



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

Reserved on: 15.07.2025

Pronounced on: 25.07.2025

**CRM(M) No.652/2023**

**BILQUIS MIR**

**... PETITIONER(S)**

*Through: - Mr. Najmi Waziri, Sr. Advocate, with  
Mr. Khowaja Siddiqui, Advocate,  
Mr. Surjeet Andotra, Advocate,  
Mr. Manik Antal, Advocate.  
Mr. R. A. Jan, Sr. Advocate, with  
Ms. Humaira Sajad, Advocate.*

Vs.

**UT OF J&K**

**...RESPONDENT(S)**

*Through:- Mr. Mohsin Qadiri, Sr. AAG, with  
Ms. Nadiya Abdullah, Assisting Counsel.*

**CORAM: HON'BLE MR. JUSTICE SANJAY DHAR, JUDGE**

**JUDGMENT**

1) The petitioner, through the medium of present petition, has challenged FIR No.23/2023 for offences under Section 5(1)(d) read with 5(2) of J&K Prevention of Corruption Act [for short "the PC Act"] and Section 120-B of RPC registered with Police Station Anti-Corruption Bureau Central Kashmir, Srinagar.

2) As per the impugned FIR, a verification was conducted by the respondent Investigation Agency into the allegation that the petitioner who was appointed as a Physical Education Teacher ("PET") in relaxation of requisite technical qualification prescribed for the said post on the



condition that she shall undergo BP.Ed. course during her probation period, did not undergo the said course. It was revealed after conducting verification that the petitioner was initially appointed as PET in terms SRO 349 of 1998 in relaxation of required technical qualification prescribed for recruitment to the said post on the condition that she shall undergo BP.Ed course but she has not attained the said degree at all.

3) It was further revealed that the petitioner had joined Youth Services and Sports Department as PET in the year 2009 and was later on deputed to J&K Sports Council, Srinagar, for a period of two years in terms of Government Order No.103-Edu (Tech) of 2013 dated 09.07.2013. It was found that the petitioner was promoted to the rank of Junior Coach in terms of order No.423 of 2014 dated 09.07.2014 and her pay was enhanced from Rs.4500-7000 GP 2400 to Rs.9300-34800 with GP 4200, without concurrence from the Government in gross violation of Service/Promotion Rules. It is alleged that the officers of the Sports Council, Srinagar, promoted the petitioner dishonestly despite having knowledge that she has not attained the prescribed qualification which was a condition attached to her appointment. It was further found that in the year 2019, the petitioner was designated as Incharge Executive Director, Water Sports Centre, by the Secretary,



Sports Council, vide order No.387 of 2019 dated 22.05.2019 in her own pay and grade.

4) Thus, according to the respondent Investigation Agency, the officers of the Sports Council, after entering into criminal conspiracy with each other, bestowed undue benefit upon the petitioner thereby causing corresponding loss to the Government exchequer in violation of the rules and regulations governing the field. It was also found that PETs, who were appointed along with the petitioner and had fulfilled all the conditions of appointment, are still working as Incharge Physical Education Masters. It is being claimed that the offences under Section 5(1)(d) read with 5(2) of PC Act and Section 120-B RPC are made out against the petitioner.

5) The petitioner has challenged the impugned FIR by contending that none of the ingredients of offence under Section 5(1)(d) of PC Act is made out against her as there is no allegation of dishonest intention against her. It has been further claimed that in terms of SRO 349 of 1998, it was not necessary for the petitioner to undergo BP.Ed. course as she is an outstanding sports personality and the condition of undergoing BP.Ed. course was not an essential condition of her appointment. It has been submitted that immediately after her appointment, the petitioner was

deputed as National Coach for Kayaking & Canoeing for



preparation of National Team for London Olympics and her deputation continued from time to time because her services were being regularly utilised by the Government of India for various coaching camps. Therefore, there was no opportunity for her to complete the BP.Ed course during the probation period. It has been further submitted that even if it is assumed that the petitioner had to undergo BP.Ed. course as a condition of her appointment, still then by not undergoing the said course, it can only be a case of violation of condition of appointment and not a ground for criminal prosecution against her.

6) Regarding the allegation pertaining to enhancement of pay of the petitioner from Rs.4500-7000 GP 2400 to Rs.9300-34800 GP 4200 against rules, it has been submitted that the said upgradation was made with an intent to retain the petitioner within the Union Territory of Jammu and Kashmir as she was offered better emoluments by the Sports Authority of India. Countering the allegation with regard to her alleged illegal promotion as Incharge Executive Director, Water Sports Centre, the petitioner has claimed that the said decision was taken at the highest level by the Government and the same was approved by Advisor to the Governor.

7) The respondent Investigating Agency has contested the petition by filing its reply-cum-status report with regard



to investigation of the case. Besides reiterating the allegations made in the impugned FIR against the petitioner, it has been submitted that despite lapse of more than fourteen years from the date of appointment of the petitioner, she has not been able to achieve the requisite qualification as laid down in the appointment order. It has been further submitted that other three appointees, who were appointed along with petitioner as Physical Education Teachers, improved their qualification by obtaining the requisite technical qualification but they are still working as Incharge Physical Education Masters while as the petitioner has been given undue advantage by elevating her to the status of Incharge Executive Director, Water Sports Centre, Srinagar in violation of the rules. It has been claimed that the probe conducted by the Investigating Agency has established that the petitioner has been promoted to the higher positions in brazen and gross violation of the service conditions which has been done in conspiracy with the public servants at the helm of affairs at the relevant time who have abused and misused their official position in order to confer undue advantage upon the petitioner.

8) I have heard learned counsel for the parties and perused record of the case including the Case Diary.



9) Essentially, there are three allegations levelled against the petitioner in the impugned FIR. First that one of the conditions attached to the appointment order issued in her favour with regard to acquisition of qualification of BP.Ed. during the period of probation, has not been fulfilled by the petitioner. The second allegation is that she has been granted a higher scale of pay by the J&K Sports Council in violation of rules and regulations while she was on deputation with the Council and the third allegation is that she has been designated as Incharge Executive Director, Water Sports Centre, Srinagar, by J&K Sports Council while her compatriots are still working as Incharge Physical Education Masters.

10) So far as the first allegation is concerned, there is no dispute to the fact that the petitioner even as on date has not acquired the qualification of BP.Ed. In fact, for undergoing BP.Ed. course, one has to be a Graduate but the petitioner, at the time of her appointment, had qualification of 10+2 and the Case Diary reveals that she has acquired the qualification of Graduation only in the year 2020.

11) The question that arises for determination is as to whether non-fulfilment of condition with regard to acquisition of requisite qualification by the petitioner would attract the ingredients of offence of criminal misconduct



against the petitioner. I am afraid taking a view that non-fulfilment of conditions of appointment by a candidate would amount to criminal misconduct on the part of such candidate or on the part of the officers who were supposed to ensure the fulfilment of such condition by the candidate would be stretching the things too far.

12) As per the provisions of Section 5(1)(d) of PC Act, for which the petitioner has been booked, it is essential to show that the public servant has by corrupt or illegal means abused his/her position as a public servant and the same has resulted in obtaining for himself/herself or for any other person any valuable thing or pecuniary advantage. Mere non-adherence to one of the conditions of the appointment would not amount to doing an act by corrupt means or abusing the position as a public servant.

13) In any case, the allegation in the impugned FIR against the petitioner is that she has acted in conspiracy with the officers of the J&K Sports Council, who were supposed to ensure that the condition of her appointment is adhered to by the petitioner. In this regard, it is to be noted that the petitioner was appointed as PET with the Department of Youth Services and Sports and not with J&K Sports Council. She was sent on deputation to the J&K Sports Council only in the year 2013 and by that time, her probation period of two years had already expired. If at all



there was any responsibility or duty to ensure that the condition laid down in the appointment order is adhered to by the petitioner, the same was lying with the concerned officers of the Department of Youth Services and Sports, the parent department of the petitioner, and not with the officers of the borrowing department viz. J&K Sports Council. It was not for the borrowing department to ascertain whether the petitioner had qualified the requisite degree and whether she had fulfilled the conditions of the appointment order. Therefore, the allegation of the respondent Investigating Agency that the petitioner has managed to remain in service on account of inaction of officials/officers of the J&K Sports Council is, on the face of it, without any substance.

14) Apart from the above, if we have a look at the Jammu and Kashmir (Appointment of Outstanding Sports Persons) Rules, 1998, in terms of which the petitioner has been appointed, it becomes clear that the Government has an absolute power to make appointment to any non-gazetted service of any outstanding sports person at its sole discretion in any department against any vacancy notwithstanding anything contained in the rules or orders regulating the procedure for appointment to any such service. Thus, even in the absence of qualification of BP.Ed. it was open to the Government to appoint the petitioner to non-gazetted post having regard to her outstanding





sporting achievements, regarding which there is no dispute. Since this Court is not dealing with the matter relating to the question whether the petitioner can be allowed to remain in service despite she having not qualified BP.Ed. till date, as such, it may not be appropriate for this Court to render an opinion on this aspect of the matter. Nonetheless, there can be no two opinions on the legal position that even in the absence of qualification of BP.Ed, the Government has the discretion to waive off the requirement of said condition attached to the appointment order of the petitioner.

15) In the face of aforesaid position, merely because the petitioner has failed to fulfil the condition attached to her appointment order does not amount to any corrupt practice on her part so as to attract the provisions contained in Section 5(1)(d) of the PC Act. In fact, the petitioner has given an explanation in her petition as to why she could not acquire the requisite qualification, which is borne out from the entries made in her service record, which is part of the Case Diary. She has also placed on record various communications which go on to show that her services have been utilized for national duties at regular intervals. The authenticity of these communications is not in dispute. As per these documents, immediately after her appointment in the Department of Youth Services and Sports, the petitioner



was deputed for participating in Asian Games Coaching Camp of Kayaking & Canoeing at Bhopal for a period of one year with effect from 18.08.2009. It is pertinent to mention here that the petitioner had joined her service on 07.07.2009. The documents produced by the petitioner reveal that she has completed her studies in International Coaching course in Kayaking & Canoeing and obtained a Coache's Diploma from International Coaching Course Semmelweis University, Institute of Coaching and Sport Education Budapest, Hungary in the year 2009. It also appears that the petitioner was deputed and appointed as International Technical Official for 10<sup>th</sup> All Africa Games, 2011, by the Confederation of African Canoeing at Maputo Mozambique from 3<sup>rd</sup> to 18<sup>th</sup> September, 2011, in terms of Government Order dated 22.09.2011. The petitioner also performed the duties of National Coach for Women's team in Kayaking and Canoeing for London Olympics, 2012.

16) In the face of aforesaid assignments, which the petitioner had to undertake in the interests of the National Sports and in view of the duties assigned to her by the Sports Authority of India, it would not have been possible for her to fulfil the condition of undergoing BP.Ed course within the probation period. Doing the national duties for serving the country in the field of sports perhaps is more important than undergoing a BP.Ed course and if the



petitioner has given preference to the former, she cannot be subjected to criminal prosecution for the same.

17) That takes us to the second allegation that has been levelled against the petitioner which is relating to grant of higher scale of pay by the J&K Sports Council to her. In this regard it is to be noted that vide Government Order No.103-Edu (Tech) of 2013 dated 09.07.2013, the petitioner was deputed to J&K Sports Council for a period of two years in the first instance. As per the said Government Order, the deputation of the petitioner was governed by the standard terms and conditions of deputation contained in Schedule XVIII of J&K Civil Service Regulations Volume II. As per Clause (2) of Schedule XVIII, a deputationist has the option either to get his/her pay fixed in the deputation post under the operation of normal rules or to draw pay of the post held by him/her in his/her parent department. Where transfer on deputation is not in public interest, a deputationist would continue to draw pay of the post held by him/her in his/her parent department. From this, it is clear that a deputationist has choice to get his/her pay fixed in the deputation post or to draw the pay of the post held by him/her in his/her parent department, provided his/her deputation is in public interest.

18) It is pertinent to mention here that deputation of the petitioner to J&K Sports Council was made at the instance



of the Council itself which is clear from the note file seized by the Investigating Agency during investigation of the case. In the note file, it is clearly indicated that services of the petitioner were required on deputation as she is a talented lady and her services could be utilized in promoting and popularizing the game of Kayaking & Canoeing properly. So, it is a case of deputation in public interest and not a case of deputation at her request. Therefore, the petitioner was entitled to have the option either to get her pay fixed in the deputation post or to draw pay of post held by her in her parent department.

19) Initially, the petitioner was drawing salary in the borrowing department i.e. J&K Sports Council at the same rates at which she was getting salary in her parent department but in the year 2014, to be precise, on 06.01.2014, the petitioner received an offer for appointment as Assistant Coach in Pay Band-2 Rs.9300-34800 Plus Grade Pay 4200 in Sports Authority of India. The letter of appointment forms part of the Case Diary.

20) Upon receipt of the aforesaid offer by the petitioner, it seems that the J&K Sports Council was reluctant to dispense with her services and it made a request to the Secretary, Sports Authority of India, New Delhi, to post the petitioner in J&K Sports Council as there was no qualified coach available on the rolls of the said Council in Kayaking



& Canoeing discipline. For this purpose, it was proposed to redesignate the petitioner as a Coach in her own pay and grade and a note to this effect was put up on 31.01.2014 by the Secretary which was approved by the Minister of Sports, Government of J&K. Accordingly, order dated 04.02.2014 was issued by the J&K Sports Council, whereby the petitioner was designated as Coach in Kayaking & Canoeing in her own pay and grade. However, it seems that this did not resolve the issue and the petitioner represented for release of the pay and emoluments as are attached to the post of Junior Coach because she was being offered similar grade and pay by the Sport Authority of India. Again, a note came to be placed before the competent authority, i.e. Minister of Sports who accorded approval to release of grade of Rs.9300-34800 Plus GP 4200 in favour of the petitioner with the condition that she will get the said pay scale only till such time she remains posted in J&K Sports Council and would not claim the said scale of pay when she is repatriated to the Directorate of Youth Services and Sports Department. In this regard, order dated 09.07.2014 came to be issued by the J&K Sports Council.

21) As has already been stated hereinbefore, as per the provisions contained in Clause (2) of Schedule XVIII of J&K CSR Volume II, a deputationist, who has been deputed in public interest, has an option to get his/her pay fixed in the



deputation post. In the present case, a request was made by the J&K Sports Council to the petitioner to perform the functions of a Junior Coach and the petitioner opted to get her pay fixed in the said post, which option was accepted by the borrowing department i.e. the J&K Sports Council by issuing order dated 09.07.2014. It has to be borne in mind that it was made clear in the said order that the pay scale attached to the post which the petitioner was holding in the borrowing department would be available to her till such time she will work in the borrowing department and that she will not claim the said pay scale once she is repatriated to her parent department.

22) Thus, the contention of the respondent Investigating Agency that grant of higher emoluments to the petitioner by the J&K Sports Council does not have sanction of rules, appears to be without any substance. It seems that the respondent Investigating Agency is confusing the issue by comparing the pay scale of the petitioner with the pay scales of those who were appointed by the Department of Youth Services and Sports along with the petitioner. The two situations are entirely different, inasmuch as the petitioner has been deputed to a different department. The borrowing department has jurisdiction and power to fix the pay of deputationist on the post on which the deputationist is made to work. This is what has been done by the J&K



Sports Council while fixing the pay of the petitioner in the posts on which her services have been utilized.

23) It is not a case where the decision taken by the J&K Sports Council to grant higher emoluments to the petitioner is arbitrary in nature. It is a case where the said decision of the Council is based upon its requirement and the outstanding credentials of the petitioner. Here it would be apt to make reference to some of the achievements of the petitioner:

- i. Represented India in the World Cup Competition 2009 for Canoeing and Kayaking in Szeged (Hungary) wherein she finished 8<sup>th</sup> in the Competition.
- ii. The First Indian Woman to be appointed as a Judge in the upcoming Asian games to be held at China.
- iii. National Coach for the Women's team in Kayaking and Canoeing for London Olympics 2012.
- iv. First Indian Woman to do International Coaching Diploma from Budapest (Hungary) held at the Semmelweis University Institute of Coaching and Sport Education at Budapest Hungary.
- v. Chief Coach Women National Team in under 23 Canoe Slalom World Championship held at Italy 2018.
- vi. National Coach for 9th Asian Canoe Slalom Championship held at Toyama Japan 2016.
- vii. Conferred with the Sheri Kashmir Award for Outstanding Sports Persons, 2009 and Women Achiever Award for best sports person in the year 2017.

24) Besides the aforesaid achievements, on 16.02.2024, Vice President of Indian Olympic Association, while



addressing a communication to the Chief Secretary, Government of J&K, has highlighted the achievements of the petitioner by conveying that selection of the petitioner to officiate at the Olympics is a matter of pride not only for the Country as a whole but the State of Jammu & Kashmir in particular. It is mentioned in the said communication that it is a celebration and triumph for all women of India that this lady has achieved what no one else has achieved in over hundred years of the Olympics. Another communication addressed by the President Indian Kayaking & Canoeing Association to the Director, Youth Services and Sports, J&K, on 21.02.2024, also highlights the achievements of the petitioner for her nomination for 2024 Paralympic Games as a Technical Official. It has been mentioned in the said communication that it is a unique honour for our Country and for Union Territory of Jammu and Kashmir. On 28<sup>th</sup> May, 2024, Chief Official of ACC Chair Canoe Sprint Committee, Asian Canoe Confederation has issued a letter of appreciation in favour of the petitioner appreciating her dedication and passion for the Sport of Canoe.

25) Having regard to the aforesaid outstanding achievements of the petitioner in the field of Kayaking & Canoeing as a participant, as an official and as a Coach, the decision of the J&K Sport Council to retain such a





talent in the Union Territory of Jammu and Kashmir and for this purpose their decision to release emoluments attached to the post which the petitioner was holding in J&K Sports Council, can by no stretch of imagination and reasoning be termed as conferment of undue benefit upon her.

26) So far as the third allegation made against the petitioner, which relates to her designation as an Incharge Executive Director, Water Sports Centre, Srinagar, in terms of order dated 22.05.2019, is concerned, the same is also without any substance. It is to be noted that the said decision of the J&K Sports Council has the approval of the competent authority i.e. Advisor to the Governor and it does not confer any pecuniary benefit to the petitioner because the order clearly specifies that she is being designated as such in her own pay and grade.

27) Perhaps, the respondent Investigating Agency is misconstruing the designation of the petitioner as Junior Coach or as Incharge Executive Director, Water Sports Centre, in the borrowing department viz J&K Sports Council, as a promotion or upgradation to the petitioner, which it is not so. The moment petitioner is reverted to her parent department, she will be subject to the same service conditions as are available to her other compatriots. The orders issued by the J&K Sports Council redesignating the



petitioner or granting her higher emoluments are restricted to her stay in the borrowing department. Therefore, it is not a case of undue promotions having been accorded to the petitioner.

28) Apart from the above, there are certain special features involved in the present case which are required to be noticed. From a profile of the petitioner, as is discernible from the material collected by the Investigating Agency, it appears that she is an outstanding sports woman having participated in 2009 World Championship and achieved 8<sup>th</sup> rank in Kayaking & Canoeing. Besides this, she has brought laurels to the nation by performing her duties as a National Coach for women's team in Kayaking & Canoeing for London Olympics, 2012, Asian Championship held in Japan in 2016 and Chief Coach for Women National team in under 23 Canoe Slalom World Championship held in Italy in 2018, The petitioner has also been nominated as a Jury Member at Paris Olympics, 2024, and was also selected as Chief Finishing Line Judge in Paris Olympics, 2024, where she performed with great distinction.

29) This Country has produced very few sports personalities and Coaches of the level of the petitioner and instead of honouring them and celebrating their achievements, it seems that the people at helm of affairs are leaving no stone unturned in harassing such talented



people. No surprise that even after more than 75 years of independence, this Country has failed to develop a sporting culture, as a consequence whereof, we have failed to produce sportsmen/women of international standards in proportion to our population. The attitude of the respondent Investigating Agency in criminalizing non-acquisition of a technical qualification by the petitioner when she has brought laurels to the Country all over the world speaks volumes about the manner in which we are treating our sporting heroes. This Court, while going through the Case Diary, was alarmed to note that the respondent probe agency has even tried to go into the issue as to whether the answer scripts of the petitioner in her graduate examination have been properly evaluated by the examiners. This attitude of the respondent clearly smacks of wreaking vengeance upon the petitioner. The present case appears to be nothing but a witch-hunt launched against the petitioner by vested interests.

30) For what has been discussed hereinbefore, the allegations made in the impugned FIR and the material collected in support thereof by the Investigating Agency even if admitted to be correct, the same do not make out any offence against the petitioner. The continuance of criminal proceedings against the petitioner in these circumstances would be nothing but an abuse of process of



law. Thus, this is a fit case where this Court should exercise its powers under Section 528 of BNSS to quash the impugned FIR and the proceedings emanating therefrom so as to secure the ends of justice.

31) For the foregoing reasons, the petition is allowed and the impugned FIR and the proceedings emanating therefrom are quashed.

32) The Case Diary be returned to learned counsel for the respondents.

Srinagar,  
25.07.2025  
"Bhat Altaf-Szegy"

(Sanjay Dhar)  
Judge

Whether the **judgment** is reportable: **YES/NO**

