



Government of Jammu and Kashmir  
Public Works(R&B) Department  
Civil Secretariat, J&K

Subject: Pension case of Mr. Iftikhar Hussain Sheikh (Draftsman)- sanction of provisional pension req.

Government Order No. 197 - PW(R&B) of 2024  
Dated: 16 -07-2024

WHEREAS, the applicant (Mr. Iftikhar Hussain) was appointed as Draftsman in the Public Works (R&B) Department and was deputed to Rural Development Department, where he was temporarily placed/adjusted as I/c JE. While posted in District Anantnag in the year 1993, as Junlor Engineer, he was arrayed as accused in case FIR No. 10/93, U/S 5(2) of PC, Act, 2006 r/w Section 467/120-B RPC by the Vigilance Organization, J&K, for misappropriation/defalcation of Government money earmarked for various developmental works in 08 blocks of District Anantnag viz. Anantnag, D. H. Pora, Qaimoh, Qazigund, Dachnipora, Achabal, Kulgam and Pahalgam, along- with drawl of fraudulent bills for non-existent works/and payments in favor of fictitious persons;

AND WHEREAS, against a total allocation of Rs. 1.8 crore under the Scheme JRY and Non-Plan Sector, works to the tune of Rs. 8.5 crore were shown to be executed. Further, out of 2538 works, only 587 works were authorized, 1951 works were unauthorized amounting to Rs. 7.13 crore, 575 works were non-existing, amounting to Rs. 2.90 crore;

AND WHEREAS, the fraud was reported in different blocks of District Anantnag, as such, the main FIR No. 10/93 was further bifurcated, block-wise, into FIRs numbering 14/93 to 21/93. In all the FIRs, reportedly, as many as 35 employees were involved, out of which 14 were dismissed and 21 were suspended at that point of time. 33 cases have been settled and 2 cases remained unsettled so far, which includes the case of applicant (Mr. Iftikhar Hussain);

AND WHEREAS, Mr. Iftikhar Hussain, the then JE (REW) Anantnag, was dismissed from service, vide Government Order No. 546-GAD of 1993 dated 25.06.1993, in terms of Section 126(2)(c) of the Constitution of J&K. The order of dismissal came to be challenged in the Hon'ble High Court of J&K, which was dismissed, however, the same was again challenged by the petitioner before the Division Bench of the Hon'ble Court, which quashed the dismissal order;

AND WHEREAS, Government filed an SLP, titled State of JK Vs Abdul Khaliq Wani and others in the Hon'ble Supreme Court of India against the order of the Division Bench, which too was dismissed. Subsequently, the official was re-instated in service vide Government Order No. 262-GAD of 2000 dated 06.03.2000, and a departmental inquiry, in terms of J&K, CCA Rules, 1956 was ordered to be conducted by then Financial Commissioner, APD and RDD against the official, into the allegations, on the basis of which he was dismissed;

AND WHEREAS, after reinstatement, the official reportedly joined in the RDD again and during his posting in District Kargil, the then DDC Kargil issued an order sanctioning payment of arrears of pay and allowance(s) for the intervening period, pending clearance of enquiry to be conducted by the then Financial Commissioner, Agriculture Production Department & Rural Development Department, mentioning inter-alia the following conditions:-

- a) Pending inquiry on the allegations on the basis of which he was dismissed from service.
- b) In case the enquiry goes against the official, the entire amount shall have to be remitted.

AND WHEREAS, the official returned from Kargil and joined in RDD again, and after multiple transfers, he

was repatriated to his parent Department PW(R&B). The pension case of Mr. Iftikhar Hussain came to be forwarded to the office of Accountant General, J&K. The office of Accountant General, J&K sought status/position of the enquiry ordered vide Government Order No. 262-GAD of 2000 dated 06.03.2000. With the result, his pension case has remained unsettled;

AND WHEREAS, Mr. Iftikhar Hussain made a representation and filed a petition O.A. 60/2022 in the Hon'ble CAT, seeking relief that the enquiry may be deemed to have been concluded in his favour and the same may be conveyed to Accountant General for settlement of his pension case. Vide its Order dated 04.02.2022, the Hon'ble CAT directed to consider the representation of the applicant dated 11.01.2022;

AND WHEREAS, the General Administration Department sought the status of the enquiry ordered in the case vide Government Order No 262-GAD of 2000 dated 06-03-2000 from the Agriculture Production Department & Rural Development Department and PW(R&B) Department, if conducted;

AND WHEREAS; after thorough examination of the case, no such committee was found constituted in the Public Works Department for review of the enquiry ordered by the GAD vide Govt Order No. 262-GAD of 2000 dt 6-3-2000; and vide U.O No PWD-ACCTT/44/2022-05 (CC;131985), the matter was taken up with the General Administration Department seeking status/advisory;

AND WHEREAS, in view of the non-availability of the record pertaining to the case and the litigation involved in the matter coupled with the fact that the case dates back three decades, the General Administration Department asked the Anti Corruption Bureau, J&K, vide letter dated 09.04.2024 to furnish the details/information w.r.t. FIRs;

AND WHEREAS, the Bureau vide communication dated 19.04.2024, reported that there are as many as ten (10) cases viz; FIR Nos 10, 14, 15, 16,17, 18, 19, 20, 21 & 22 of year 1993, registered regarding Anantnag Rural Development Department Scam of 1993 but the subject Sheikh Iftikhar Hussain, is figuring in 04 cases, viz. FIR No.s. 14/1993, 19/1993, 21/1993 & 22/1993 P/S VOK (now ACB), which are pending adjudication before the Hon'ble Court of Additional Special Judge, Anti Corruption, Anantnag;

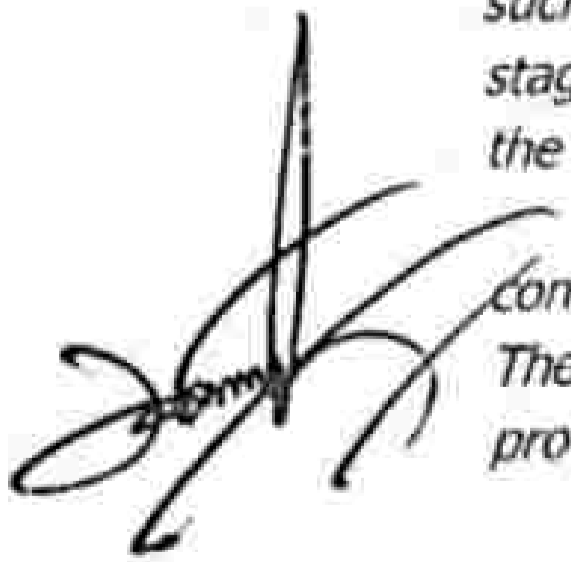
AND WHEREAS, the Hon'ble CAT has initiated contempt proceedings against the Government for non-compliance of its orders and on 03.04.2024 has granted last and final opportunity of six week's time for compliance, failing which non-bailable warrant shall be issued against the respondent;

AND WHEREAS, the General Administration Department has observed that the enquiry ordered in the reinstatement order of the petitioner i.e., Government Order No. 262-GAD of 2000 dated 06.03.2000, has never been initiated against the petitioner at the relevant point of time, and is not viable for initiation at this stage in terms of Article 168-A of J&K CSRS, however, the ACB has clearly stated that the official is figuring in 04 cases, viz. FIR Nos 14/1993, 19/13993, 21/1993.& 22/1993 P/S VOK (now ACB), which are pending adjudication before the Hon'ble Court of Additional Special Judge, Anti Corruption, Anantnag;

AND WHEREAS, the General Administration Department referred the case to the Department of Law Justice and Parliamentary Affairs for comments, and the said department vide U.O dated 14.05.2024 opined that:-

*"Department has asserted that the inquiry ordered to be initiated against the incumbent in the year 2000 has never been commenced and the incumbent has now superannuated in the year 2021, as such in view of the restrictions contained in Article 168-A of J&K CSR no inquiry can be initiated at this stage against the incumbent Besides, it has been stated that records of the case are not available in the Department.*

*However, he is involved in 04 FIRs qua which the Judicial proceedings' have yet not concluded; as such he may be allowed only provisional pension in terms of Article 168-D of J&K CSR. The period of suspension can only be decided once the judicial proceedings are culminated as per the provisions of J&K CSR. A detailed consideration order may be passed on these lines by the Department*



which may lead to dropping of the contempt proceedings. Further, the Department may fix responsibility for falling to initiate enquiry ordered vide Government Order No. 262-GAD of 2000 dated 06.03.2000."

AND WHEREAS, vide U.O.No GAD/LEG/444/2022-09-GAD(c.217544) dated 21-05-2024, the General Administration Department has advised the Public Works (R&B) Department to issue consideration order, as advised by Department of Law Justice and Parliamentary Affairs sanctioning provisional pension in favour of the petitioner in terms of Article 168-D of J&KCSR;

Now, therefore, in pursuance of the opinion rendered by the General Administration Department and the Department of Law, Justice & Parliamentary Affairs in the matter, sanction, in terms of Article 168-D of J&K CSR is hereby accorded to the grant of provisional pension in favour of the petitioner ( Mr Iftikhar Hussain, Rtd). The period of his suspension shall be decided separately as per the provisions of J&K CSR after the judicial proceedings are culminated.

By order of the Government of Jammu and Kashmir.

Sd/-  
Bhupinder Kumar) IAS  
Secretary to Government  
Public Works(R&B) Department  
Dated: 16 -07-2024

No. PWD-ACCT/44/2022-05

Copy to the:-

1. Principal Secretary to the Hon'ble Lieutenant Governor, J&K.
2. Joint Secretary (JKL), Ministry of Home Affairs, Government of India, New Delhi.
3. Commissioner/Secretary to the Government, General Administration Department.
4. Secretary to the Government, Department of Rural Development & Panchayati Raj.
5. Secretary to the Government, Department of Law, Justice and Parliamentary Affairs.
6. Director, Archives & Archeology & Museums J&K, Srinagar.
7. Chief Engineer PW(R&B) Department, Kashmir.
8. OSD to Advisor(B) to the Hon'ble Lieutenant Governor, J&K.
9. Private Secretary to Secretary to the Government Public Works(R&B) Department.
10. Concerned.
11. In-Charge Website PW(R&B) Department.
12. Government Order file/Monday return.

(Harid Harneed)  
Under Secretary to the Government  
Public Works (R&B) Department