

Noor UI Amin Malik Vs Commissioner/ Secretary And Others

Court: Jammu And Kashmir High Court (Srinagar Bench)

Date of Decision: June 1, 2021

Acts Referred: Jammu And Kashmir Civil Services (Classification, Control And Appeal) Rules, 1956 – Rule 31, 31(3)

Hon'ble Judges: Pankaj Mithal, CJ; Vinod Chatterji Koul, J

Bench: Division Bench

Advocate: Arif Sikander Mir

Final Decision: Dismissed

Judgement

1. Heard Sh. Arif Sikander Mir, learned counsel for the petitioner.

2. The petitioner has challenged the order dated 12.04.2021 passed by the Central Administrative Tribunal, Jammu, in OA No.204/2021 titled Noor ul

Amin Malik v. D/O Forests UT of Jammu & Kashmir.

3. The petitioner was put under suspension on account of a criminal case registered against him. The said suspension order was challenged before the

Tribunal. The Tribunal has refused to grant interim protection to the petitioner. Thus, petitioner has approached this Court contending that the order of

suspension has been passed in violation of a statutory provision viz; Rule 31 of the Jammu & Kashmir Civil Services (Classification, Control and

Appeal) Rules, 1956, which provides that in case of a criminal investigation, the suspension can only be resorted to only after holding a preliminary

enquiry.

4. We have gone through Rule 31 and we do not find that it contemplates for conducting a preliminary enquiry before putting a person under

suspension in the event he is facing a criminal investigation pursuant to an FIR. It is well settled in law that suspension is not a punishment and is an

incidence of service. It is, therefore, not a case for exercise of discretionary jurisdiction.

5. The petitioner otherwise has a remedy to apply for revocation of the order of suspension in accordance with Sub-Rule 3 of Rule 31 of the Rules.

6. Accordingly, we do not deem it proper to interfere in the matter and the petition is dismissed with liberty aforesaid.