

STATE OF JAMMU AND KASHMIR
v.
DR. ASHOK KUMAR GUPTA AND ORS.

JANUARY 11, 1996

[K. RAMASWAMY AND G.B. PATTANAIAK, JJ.]

Service Law :

J&K Medical Educational (Gazetted) Services Recruitment Rules, 1979:

G.O. No. 517—HME of 1987 dated 19.10.1987—Promotional Scheme—Promotion as Assistant Professors—Lecturers appointed ad-hoc with 7 years as on March 31, 1987 eligible under the scheme—Single Judge of High Court giving the benefit to those who had not completed 7 years service—Appeal to Division Bench—Delay not condoned—Explanation for delay needs to be considered and condoned—Matter remitted to High Court for fresh disposal.

Judicial Notice :

Delay in filing appeals by government departments—Taking of judicial notice—Held : Refusal to condone the delay feeds public injustice—Need for condoning the delay.

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 2067 of 1993.

From the Judgment and Order dated 25.3.92 of the Jammu & Kashmir High Court in L.P.A. (SW) No. 91 of 1991.

G.M. Kawoosa and Ashok Mathur for the Appellants.

The following Order of the Court was delivered :

Though the respondents have been served, no one is appearing either in person or through counsel.

Leave granted.

The learned single Judge allowed the Writ Petition on the ground that the lecturers were appointed on regular basis and satisfied the qualifications prescribed in J & K Medical Education (Gazetted) Services Recruitment Rules, 1979 and were appointed to time bound promotion by virtue of

- A Government order No. 517-HME of 1987 dated 19.10.1987. The said order indicates that excluding the time during which they had worked against *ad hoc* appointment, if they had completed 7 years as on March 31, 1987, they would be designated on time bound promotional scheme as Assistant Professors in the scale of Rs. 2350-4050 w.e.f. 1.4.1987. The respondents had not completed 7 years' regular service as on that date. Yet learned single Judge had given the benefit of the above G.O. There was a delay of about 3 months in filing the appeal to the Division Bench. The Division Bench of the High Court was not inclined to condone the delay on the ground that proper explanation had not been given. We have considered the reasoning of the learned judges. On the facts and circumstances, we think that the explanation given for the delay in filing the appeal is proper. It is notorious and court would take judicial notice that no one would take responsibility for the delay and in the process of leisurely consultations between different departments or at different levels in the same department the limitation to file the appeal gets barred. Refusal to condone the delay feeds public injustice and a premium for lethargy and encourages mischief. Applying the pragmatic approach, the explanation for the delay needs to be considered and the cause of justice advanced and consideration angulated and accordingly, considered from that perspective the delay gets condoned. The matter is remitted to the High Court for fresh disposal on merits according to law.
- D
- E The appeal is allowed. No costs.

G.N.

Appeal allowed.