



Central Administrative Tribunal Jammu Bench, Jammu

T.A. No. 5611/2021
(SWP No. 2970/2010)

Monday, this the 5th day of July, 2021

(Through Video Conferencing)

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Mohd. Jamshed, Member (A)

1. Mushtaq Ahmed Ahanger, Age 46 years
S/o Ghulam Rasool Ahanger
R/o Village Palmar
Tehsil & District Kishtwar.
2. Ali Mohd. Kitchloo, Age 58 years
S/o Sh. Lasso Kitchloo
R/o Village Palmar
Tehsil & District Kishtwar.

...Applicants

(Mr. Farooq Ahmad Natnoo, Advocate)

VERSUS

1. State of Jammu & Kashmir
Through its Chief Secretary
J&K Government, Civil Secretariat
Tehsil & District Kishtwar.
2. Principal Secretary to Govt.
Public Health Engineering
Irrigation & Flood Control Deptt.
J&K Government, Civil Secretariat
Jammu/Srinagar.
3. The Chief Engineer
Public Health Engineering Department
Jammu.

...Respondents

(Mr. Rajesh Thappa, Deputy Advocate General)

ORDER (ORAL)

Mr. Justice L. Narasimha Reddy:

The applicants were employed as Fitter and Driver respectively, in the Public Health Engineering (PHE), the 3rd respondent herein. They were extended the benefit of SRO 149 of 1973, which maintained distinction between technical and non-technical employees. Thereafter, they were extended the benefit under SRO 91 of 1982, by the Chief Engineering of PHE Department, the 3rd respondent herein. On 08.06.2010, the Principal Secretary, PHE Department, the 2nd respondent herein, passed an order, stating that the Finance Department has opined that whenever the pay structure is revised by an SRO, the earlier one stands modified and that in the instant case, though the SRO 91 of 1982 did not provide for any distinction between technical and non-technical employees, the 3rd respondent extended such benefits to various employees by referring to SRO 149 of 1973. Exception was taken to that exercise and direction was issued to take necessary corrective steps.

2. The applicants filed SWP No. 2970/2010 before the Hon'ble High Court of Jammu & Kashmir, challenging the order dated 08.06.2010. They contend that they ought to have been

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issued notice, before the impugned order was passed. Reliance is



placed upon certain judgments.

The record discloses that no counter affidavit is filed by the respondents.

4. The SWP has since been transferred to the Tribunal in view of reorganization of the State of Jammu & Kashmir and renumbered as T.A. No.5611/2021.

5. Today, we heard Mr. Farooq Ahmad Natnoo, learned counsel for applicants and Mr. Rajesh Thappa, learned Deputy Advocate General.

6. The applicants are employees of PHE Department and the 3rd respondent extended the benefit of SRO 149 of 1973. They can be said to have suffered any grievance, if only any order, revising their pay structure was passed by the 3rd respondent or other drawing authority. The 2nd respondent passed an order dated 08.06.2010, which has the effect of clarifying the legal position. It is just un-understandable as to how the applicants can be said to have suffered any detriment on account of that. It is not even mentioned that their pay structure was revised as a sequel to the order dated 08.06.2010.

7. We, therefore, dismiss the T.A., leaving it open to the applicants to take the necessary steps as and when their pay

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structure is revised to their detriment. We direct that in such an event, the respondents shall be under obligation to issue notice. The interim order passed by the Hon'ble High Court shall stand vacated. There shall be no order as to costs.

(Mohd. Jamshed) (Justice L. Narasimha Reddy)
Member (A) Chairman

July 5, 2021
/sunil/jyoti/vb/