

GOVERNMENT OF JAMMU AND KASHMIR
FOREST, ECOLOGY & ENVIRONMENT DEPARTMENT
Civil Secretariat, Jammu /Srinagar

Subject: OA No.61/355/2024 titled Pankaj Khajuria V/s UT of J&K & Ors.

Government Order No: 148 -JK (FST) of 2024
Dated: 05 .07.2024

Whereas, Mr. Pankaj Khajuria, I/c-Range Officer, ETF Division, among others, was transferred and posted as I/c-Range Officer, Batote Range, Social Forestry Division, Ramban vide Government Order No. 71-JK(FST) of 2024, dated 15.03.2024;

Whereas, aggrieved of this, the officer approached the Hon'ble Central Administrative Tribunal, Jammu Bench, Jammu and filed OA No.61/355/2024 titled Pankaj Khajuria V/s UT of J&K & Ors, praying therein for the following reliefs:

i. Quash the Government Order No. 71-JK(FST) of 2024 Dated 15-03-2024, issued by the respondent no.1, vides which the applicant is transferred and posted as I/c Range Officer, Batote Range, Social Forestry Division, Ramban.

ii. Direct the respondents to allow the applicant to continue at his present place of posting, i.e. Eco Task Force, (ETF), Division, Jammu.

iii. Any other order or direction which this Hon'ble Tribunal deems fit and proper may kindly be issued in favour of the applicant and against the respondents.

Whereas, the O.A has been disposed of by the Hon'ble Tribunal vide its order dated 27.03.2024, the operative part of which is as following:-

".....5. Accordingly, the Original Application is disposed of with a direction to respondents to treat this O.A. as representation of the applicant and decide the same by passing a reasoned and speaking order.

6. Respondents are further directed to communicate the order so passed to the applicant. Before passing any order, the applicant

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shall also be afforded an opportunity of hearing. The whole exercise shall be undertaken within a period of four weeks.

7. Until a final decision is taken on the representation of the applicant, status quo, as on today, qua the applicant shall be maintained.

8. With these directions, O.A. No. 355 of 2024 is disposed of.

9. It is made clear that, I have not entered into the merits of the case.

10. However, there shall be no orders so as to costs.

Whereas, against the 23 sanctioned posts of Range Officer Grade -I, the Social Forestry does not have any incumbent in place and thus all the staff needs of the Social Forestry are being met from the allied department (s) keeping in view their expertise, efficiency, previous postings and delivery. Besides, the Recruitment Rules of Social Forestry Gazetted Service are yet to be notified which has necessitated deputation of officers from other allied wings. Thus to meet the staff requirement, employees from allied wings have been transferred to meet the staff needs of the department;

Whereas, employees from allied wings have been transferred to meet the staff needs of the department. The department has not applied the *pick and choose* method. Staff is being deputed to the Social Forestry while taking care of the needs of the department. The petitioner has simply been deputed to the Social Forestry for a specific period and shall be transferred back to the Forest (Territorial) as and when his services are required there;

Whereas, the transfers and postings of officers in the department have been effected in such a way that senior and sensitive positions have to be manned by senior officers with vibrant track record and no officer was given assignments way ahead of his/her turn and designation. Besides, wherever it was felt that any particular officer has been indulging in any activity as would go against the public interest/interest of administration, or that any officer was found to be manning a position much higher than his/her actual designation, the same were displaced and filled up by suitable officers with commensurate designation, as far as possible, as such there was not a pick and choose method in effecting transfers and postings in the department;

Whereas, based on the methodology & criteria adopted by the department, the petitioner was transferred and suitably posted as I/c-Range

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officer, Batote Range, Social Forestry Division, Ramban, after obtaining the requisite approval of the Competent Authority;

Whereas, the petitioner otherwise holding a lower post of Block Officer/Forester has been assigned a higher responsibility of I/c-Range Officer like many other officials of this Department, in view of scarce availability of Range Officers in the Social Forestry wing, on the approval of the Competent Authority;

Whereas, Central Empowered Committee vide its communication dated 18.04.2024 addressed to all the Chief Secretaries of all the states and UTs has requested that the officials of the Forest Department shall not be requisitioned for the election duty in light of the instructions dated 07.06.2023 issued by the Election Commission of India and has further requested for the issuance of the relevant directions in the matter;

Whereas, Instruction No IV (3) of the Model Code of Conduct deals with the transfers and postings and according to it , there shall be total ban on the transfer of all the officials connected with the conduct of the elections . The Forest Officers are not involved in the election-related work and thus the instructions issued by the Election Commission of India are not violated by this department as the transfers in Forest Department do not attract the provisions of the Model Code of Conduct issued by ECI. Moreover, the transfers in Forest Department were effected as a general administrative exercise, not as a result of the ensuing elections.

Whereas, it has been submitted by the petitioner that Chief Electoral Officer has remarked that the officers and officials who do the most of the election-related supportive work are backbone of all formal statutory authorities relating to elections, as Assistant Electoral Registration Officers (Tehsildar), ARO/Electoral Registration Officers (normally SDM/ACR/ADCs) and DEOs, and has advised to refrain from making large scale transfer, to not let the administrative machinery get unsettled and has invoked the direction of Election Commission of India treating the transfers as violative;

Whereas, the claim of the petitioner seeking analogy with Revenue officers is misrepresented as the officials of the Revenue Department do most of the election related supportive work and they are the backbone of all the formal statutory authorities involved in the conduct of the elections and the Forest officials are not connected with the conduct of elections. Thus the officials of the


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Forest Department cannot be compared with the officials of the Revenue Department;

Whereas, even the communication of the ECI being invoked by the petitioner w.r.t. effecting of transfers and postings outside the Parliamentary Constituencies of officers, was also subsequently clarified by the ECI to be inapplicable to UT of J&K like other States/UTs with not more than five Parliamentary Constituencies, which fact has been concealed by the petitioner;

Whereas, in compliance to the Hon'ble CAT judgement dated 27.03.2024, a Notice vide letter No. FST-Lit/165/2024-02 dated 14.05.2024, was issued to the petitioner to appear before the Financial Commissioner (Additional Chief Secretary), Forest, Ecology and Environment Department, in case he wished to be heard in person, for presenting his case/grievance;

Whereas, on the aforesaid date, the petitioner failed to represent himself before the Financial Commissioner (Additional Chief Secretary), to defend his case.

Now, therefore, in view of the aforementioned facts, after providing a reasonable opportunity to the petitioner, having considered the case in compliance with the Hon'ble CAT order dated 27.03.2024, the petitioner's claim is found to be devoid of merit and is **hereby rejected**.

By Order of the Government of Jammu and Kashmir.

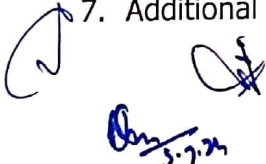
Sd/-
(Dheeraj Gupta) IAS,
Financial Commissioner (Additional Chief Secretary)

No: FST-Lit/165/2024-02

Dated:-05.07.2024

Copy to the:-

1. Principal Secretary to the Government, Hon'ble Lieutenant Governor.
2. Joint Secretary (J&K), Ministry of Home Affairs, Government of India.
3. Principal Chief Conservator of Forests & HoFF, J&K.
4. PCCF/Director, Social Forestry, J&K. He is requested to furnish ATR w.r.t joining of the official at his place of posting i.e. Social Forestry Range, Batote, Social Forestry Division, Ramban.
5. Chief Conservator of Forests, Jammu. He is requested to ensure compliance of the Government Orders in the matter, under intimation to this department.
6. Director, Archives, Archaeology and Museums, J&K.
7. Additional Secretary (Legal), Forest, Ecology & Environment Department.

Handwritten signature and date: 5.7.24

8. Private Secretary to Chief Secretary, J&K.
9. Private Secretary to Financial Commissioner, (Add. Chief Secretary), Forest, Ecology & Environment Department
10. Mr. Pankaj Khajuria, I/C -Range Officer, Batote Range, Social Forestry Division, Ramban.
11. I/c Website.
12. Government Order file (w.3.s.c)/Stock file.

Raj Kumar Sharma
(Raj Kumar Sharma)

V Under Secretary to the Government *Raj Kumar Sharma*