



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

Subject: O.A No.61/540/2022 dated 31st day of May, 2022 titled Nazir Ahmed Sheikh and others.

Government Order No. 261 PW(R&B) of 2022  
Dated: 04.08.2022

Whereas, Mr. Nazir Ahmad Sheikh, the then I/c Assistant Engineer, R&B Department, Jammu was arrested in the case FIR No.22/2019 P/S ACB (J) by the Anti Corruption Bureau, allegedly, was caught red-handed while demanding and accepting bribe of Rs. 70,000/-. As a sequel to his arrest, he was placed under suspension by the Chief Engineer, PW(R&B) Jammu vide order issued under endorsement No. CEJ/Estab./1506 dated 21.09.2019,. Consequently, Mr. Nazir Ahmad Sheikh, filed a writ petition WP(C) No.4516/2020 before the Hon'ble High Court, Jammu for seeking directions for his reinstatement as I/c Assistant Engineer in light of the judgment passed by the Apex Court in case titled Ajay Kumar Choudhary V/s Union of India.

The Hon'ble High Court vide its order dated 28.12.2019, disposed off the petition with the direction to the respondents to consider the representation filed by the petitioner strictly under rules and in light of the aforementioned judgment provided the same if applicable to the case of the petitioner.

The matter was taken up with General Administration Department to issue necessary instructions in light of the Hon'ble High Court Judgment and in the meantime the contempt notice was issued to this department.

The General Administration Department in its review committee meeting held under the Chairmanship of the Chief Secretary, J&K, on 22.06.2020 communicated vide its minutes issued under endorsement No.GAD(Vig)12/2019 dated 08.07.2020, that as the accused officer has attained the date of superannuation on 31-03-2020, the department is required to revisit the case in light of the relevant revelations considering the fact that a case is pending against Nazir Ahmad Sheikh.

In compliance to the Hon'ble High Court orders and the decision of the review committee of the General administration Department, provisional pension was sanctioned in favour of Shri Nazir Ahmad Sheikh, in terms of article 168-D of Jammu and Kashmir Civil Services Regulations) vide Government Order No.210-PW(R&B) of 2020 dated 24.07.2020 read with corrigendum to the ibid Government order dated 14.07.2020.

  
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Whereas, the petitioner again approached the Hon'ble Central Administrative Tribunal (CAT) Jammu Bench with the plea that though his provisional pension has sanctioned and released in his favour but the period of suspension from 23.09.2019 to 31.03.2020, has not been decided by the respondents despite continuance approaches and representations and sought directions for the respondents to decide the period of suspension of the petitioner as on duty and accordingly release full pay allowances which the applicant would have drawn while in service in the given facts and circumstances of the case.

The Hon'ble Court vide its O.A.No. 61/540/2022 dated 31.05.2022 passed order dated 31.05.2022, directing that the respondents would consider a copy of this O.A as representation of the applicant and decide it and the relevant para of the order is as under:-

"On consideration of the above submissions of the counsels for both the parties, this O.A. is disposed of at admission stage, without expressing any opinion on merits of the case, directing the respondents to treat copy of this O.A. as additional representation of the applicant along with his earlier representation dated 11.03.2022, and consider it for treatment of suspension period of the applicant as per provisions of relevant applicable rules relating to suspension and its regularization. The respondents should decide this representation with a reasoned order within five weeks from the date of receipt of a certified copy of this order and within a one week thereafter to communicate it to the applicant".

Whereas, the case of the petitioner was examined in the department in light of Rule 168-D(1) which is reproduced here as under:-

"Where any departmental or judicial proceeding is instituted under Art. 168-A or where departmental proceeding is continued under clause (a) of proviso thereto against an officer who has retired on attaining the age of compulsory retirement or otherwise, he shall be paid during the period commencing from the date of his retirement to the date on which, upon conclusion of such proceedings final orders are passed, a provisional pension not exceeding the maximum pension which would have been admissible on the basis of his qualifying service up to the date of retirement or if he was under suspension on the date of retirement, up to the date immediately preceding the, date on which he was placed under suspension, but no gratuity or death-cum retirement gratuity shall be paid to him until the conclusion of such proceeding and the issue of final orders thereof".

  
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Whereas, in the instant case no departmental proceedings were initiated within the stipulated time nevertheless the petitioner has a pending case in the Court of law (judicial proceedings) and the manner which the period of suspension is to be treated shall be decided depending on the outcome of the instant case. In terms of the Rule 168-D(1) of Jammu and Kashmir Civil Services Regulations, no decision with regard to treatment of suspension period as on duty can be taken prior to decision of the court.

Now, therefore, in compliance to the Hon'ble High Court orders, the case of Mr. Nazir Ahmed Sheikh was examined in terms of Rule 168-D(1) Jammu and Kashmir Civil Services Regulations and found devoid of merit and not covered under rules.

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

**Sd/-**


(Shailendra Kumar)IAS

Principal Secretary to the Government

No.PWD-LIT/282/2022-05-PWD R&B DEPARTMENT (C.No.208812 dated . 04.08.2022

Copy to the:-

1. Principal Secretary to the Government, General Administration Department.
  2. Director Anti Corruption Bureau, J&K.
  3. Chief Engineer, PW(R&B) Department, Jammu.
  4. Senior Officer (Legal) PW(R&B) Department for necessary action.
  5. OSD to the Hon'ble Advisor (B).
  6. Private Secretary to Principal Secretary to the Government, PW (R&B) Department.
  7. Concerned.
  8. Government Order file/Stock file/Monday Return.
  9. I/c Website PW(R&B) Department.
- Copy also to the Joint Secretary (J&K), Ministry of Home Affairs Government of India.

  
(Dr. Zeba Sulman)JKAS  
Under Secretary to the Government