



Government of Jammu And Kashmir
Consumer Affairs and Public Distribution Department
Civil Secretariat, J & K Jammu

Subject: SWP No.1488/2015 titled Altaf Hussain Najar V/S State & others.
Reference:- Order Dated:16-07-2015 passed by the Hon'ble High Court.

Government Order No. 90 - CAPD of 2015
D a t e d: 19 - 08 - 2015

Whereas, vide Government Order No.70 of 2015 Dated: 11-07-2015 Mr. Altaf Hussain Najar, Assistant Controller, Budgam (petitioner) and Mr. Ishey Phunshuk, Assistant Controller, Kargil were ordered to swap their present place of postings;

Whereas, the petitioner Altaf Hussain Najar by virtue of SWP No.1488/2015, titled Altaf Hussain Najar V/S State & others has challenged the aforesaid order before the Hon'ble High Court and the Hon'ble High Court while disposing of the petition has passed a direction, the operative part thereof reads as under:

"This writ petition alongwith connected MPs is disposed of and it is provided that the petitioner shall file a representation before respondent No. 1 within two weeks projecting all the difficulties in going to Kargil. Respondent No.1 to consider and take decision on the representation of the petitioner in accordance with rules and Government policies and in light of the averments made in the representation. Till the fresh order is passed, the impugned order No. 70-CAPD of 2015 dated 11-07-2015 shall stay."

Whereas, pursuant to the directions passed by the Hon'ble High Court, the Government has considered the claim of the petitioner in the light of the averments made in the representation and observed that the aforesaid order dated:11-07-2015 has been made in the interest of administration and on the basis of administrative exigency in terms of the law, rules and policies in vogue as in series of judicial pronouncements it has been held that transfer is an incident of service and the scope of judicial review of transfer order under Article 226 is very limited. Further, in State of U.P Vs Gobardhan Lal,(2004) 11 SCC 402, it has been held that transfer is the prerogative of the authorities concerned and Courts should not normally interfere therewith.

Whereas, in the representation, the petitioner/applicant has contended that the transfer of the petitioner has been effected in violation of transfer policy issued by the Government. The averments made by the petitioner in this regard have been examined and found not in accordance with the law/rules/policies governing the subject matter, as transfer is an exigency of service and policies/guidelines framed by the Government is only

meant to regulate the smooth functioning of the department and it does not confer any right upon the petitioner to serve at a particular place or position.

Now, therefore, considering the contentions of the petitioner in light of contents of writ petition vis-à-vis representation and in compliance to the direction of the Hon'ble High Court dated:16-07-2015 passed in SWP No.1488/2015 titled Altaf Hussain Najar V/S State and others, the same is hereby rejected being devoid of merits and the Government Order No.70 - CAPD of 2015 Dated:11-07-2015 shall remain intact and the petitioner Shri Altaf Hussain Najar is directed to report to his new place of posting without further loss of time failing which action for dereliction of official orders shall follow.

The Joint Controller Legal Metrology, Kashmir shall ensure service of this order to the petitioner and report about the compliance within three days and shall relieve the petitioner Sh.Altaf Hussain Najar Assistant Controller immediately with the direction to report his new place of posting in terms of Government Order No.70-CAPD of 2015 dated:11-07-2015.

By order of the Government of Jammu & Kashmir.

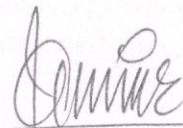
Sd/-
(Sourab Bhagat)IAS
Secretary to Government
CA&PD and Tribal Affairs

No.CA&PD/Legal/31/2015

Dated: 19-08-2015.

Copy to the:

- 1/- Joint Controller Legal Metrology, Kashmir for immediate necessary action.
- 2/- OSD to Hon'ble Minister for CA&PD and Tribal Affairs for information of the Hon'ble Minister.
- 3/- Sh. Shabir Ahmed Naik AAG, CA&PD Department for J&K High Court Srinagar for information with request to file caveat before the Hon'ble High Court immediately.
- 4/- Shri Altaf Hussain Najar AC LM under orders of transfer to Leh(Kargil) (the petitioner) for immediate compliance.
- 5/- Government order file/stock file/Website I/C.



(Javaid Ahmed Reshi)

Under Secretary to Government
CA&PD Department