

(Reserved)

**CENTRAL ADMINISTRATIVE TRIBUNAL
JAMMU BENCH, JAMMU**

Hearing through video conferencing

T.A. 61/3970/2020



Pronounced on: This the 22nd day of October 2021

HON'BLE MR. RAKESH SAGAR JAIN, MEMBER (J)
HON'BLE MR. ANAND MATHUR, MEMBER (A)

Jugal Kishore Sharma, Age: 59 years, S/o Sh. Mukand Lal Sharma,
R/o H. No. 30-B, Bhawani Nagar, Janipur, Jammu.

.....Applicant

(Advocate: Mr. Nishant Shukla for Mr. Rahul Pant, Sr. Advocate)

Versus

1. State of Jammu and Kashmir through Commissioner/Secretary to Government Housing and Urban Development Department, Jammu and Kashmir Government, Civil Secretariat, Jammu.
2. Director, Urban Local Bodies, Jammu.
3. Sh. Rajinder Singh Tara, Urban Local Bodies, Jammu.
4. Accountant General, Jammu and Kashmir State, Shakti Nagar, Jammu.

.....Respondents

(Advocate: Mr. Amit Gupta, learned A.A.G.)

(ORDER)

(Delivered by Hon'ble Mr. Anand Mathur, Member (A))



1. Applicant Jugal Kishore Sharma, who retired from Government service on 30.06.2018, is aggrieved by the inaction of the respondents to disburse his retirement benefits. Hence, applicant seeks the relief for a direction to the respondents to disburse the retirement benefits in his favour. Vide order dated 23.08.2013, he was removed from service on the ground that he had tampered with his date of birth in his Service Book, the order was set aside by the Hon'ble High Court vide order dated 28.10.2016. A LPA was filed against the said order wherein the Hon'ble DB in its judgment dated 08.08.2017 observed that:-

“.....we deem it appropriate to modify the order passed by the learned Single Judge and to grant liberty to the appellant to proceed afresh in accordance with law against the respondent as the order of dismissal has been quashed by the learned Single Judge on account of procedural irregularities.”

2. Applicant retired in 2018. The Government initiated a fresh regular departmental enquiry against applicant vide order No. 147- HUD of 2019 dated 19.06.2019. The order reads as under:-

“Subject: Verification of date of birth in favour of Mr. Jugal Kishore Sharma, the then Executive Engineer, Urban Local Bodies, Jammu
Government Order No. 147-HUD of 2019
DATED: 19.06.2019.

In supersession of all previous orders on the subject, sanction is hereby accorded to the appointment of Mr. Pankaj Magotra, KAS, Commissioner, Jammu Municipal Corporation, as Inquiry Officer to conduct fresh Regular Departmental Enquiry against Mr. Jugal Kishore Sharma, Executive Engineer (retired), Urban Local Bodies, Jammu with respect to the allegations levelled against him i.e., tempering of date of birth in his service book. The Inquiry Officer shall submit his report/findings within 15 days positively alongwith his specific recommendations.

By Order of the Government of Jammu & Kashmir.

Sd/-

(Dheeraj Gupta) IAS
Principal Secretary to
Government
Housing & Urban Dev.
Department

Dated:- 19.06.2019

No:- HUD/LSG/ULBJ/09/2014-AF

Copy to the:-

1. Director, Urban Local Bodies, Jammu.
2. Commissioner, Jammu Municipal Corporation, Jammu.
3. Concerned Officer.
4. Pvt. Secretary to Advisor (S) to Hon'ble Governor.
5. Pvt. Secretary to Principal Secretary to Govt. Housing & Urban Dev. Department.
6. Government Order file/Stock file w.2.s.c.

(Syed Nazir Ahmed)

Under Secretary to Government
Housing & Urban Dev. Development"

3. In reply, respondents admit the facts as averred in the T.A. Since the regular departmental enquiry is pending against the applicant, the pensionary benefits cannot be disbursed till conclusion of the enquiry and the petition be dismissed.

4. We have heard and considered the arguments of the learned counsel for applicant and learned A.A.G. for respondents and gone through the material on record.

5. The main thrust of arguments of learned counsel for applicant is that the action of respondents in withholding his post retiral benefits on the ground that there is departmental enquiry pending against him is illegal since there is no provision in the Service Rules which provide for holding of the departmental enquiry with respect to the date of birth of an employee after he has retired from service. It is further argued by learned counsel for



applicant that by no stretch of imagination can Article 168 -A of Civil Services Regulations can be made applicable to the case of the applicant to deny him his retirement benefits and placed reliance on: -



- 1) Bhagirathi Jena v/s Board, AIR 1999 SC 1841,
- 2) Ghulam Mohammad v/s State, 2000 KLJ 401
- 3) Mohd. Shafi v/s State, 2009 (1) JKJ 97,
- 4) Sadur ul Din v/s State, 2015 (3) JKJ 231.

6. On the other hand, learned A.A.G. submitted that the Government has power to initiate and conduct the enquiry against the applicant even though he has retired from Government services and therefore, the pensionary benefits cannot be disbursed till the enquiry is complete.

7. We find that the applicant has retired from service on 30.06.2018 and more than 3 years have passed thereafter. This inordinate delay of more than three years has been to the detriment of the applicant and this delay cannot be allowed to continue further. It is the duty of the administration to disburse the retiral dues to a retiring employee in the normal course. In the instant case, if departmental action had been initiated it should have been finalized at the earliest. We are of the view that the respondents should finalize the departmental proceedings and disburse the departmental dues of the applicant as per rules positively within six weeks from the date of receipt of a certified copy of this order.

8. No order as to costs.

(ANAND MATHUR)
MEMBER (A)

(RAKESH SAGAR JAIN)
MEMBER (J)

Arun/-