

CENTRAL ADMINISTRATIVE TRIBUNAL
JAMMU BENCH, JAMMU

Hearing through video conferencing

O.A. No. 61/638/2021

Order reserved on 09.04.2021

Order pronounced on 15.04.2021



HON'BLE MR. RAKESH SAGAR JAIN, MEMBER (J)
HON'BLE MR. TARUN SHRIDHAR, MEMBER (A)

Farzand Hussain Shah, Age: 61 years, S/o Mohd. Yusaf Shah, R/o Village Gursai,
Tehsil Mendhar, District Poonch

.....Applicant

(Advocate: Mr. C.M. Koul)

Versus

1. Union Territory of Jammu & Kashmir through Commissioner/Secretary to Govt., Department of Home, Civil Secretariat at present at Jammu-180001.
2. Director General of Police, J&K Government, Jammu-180004.
3. Additional Director General of Police, Armed/IRP, J&K Government, Jammu-180004.
4. Commandant IRP 20 BN, Parihaspora Pattan, Baramulla, Kashmir-193121.

.....Respondents

(Advocate: Mr. Sudesh Magotra, learned D.A.G.)

(ORDER)

Delivered by Hon'ble Mr. Rakesh Sagar Jain, Member-J

1. Applicant Farzand Hussain Shah in the present O.A. seeks the following reliefs:

- (i) The Hon'ble Tribunal may, in the facts & circumstances of the case, be pleased to show indulgence in the matter and set aside the order impugned bearing Order No: GB/P-Case/IR-20th/20/13726-27 dated 23.10.2020.
- (ii) Further the Hon'ble Tribunal may be pleased to direct the Respondents, particularly, Respondent No. 4 (Commandant IRP 20 BN) Parihaspora Pattan, Baramulla, Kashmir to settle and process the pension case of the petitioner/applicant for disbursement of all pensionary benefits including all other retirement benefits in favour of the petitioner/applicant in order to meet the ends of justice.
- (iii) The Hon'ble Tribunal, may in the facts and circumstances of the case, be pleased to grant/pass any other alternate/additional relief

in favour of the petitioner/applicant in order to meet the ends of justice.”

2. Applicant is aggrieved of impugned order No. GB/P-Case/IR-20th/20/13726 dated 23.10.2020 passed by respondent No. 4 which reads as under:-

“HEADQUARTERS IRP-20TH BATTALION PARIHASPORA

No. – GB/P-Case-IR-20th/20/13726-27

Dated :- 20.10.2020

Sh. Farzand Hussain Shah,
ASI, PID No. ARP-832454
C-Coy IRP-20th Bn
(Through Coy Commander C-Coy,
IRP-20th Bn, P/S.R.M. Bagh Srinagar)

Subject:- OA No. 61/1105/2020 titled Sugra Bibi V/s Union Territory of J&K and others/settlement of Pension case

This office is in receipt of Writ Petition on 19.10.2020 from APHQ J&K titled Sugra Bibi V/s UT of J&K and others whereunder petitioner is seeking directions upon the respondents not to finalize your Pension case without hearing the petition on the grounds that the case of maintenance is pending before the Ld. Court of Railway Magistrate Jammu and both are still husband and wife and no divorce has been taken place.

In view of the above, your pension case will not be processed/finalized by this office unless & until the above said writ petition is disposed off from the concerned court of law.

This is for your information

Commandant,
IRP-20th Battalion,
Parihaspora”

3. Case of applicant is that his wife Sugra Bibi filed a petition for maintenance allowance against the applicant wherein vide order dated 21.12.2020, the learned Special Railway Magistrate, Jammu directed the applicant to pay a maintenance allowance of Rs.10000/- per month to Sugra Bibi payable from date of filing of the application regarding which order, the applicant filed a revision which is pending disposal in the Court of 1st Additional Sessions Judge, Jammu. That his wife Sugra Bibi has filed O.A. No. 61/1105/2020 in this Tribunal.





4. Applicant has challenged the impugned order on the ground that respondent No. 4 lacks jurisdiction to pass the impugned order and has been passed without following any law. In fact, there is no law under which the impugned order can be passed by respondent No. 4 and deserves to be set aside.
5. We have heard and considered the arguments of the learned counsel for applicant and learned D.A.G as well as Sr. C.G.S.C. for the respondents and gone through the material on record.
6. The reason assigned by respondent No. 4 in the impugned order that the pension case of applicant of the applicant will not be processed/finalised unless and until the above said writ petition is disposed of, is devoid of force of law. The pension case of applicant cannot be kept pending disposal of the petition filed in the Tribunal. It would have been otherwise, if there was a stay order from any court directing respondent No. 4 not to proceed with the finalisation of the pension case of applicant.
7. In the present case, there is no direction of this Tribunal to stop the process/finalisation of the pension case of applicant and the pendency of the petition in the Tribunal cannot be a reason to stop the process/finalisation of the pension case of the applicant.
8. In view of the facts and circumstances of the case, the impugned order GB/P-Case/IR-20th/20/13726 dated 23.10.2020 being unreasoned and violative of law is set aside. Respondent No. 4 shall process/finalise the pension case of the applicant in accordance with law within two months of the receipt of certified copy of this order provided there is no stay order of any Court. O.A. is accordingly disposed of. No costs.

(TARUN SHRIDHAR)
MEMBER (A)

(RAKESH SAGAR JAIN)
MEMBER (J)

Arun/-