



POLICE HEADQUARTERS J&K JAMMU/ SRINAGAR

Phone/Fax No: 0194-2443026 (Sgr)
0191-2433939 (Jmu)

Establishment

Web:- www.jkpolice.gov.in
email:- phqjk@jkpolice.gov

Subject: - Order dated 28.12.2022 passed by Hon'ble High court of J&K & Ladakh in WP(C)2986 of 2022 titled Gh Qadir Allai & Anr Vs UT of J&K and Others

Refn'ce:-

1. Govt order No.Home-462(P) of 2013 dated 24.10.2013:
2. Govt order No. 56- Home of 2016 dated 02.02.2016:
3. Home department letter No.Home/PB-IV/559/2001 dated 20.07.2017:
4. Govt Order No.1246-Home(P) of 2018 dated 11.09.2018:
5. Govt Order No.647-Home(P) of 2019 dated 26.06.2019
6. PHQ Order No.2172 of 2018 dated 23.05.2018

ORDER NO: 1164 OF 2023
DATED : 31 - 03 - 2023

Whereas, in Hon'ble High Court of J&K & Ladakh, the petitioner Gh Qadir Allai & Anr. filed instant petition No. WP(C) 2986/2022 Vs UT of J&K and Others with the following prayers:-

A) Petitioners and similarly situated persons have not been given salary as applicable to the skilled employees and as has been given to their counterparts by the respondent-authority. The further submitted before the Hon'ble High Court that they would feel satisfied, if this petition is disposed of with a direction to the respondent-authority to consider the claim of the Petitioners at par with the Writ Petitioners of SWP No.3938/2021 titled Talib Hussain & Ors VS State and Ors and SWP No.1620/2022 titled Mohammad sultan Mir & Ors Vs State & Ors;

Whereas, the Hon'ble High Court of J&K & Ladakh, vide order dated 28.12.2022 disposed of the Petition. The operative portion of the order is reproduced as under:-

" In view of the short controversy involved and the stand taken by Learned Counsel for the Petitioners, this Petition at this threshold is admitted to hearing and is disposed of with a direction to the respondent-authority to consider the claim of the Petitioners on the analogy of writ Petitioners of aforesaid writ Petitions provided their claim is identical. Let respondent-authority take a decision in the matter within a period of six weeks by passing a speaking order from the date, the certified copies of this order alongwith complete paper book is supplied to the respondent-authority"

The perusal of record reveals that no SWP bearing No.3938/2021 titled Talib Hussain & Ors Vs State & Ors was received by this

Department in the year 2021 or thereafter, nevertheless, this shall not constitute a substantial question of law as such shall not affect the compliance to the ibid orders. Therefore, while complying the orders of the Hon'ble High Court, the claim of the Petitioners is considered/examined in light of the facts as enumerated hereunder which has however been concealed by the Petitioner and they have tried to misled the Hon'ble High Court:-

Whereas, In compliance to the orders passed by the Hon'ble High Court of J&K in a bunch of Petitions/Contempt petitions, Home department vide order No. Home-462(P) of 2013 dated 24.10.2013 conferred the skilled grades to 122 Pioneer Platoon/PTWS Personnel "**notionally**" from the date of their initial appointment and monetary from the date of issuance of orders to this effect; and

Whereas, the Home Department ibid order couldn't be implemented due to non-availability of such posts in J&K Police relevant to the pay scales applicable to the skilled employees in terms of SRO-149 of 1973 dated 07.04.1973 and the matter was referred to the Home Department for clarification; and

Whereas, in the year 2016, government vide order No. 56-Home of 2016 dated 02.02.2016 issued some clarification, still some technical issues were not made clear, accordingly, the matter was again referred to Home Department seeking clarification on the following key residual issues:-

- i. The officials already attained the age of superannuation and retired from the active service among the officials existing in the annexure of Government orders may be excluded from the order of conferment of skilled /semi-skilled grades since they have earned promotions in general category and retired on higher posts/ranks:
- ii. The officials who have no diploma(ITI) in a particular trade may be treated as equivalent to the category of semi-skilled workers as contained in the SRO treating seven(7) years service in the department as experience attained in that particular trade. A list of officials to this effect was provide to the Home department:
- iii. Amendments with regard to the trade was required to be made in the ibid government orders in respect of some of the officials whose nominal roll was also provide to the Home department:

Whereas, finally in the year 2017, Home Department vide letter No.Home/PB-IV/559/2001 dated 20.07.2017 issued clarification with regard to the residual issues ; and

Whereas, in the meanwhile, 07 left out personnel were also conferred with the skilled status vide Home department Order Nos. 1246-Home(P) of 2018 dated 11.09.2018 & No. 647-Home(P) of 2019 dated 26.06.2019 thus making in all 129 Pioneer Platoon/PTWS Personnel who were granted Skilled/Semi-Skilled pay scales pursuant above said Government Orders; and

Whereas, PHQ vide Order No.2172 of 2018 dated 23.05.2018 implemented the Government order No. Home-462(P) of 2013 dated 24.10.2013 read with Order No. 56- Home of 2016 dated 02.02.2016 and read with final clarification issued vide letter No. Home/PB-IV/559/ 2001 dated 20.07.2017 and conferred the skilled status to the 122 Pioneer Platoon/PTWS personnel. The conferment was accordingly ordered to be "**notional**" w.e.f the date of initial appoint of these personnel and monetary benefit was allowed from the date of issuance of this order i.e. 23.05.2018 vis-à-vis directions contained in the government order. Subsequently, the orders of left-out (07 personnel as discussed above) were also endorsed to ZPHQ Jammu/Kashmir Zones and PTWSs for similar action; and

Whereas, out of these 129 Pioneer Platoon/PTWS personnel, 29 personnel including the petitioners in the instant petition had retired either before issuance of Government Order No. Home-462(P) of 2013 dated 24.10.2013 or after this order but before it could be implemented in terms of PHQ order No.2172 of 2018 dated 23.05.2018, as a result, these personnel couldn't avail any benefit out of the conferment of skilled grades. Revised pension case(s) of some of the above said retired personnel were forwarded by the concerned DDOs to the Accountant General J&K for re-fixing of their pension who returned the cases with the observation that the pension/revised pension is authorized on the actual pay granted in terms of Article -242 of J&K CSR; and

Whereas, since, it was provide in the Government orders (referred above) that monetary benefit shall be allowed to these employees from the date they are placed in the skilled grades with the result, 29 Pioneer Platoon/PTWS personnel couldn't get any monetary benefit from the said conferment; and

Whereas, the matter was accordingly taken up with the government vide PHQ letter No. Estt/MT-2/2011/III/67115 dated 18.11.2019 followed by reminders and in turn, Government (Home Department) vide letter No. Home -PNG/154/2021-10-Home/CC-28614 dated 03.02.2022 intimated that the matter was taken up with the Department of Law , Justice & Parliamentary Affairs who returned the file with the following opinion:-

" Returned: The department is advised to adhere to Circular instructions dated 26.11.2019, issued by this Department on the subject matter is heard and decided by the Hon'ble Supreme Court"

The operative portion of above said Circular dated 26.11.2019 issued by Department of Law , Justice & Parliamentary Affairs is reproduced as under:-

"the Hon'ble Supreme Court vide its order dated 31.01.2019 has stayed the impugned judgment passed in the case titled Provincial Power Employees Union VS J&K regarding SRO-149 of 1973. For convenience, the order is reproduced as under:-

"Taken on board.

Heard Mr Vijay Hansaria, Learned Senior Counsel for the Petitioners and Mr Ghan Sham Vashisht, Learned Counsel for the respondents. There shall be stay of the impugned judgment until further orders"

Accordingly, it is enjoined upon all to follow the aforementioned order of the Hon'ble Court in its letter & spirit. No order shall be passed which will come in conflict with the order dated 31.01.2019 passed by the Hon'ble Supreme Court "

Whereas, the above said Government Circular Instructions were accordingly endorsed to all the concerned quarters including the ADGP Kashmir Zone(then IGP) for compliance ;

As is evident from the facts as discussed above, no interference is allowed till **the identical matter is heard and decided by the Hon'ble Supreme Court**. Notwithstanding facts that the petitioners having knowledge that in view of the above said directions, the matter pertaining to their claim is pending disposal with the government, has filed instant petition which is unbecoming. The claim /representation of the petitioners , therefore, being bereft of any force is rejected.

Let the petitioner be informed accordingly

This issues without prejudice to any legal proceedings "if any" pending adjudication in any court of law competent to hear such cases.

Sd/=

(Dilbag Singh)IPS,

Director General of Police

J&K-Jammu

Dated; 31.03.2023

No: Estt/MT-01/2023/13544-70

Copy to the: -

1. ADSGP J&K Jammu/Kashmir for necessary action.
2. IGP Tech. Services J&K for necessary action.
3. SSP PTWS Jammu/Security J&K/STWS/PTWS Srinagar for n/a.
4. All District SSsP/ SSsP of PDs for n/a.
5. FA-cum-CAO, PHQ/CPO, PHQ for n/a.
6. SO(ITC), PHQ/ Order book

(Virinder Singh)-JKPS

AlG(Personnel)

for **Director General of Police**

J&K Jammu