

GOVERNMENT OF JAMMU AND KASHMIR
JAL SHAKTI DEPARTMENT
CIVIL SECRETARIAT, JAMMU/ SRINAGAR

Subject:- WP(C)No:1636/2021,CM No. 5469/2021 titled Hamid-ullah Bhat (Trali) vs UT of J&K and others. Treatment of suspension period of Shri Hamidullah Bhat (H.U. Trali), retired Executive Engineer.

Government Order No.07-JK (JSD) of 2024

Dated:- 10.01.2024

Whereas, Shri Hamidullah Bhat (mentioned as Sh. H.U. Trali) had been suspended on 24.01.1997 vide Government Order No. 43-PW of 1997 dated 24.01.1997; and

Whereas, Shri H.U. Trali was compulsorily retired from the Government Service on 24.09.1997 vide Government No. 471-PW of 1997 dated 24.09.1997; and

Whereas, Hon'ble Central Administrative Tribunal, Jammu in case No.T.A/62/2005/2020 (SWP No. 71 of 2009) titled Hamidullah Bhat (Trali) had passed the Order dated 19.11.2020, with the following directions:-

We, therefore, dispose of the T.A, directing the respondents to sanction and release the provisional pension to the applicant within two months from the date of receipt of certified copy of this order, if not already released. The payment of other benefits would be depended upon the outcome of the criminal case.

Whereas, Shri H.U. Trali filed a Writ Petition (WP) in the Hon'ble High Court of Jammu & Kashmir and Ladakh and sought following relief:-

a. Set aside the judgment as passed by the Central Administrative Tribunal, Jammu Bench, on 19.11.2020 in T.A. No. 62/2005/2020 titled Hamidullah Bhat Vs State of J&K and Others and



b. The relief prayed for in the writ petition bearing SWP No. 711/2009 titled Hamidullah Bhat Vs State of J&K and Others before the Hon'ble High Court of J&K Srinagar, be allowed.

Whereas, vide this departments letter dated 08.07.2022 and 06.01.2023, Chief Engineer, Design, Inspection & Quality Control, J&K was requested to furnish the records related to Shri Hamidullah Bhat (mentioned as Shri H.U. Trali in Government Order No. 471-PW of 1997 dated 24.09.1997) who was compulsorily retired from Government Service in 1997.

Whereas, Hon'ble High Court has passed the following direction on 05.06.2023:-

"In view of the above, the present petition is closed with the direction the respondents to do the needful for which the petitioner will also cooperate with the authorities so that the retiral benefits including GPF amount can be released to the petitioner as expeditiously as possible....."

Whereas, Chief Engineer, Design, Inspection & Quality Control, J&K vide letter No. CE/DIQC/Camp/S 01-06 dated 22.06.2023, while referring the Hon'ble High Court Order dated 05.06.2023, among other things, requested that necessary instruction be communicated to that office regarding treatment of the suspension period of 9 months of the petitioner; and

Whereas, vide letter dated 23.08.2023 and 03.10.2023 Chief Engineer, DIQC, J&K was requested to intimate whether Mr. Hamid-ullah Bhat (Trali) attended any office during his suspension period of 244 days w.e.f. 24.01.1997 to 24.09.1997 or not; and

Whereas, Chief Engineer, DIQC, J&K vide letter No. CE/DIQC/J/2733-34 dated 07.10.2023 has intimated that Superintending Engineer, Designs, Inspections & Quality Control Department (J&K) vide his office letter No. SE/DIQC/J/853 dated 05.10.2023 has informed that because of floods of 2014 & fire incidents in Aug 2020, the records of establishment section are either unreadable or not available. Chief Engineer has also informed that the said office is not in a position to ascertain whether the said officer attended any office during his suspension period. Further, no entry to this effect has been recorded in his service book as well; and



Whereas, the petitioner filed Contempt petition before the Hon'ble Court for and sought the following relief:-

- a. **Initiate contempt proceedings against the contemnors for willfully and intentionally violating with impunity the order dated 05.06.2023 as passed by the Division Bench of this Hon'ble Court in WP(C) 1636/2021 CM No. 5469/2021 titled Hamidullah Bhat (Trali) V/S UT of J&K and others.**
- b. **Direct the contemnors to implement order dated 05.06.2023 as passed by the Division Bench of this Hon'ble Court in WP(C) 1636/2021 CM No. 5469/2021 titled Hamidullah Bhat (Trali) V/S UT of J&K and others in letter and spirit.**
- c. **Any other order or relief which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case may also be passed in favour of the Applicant and against the contemnors.**

Whereas, Chief Engineer, DIQC, J&K vide his letter No. CE/DIQC/J/3306-08 dated 07.12.2023, while forwarding the reply to contempt petition has intimated that the case has been fixed for hearing on 22nd December 2023 at Srinagar, the contents of the reply to contempt petition among other things reads as under:-

.....Administrative Department had been requested to decide the period of suspension.

That there is no delay on the part of Contemnors who are making every effort to settle the pension case and other grievances of the petitioner, but due to incomplete documentation and non co-operation of the petitioner, delay is being caused. Petitioner had been directed by Hon'ble High Court in judgment dated 05.06.2023 to provide all required documents duly issued by Competent DDo's/Officers under rules for settlement of his claims. The Gratuity and other retiral benefits such as provisional pension to which he is entitled has been paid by Principal Accountant General (A&E) J&K Srinagar .

Whereas, the case has accordingly been examined in the department and it has been found that, there is no proof that Shri Hamidullah Bhat (H.U. Trali), retired



Executive Engineer had attended any office from the period of his suspension (i.e. 24.01.1997) upto his compulsory retirement (i.e. 24.09.1997).

Now, therefore, in compliance to the Order passed by the Hon'ble High Court of J&K dated 05.06.2023 in WP (C) No. 1636/2021 CM No. 5469/2021 titled Hamidullah Trali Vs U.T of J&K and Ors, and in terms of Government Instructions Note below 4 of the Article 163 of J&K CSR Vol-I, the suspension period of **244 days** in favour of Shri Hamidullah Bhat (H.U. Trali), retired Executive Engineer w.e.f. **24.01.1997** (i.e. date of suspension vide Government order No. 43-PW of 1997 dated 24.01.1997) **to 24.09.1997** (i.e. date of compulsory retirement vide Government Order No. 471-PW of 1997 dated 24.09.1997), is hereby treated as 'Dies-Non'.

By Order of the Government of Jammu and Kashmir.

Sd/-

(Shaleen Kabra) IAS

Financial Commissioner (Additional Chief Secretary)

Jal Shakti Department

No. JSD-LS02(1)/98/2021-Legal-JSD (C No. 86164)

Dated:-10.01.2024

Copy to the:-

1. Joint Secretary (J&K), Ministry of Home Affairs, Government of India, New Delhi.
2. Administrative Secretary, Public Works (R&B) Department.
3. Chief Engineer, Designs, Inspection & Quality Control, J&K.
4. Director, Archives, Archaeology and Museums, J&K.
5. OSD to Advisor (B) to the Hon'ble Lieutenant Governor.
6. Senior Law Officer, Jal Shakti Department.
7. Concerned retired officer.
8. Private Secretary to the Financial Commissioner (Additional Chief Secretary), Jal Shakti Department.
9. I/c Website.
10. Government Order file (w.2.s.c.).

(Sahil Mahajan) JKAS

Under Secretary to the Government
Jal Shakti Department