

Writ Petition is maintainable if the Position of Appellate Authority is vacant

The Hon'ble High Court of Jammu & Kashmir in the case of ***Oriental Insurance Co. Ltd. v. Union Territory of J&K [Writ Petition (Civil) No. 3949 of 2019 dated April 29, 2024]*** dismissed the appeal the appeal as infructuous. M/s Oriental Insurance Co. Ltd. ("**the Petitioner**") had filed a writ of mandamus for commanding the Respondent to hear the appeal against the Assessment Order dated March 31, 2018, for 2013-14 ("**the Impugned Order**").

At the time of filing the Petition, the post of Dy. Commissioner, State Taxes (Appeals-I) Srinagar ("**the Position**") was vacant. The Position was later filled up by the Government Order No. 1027-JK (GAD) of 2020 dated November 02, 2020, by posting Dr. Zahoor Ahmad Raina, KAS. Later, he was transferred vide Government Order No. 651-JK(GAD) of 2021 dated July 24, 2021, and Ms. Sammer Naik, JKAS the Dy. Commissioner, State Taxes (Appeals-II) Srinagar was given the additional charge of the Position. Thereafter, vide Government Order No. 130 (JK) GAD of 2022 dated February 06, 2022, Ms. Tabasum Shafat Kamli, JKAS filled the Position.

Since the Position had already been filled up, the Court held that the appeal filed by the Petitioner must be considered and decided by the Appellate Authority i.e., Dy. Commissioner, State Taxes (Appeals-I) Srinagar.

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