

**Government of Jammu and Kashmir.**  
**Jal Shakti Department**  
**Civil Secretariat, Jammu/Srinagar**  
\*\*\*\*\*

**Subject: - C.P No. 191/2022 in O.A No. 1862/2021 titled Sarwan Singh Vs Sh. B.V.R Subramanyam & Ors.**

**Government Order No. 208-JK (JSD) of 2023**

**Dated: 31-08-2023.**

1. Whereas, Sarwan Singh (hereinafter called applicant) filed Original Application under section 19 of the Administrative Tribunal Act 1985 bearing O.A No. 1862/2021 seeking directions against the respondents to settle the pension case of the applicant by releasing pensionary benefits, gratuity, leave in cash along with all the consequential and monetary benefits flowing out of the same and also to release his unpaid salary w.e.f 04.04.2019 to 30.11.2020 with an interest 12% per annum from the date it was due to the applicant, in the given facts and circumstances of the case; and
2. Whereas, the Hon'ble Central Administrative Tribunal, Jammu Bench, Jammu on 21.12.2021 considered the matter and disposed of the case with the following direction:-

**"....."“Looking to the limited prayer made by the learned counsel for the dispose of the O.A. with direction to the respondents to treat this O.A as representation of the applicant and dispose of the same by passing a reasoned and speaking order within a period of four weeks the Speaking Order within a period of four weeks from the date of receipt of this order. A copy of speaking order be given to the applicant;”**

and the applicant has filed contempt petition bearing C.P No. 191 /2022 titled Sarwan Singh Vs Sh. B.V.R Subramanyam & Ors for non implantation of order passed by the Hon'ble Tribunal; and

3. Whereas, in pursuance to the directions passed by the Hon'ble Court the matter has been examined in the Department and it was noted that vide communication dated 16.01.2019 received from the Anti Corruption Bureau J&K, Jammu, it was intimated that FIR No. 02/2019 U/S 5(1) (e)



r/w 5(2) of J&K PC Act Svt 2000 has been registered with the Police Station Anti Corruption Bureau Jammu on the basis of complaint lodged against Sarwan Singh the then Technical Officer to Chief Engineer, PHE Jammu and it was further requested to initiate action under Govt. Employees (Conduct) Rules 1971 and Jammu & Kashmir Civil Services (Classification Control and Appeal) Rules 1956, against the applicant. The Department vide Government Order No. 314-PW (Hyd) of 2019 dated 22.08.2019 appointed Mr. Sanjeev Kumar Chadha the then I/c Chief Engineer PHE Jammu as Inquiry Officer who on 14.10.2019 submitted its report which was accordingly forwarded to General Administration Department on 11.02.2020 for further course of action in the matter. The Department has been informed, latest vide letter dated 17.07.2023 by the ACB, that the subject case is under investigation; and

4. Whereas, the applicant namely Mr. Sarwan Singh is involved in other cases also, one of which initiated on receipt of details from the ACB bearing No.ACB/Veri PR-03/2016 has been recently concluded, vide Government order No. 184-JK (JSD) of 2023 dated 04.08.2023 whereby in terms of Rule 30 of J&K Civil Service (Classification Control and Appeal) Rules 1956 the penalty of "Withholding of three increments and consequently promotion thereof" was imposed upon the applicant.
5. Whereas, in another RDA, pertaining to the period while the officer was posted as Executive Engineer, PHE Division, Rajouri, vide Government Order No. 274-JK(JSD) of 2022 dated 27.12.2022, Inquiry Officer has been appointed and the inquiry is going on; and
6. Whereas, it is also found that during the tenure of the applicant as Executive Engineer PHE Division Poonch the applicant has issued order No. PHEP/4334-57 dated 29-03-2010 whereby 17 Class-IV officials working in PHE Division Poonch, stands retired premature/voluntarily and the same order stands challenged by said aggrieved Class-IV officials before the Hon'ble High Court at Jammu by filing SWP No. 700/2010 Abdul Aziz & ors vs State & Ors and Hon'ble Court while considering the

matter finally on 01-02-2016 was pleased to disposed of the said writ petition, the operative part of which reads as under:-

*"Thus order Annexure F dated 29<sup>th</sup> March 2010 was merely a clever device resorted to by respondent No. 4 to circumvent the interim orders of stay of operation of order Annexure A dated 09-03-2010. The action of the respondent's does not reflect fairness of action. In fact, the action of the respondents discloses violation of the principles of Natural Justice as well as the Rule of Law. **The same tantamount to overreaching the process of law by showing blatant defiance to the order of stay passed by the High Court.** The impugned action is clearly a gross misuse of the process of law. Viewed in the context of the position as has been noted above, the impugned orders i.e. Annexure A and F dated 9<sup>th</sup> of March 2010 and 29<sup>th</sup> of March 2010 respectively are legally unsustainable and are liable to be quashed. Accordingly, impugned orders Annexure A and F dated 9<sup>th</sup> of March 2010 are quashed.*

*Petitioners are held entitled to be treated as continuing in service up to the date of their attaining the age of superannuation as also to all consequential benefits including salary for the period w.e.f. 01-04-2010 till their attaining the age of superannuation. Likewise petitioners are entitled to calculation of their retrial benefits by treating them to have continued in-service upon to the age on which they would have retired on attaining the age of superannuation as per rules applicable. Any benefit admissible to an employee on account of extension in the age of superannuation would be admissible to the petitioners provided the petitioners had not already attained the maximum age of superannuation prior to the date w.e.f. which the enhancement in age of superannuation was effective.*

*Consequential benefits be released to the petitioners within a period of 3 months from today failing which the same shall carry interest at the rate of 6% per annum with effect from the date of entitlement to the consequential benefits till the same are paid. In case the benefits are not released to the petitioners within the stipulated period of time, interest payable on the amount payable to the petitioners, would be payable by the **Government which would be entitled to recover the same from the officer concerned responsible for non-compliance with the orders of this Court** within stipulated period of time. It is further ordered that since the impugned order have been passed in derogation of the Rule of Law as well as the principles of Natural Justice and despite the petitioners having made a categorical request vide representations Annexure D & E dated 16-03-2010 denying having made any request for premature retirement and requesting for ignoring any such request and allowing them to continue in service till their attaining the age of superannuation, the Government has been burdened with having to pay salary and consequential benefits to the petitioners without work having been taken from the petitioners. **Consequently, the Government through the Chief Secretary is directed to initiate departmental/judicial proceedings against those responsible for recovery of loss caused to the Government.** Needful be done within six months and compliance report be submitted with Registrar Judicial within one month thereafter. Writ petition allowed in aforementioned terms. Copy of this order be forthwith communicated to the Chief Secretary, State of J&K for ensuring compliance."*

7. Whereas, this Judgment dated 01.02.2016 has attained finality and, accordingly, the matter is under active consideration with inter-

departmental consultation for its implementation and the Hon'ble Court in the above stated judgment inter-alia has passed the directions against the said officer/applicant, holding that there has been blatant defiance of the orders of the Hon'ble Court and further directing that ***"the Government through the Chief Secretary is directed to initiate departmental/judicial proceedings against those responsible for recovery of loss caused to the Government."***

8. Now, therefore, the claim of the applicant having been considered with due deference to the order dated 21.12.2021, passed by the Hon'ble Central Administrative Tribunal, Jammu Bench, Jammu in O.A No. 1862/2021 titled Swaran Singh Vs UT of J&K & Others has been found to be bereft of any merit for the aforesaid reasons and accordingly rejected.

**By order of the Government of Jammu and Kashmir.**

*Sd/-*

**(Shaleen Kabra) IAS**

Financial Commissioner (Additional Chief Secretary)

Jal Shakti Department.

Computer No. 206505

Dated: 31-08-2022

Copy to the:-

1. Joint Secretary (J&K), Ministry of Home Affairs, Government of India, New Delhi.
2. Ld. Additional Advocate General, Central Administrative Tribunal Jammu for information.
3. Chief Engineer (PHE) Jal Shakti Department Jammu/Kashmir for information and necessary action.
4. Private Secretary to the Financial Commissioner (ACS), Jal Shakti Department for information of the Financial Commissioner.
5. PA to Additional Secretary to Government, Jal Shakti Department.
6. Applicants.
7. Incharge website, Jal Shakti Department.
8. Monday Return file (w.2.s.c).
9. Government order file.

**(Sahil Mahajan) JKAS**

Under Secretary to Government,  
Jal Shakti Department