

Government of Jammu and Kashmir
Public Works (R&B) Department
Civil Secretariat Srinagar.

Subject: Contempt No. 373/2016 in SWP No. 1750/2003 titled Surinder Singh v/s State and others.

Government Order No: 198 - PW(R&B) of 2020
Dated: 14 - 07 - 2020.

Whereas, petitioner had filed the above titled writ petition before the Hon'ble High Court at Jammu praying therein for the following reliefs:-

- a) place the petitioner in the revise pay scale of Rs 5700-10100 notionally with effect from the revise pay scale came into force i.e First Day of January 1996 till 31-05-2000 (when the copy of the judgment dated 01-05-2000 came to served upon respondent no 3)&
- b) fix the pay of the petitioner in the pay scale of 5700-10100 w.e.f 31-05-2000 and pay the arrears of the higher pay of 5700-10100 from 31-05-2000, when the date the copy of the judgment dated 01-05-2000 passed Hon'ble Division Bench dated 01-5-2000 come to served upon respondent no 3 (copy of the judgment was received by respondent no 3 on 31-05-2000
- c) grant the monetary benefits to the petitioner in terms of the judgment dated 01-05-2000 , w.e.f 31-05-2000.

Whereas, the Hon'ble High Court disposed of the writ petition vide order dated. 11.03.2016 the operative part whereof reads as under:-

“ The Division Bench in LPASW No. 449/1999 gave relief to the petitioner by judgment dated 01.05.2000 holding that the petitioner, who was appellant, is entitled to all benefits except monetary as have been allowed to others namely Lakhwant Singh and Gurnam Singh w.e.f the date copy of the order is produced before the Chief Engineer.

In view of the above, this writ petition is disposed of by directing the respondents to fix seniority of the petitioner as JE notionally w.e.f 22.02.1994 and also to grant consequential benefits, within a period



of three months from the date of this order is served on the respondents no costs.”

Whereas, the department took up the matter with the Finance Department vide U.O No.PW/R&B/Legal /193/2016 dated 28.12.2016, who vide U.O No. A/79(63)-IV- 36 dated 10.03.2017 returned the file with the following advice:-

“Returned. The department is advised to pinpoint the issue needing reference to Finance Department, since the issue of seniority is to be addressed by the department itself and as per the judgment, no monetary benefits are to be paid. ”

Whereas, consequent upon the above advice of the Finance Department, the department vide communication No. PW(R&B) Legal/193/2016 dated 09.06.2017 requested the Chief Engineer to settle the case of the petitioner by granting the benefit of SRO 18 dated 19.01.1998 to him notionally w.e.f 2002 to 10.03.2016 and monetarily from 11.03.2016 i.e. the date of judgment passed by the Hon’ble Court.

Whereas, the Chief Engineer Mechanical Engineering Department Jammu vide order NO. CEM/J/196 of 2018 dated 20.08.2018 accorded sanction to the placement of the petitioner in the pay scale of 9300-34800+4200 (pre-revised) in terms of SRO 18 of 1998 dated 19.01.1998 w.e.f 2002 (notionally from 2002 up to 10.03.2016 and monetarily from 11.03.2016 onwards).

Whereas, aggrieved of the order dated.20.08.2018 the petitioner initiated contempt proceedings against the department and the Hon’ble Court vide order dated 27.08.2018 in Contempt No. 373/2016 in SWP NO. 1750/2003, directed the respondents as under:-

“I have gone through the order. The same does not comply with the judgment passed by this court dated 11.03.2016 of which the petitioner has alleged contempt. The operative portion of the judgment is reproduced hereunder:-

In view of the above, this writ petition is disposed of by directing the respondents to fix seniority of the petitioner as JE notionally w.e.f 22.02.1994 and also to grant consequential benefits, within a period of three months from the date of this order is served on the respondents no costs.

The clear and categorical import of the directions issued by this court is that the petitioner has to be treated as Jr. Engineer w.e.f 22.02.1994 notionally and no benefit of arrears of salary on account of such treatment of the petitioner as Jr. Engineer are required to be paid to the petitioner. However, on the completion of 08 years, the petitioner would become entitled to higher standard pay scale in

terms of SRO No. 18 of 1998 and this has to be paid with effect from the date it falls due i.e. w.e.f 2002. The arrears on account of the placement of the petitioner in the higher pay scale w.e.f 2002 till date are required to be worked out and paid to the petitioner. It appears that there has been some inadvertent confusion in understanding the import of the order dated 11.03.2016.

Be that as it may, the respondents are given four weeks further time to fully comply with the judgment dated 11.03.2016 and submit compliance report on the next date of hearing.”

Whereas, the department took up the matter again with the Finance Department vide U.O No.PW/R&B/Legal /193/2016 dated 10.07.2019, who vide U.O No. A/79(63)-IV-706 dated 26.07.2019 returned the file with the following advice:-

“Returned. The department is advised as under:-

The orders of the Hon’ble Court were complied with and compliance submitted. It appears that the court is pressing for grant of monetary benefits. Has the department sought the advice of the Law Department for the feasibility of appeal? The department should seek the advice of Law Department and if found feasible after such advice, go in for appropriate appeal.”

Whereas, upon the advice of the Finance Department, the department took up the matter with the Department of Law, Justice and PA vide U.O No. PW(R&B)Legal/193/2016 dated 27.08.2019, who vide U.O No. LD(Lit)2019/47-PWD dated 03.10.2019, returned the file with the following advice:

“Returned. The matter is purely financial in nature than legal. The department may therefore specify the legal issue on which the advice of the department is required. ”

Whereas, upon the advice of the Law Department and after consideration, the department vide communication No. PW(R&B) Legal/193/2016 dated 24.01.2020, requested the Chief Engineer to furnish the financial implications involved in the matter. In response, Chief Engineer vide his communication No. CEM/J/4135 dated 25.01.2020 furnished the information.

Whereas, the department again submitted the file to the Finance Department vide U.O No. PW(R&B) Legal/193/2016 dated 05.02.2020, who vide U.O No. A/79(63)-IV-Part-297 dated 06.03.2020 returned the file with following advice:

“Returned. Finance Department conveys its concurrence to the implementation of the -judgment (order) dated 27.08.2018 of the Hon’ble High Court.”

Now, therefore, having considered the claim of the petitioner pursuant to the order dated 11.03.2016 passed by the Hon’ble High Court passed in SWP No. 1750/2003 titled Surinder Singh v/s State and others, and concurrence of the Finance Department, sanction is hereby accorded to the grant of benefits under SRO-18 of 1998 to the petitioner w.e.f. 22.02.2002.

By order of the Government of Jammu and Kashmir.

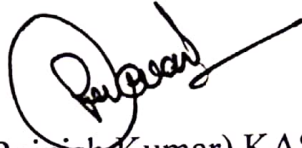
Sd/-
(Shailendra Kumar) IAS
Principal Secretary to Government,
Public Works(R&B) Department

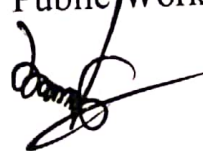
No. PW(R&B)/Legal/193/2016

Dated: -07-2020

Copy to the:-

1. Principal Secretary to the Hon’ble Lt. Governor .
2. Joint Secretary (J&K), Ministry of Home Affairs, Government of India, New Delhi. .
3. Chief Engineer, Mechanical Engineering Department, Jammu.
4. Director Archives, Archeology & Museums J&K, Srinagar..
5. OSD with Advisor (B) for information to Hon’ble Advisor.
7. Pvt. Secretary to Principal Secretary to Government, Public Works(R&B) Department.
8. Concerned.
9. Government order file/ Stock file.
10. Monday Return (w.s.2. c) .
11. Website.


(Rajnish Kumar) KAS
Additional Secretary to Government,
Public Works(R&B) Department




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