoor Ahmad Najjar, who stands appointed as Junior Assistant vide High Court Order No. 397 dated 28.08.2003 and before Shri Zahoor Ahmad Wani, who stands appointed as Junior Assistant vide High Court Order No. 7 dated 08.04.2005.

Now therefore, the Seniority of Shri Manzoor Ahmad Bhat presently posted as Criminal Clerk in the Additional Designated Court TADA/POTA, Srinagar is fixed immediately after Shri Manzoor Ahmad Najjar and before Shri Zahoor Ahmad Wani in the seniority list of Kashmir Province.

  
08.8.2016  
(Mohammad Yousuf Akhoon)  
Principal Secretary to  
Hon'ble the Chief Justice

No. 503-506/Psy

Dated:

08-08-2016

Copy to the:-

1. Principal District & Sessions Judge, Srinagar for information.
2. Presiding Officer, Additional Designated Court TADA/POTA, Srinagar for information.

3. All concerned Members of Service for information.
- ✓ 4. Incharge NIC, High Court wing, Srinagar for uploading in High Court Web site.

*W. ahluwalia*

**Principal Secretary to,  
Hon'ble the Chief Justice**

*28/08/16* *28/08/16*