

**CENTRAL ADMINISTRATIVE TRIBUNAL  
JAMMU BENCH, JAMMU**

Hearing through video conferencing

**O.A. No. 62/840/2021**

This the 28th day of May 2021

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

Abdul Rashid Malik, S/o Habib-ullah-Malik, R/o Drungroosa, Mawar, Handwara,  
J&K, Age 59 years.

.....Applicant

(Advocate:- Mr. Arif Sikandar Mir)

**Versus**

1. Commissioner/Secretary, Government of Jammu and Kashmir, Forest, Ecology & Environment Department, Civil Secretariat, Srinagar/Jammu-190001.
2. Accountant General (A&E), Srinagar, Jammu and Kashmir-190001.
3. Chief Conservator of Forest, Forest Complex, SheikhBagh, Lal Chowk, Srinagar, Kashmir-190001.
4. Conservator of Forests, Central Circle, Jammu-180001.
5. DFO, Soil Conservation, SC & FC, Pohru, Langate, Kupwara, Kashmir, J&K.
6. Treasury Officer, Sub Treasury, Langate, Kupwara-193222.

.....Respondents

(Advocate: Mr. Amit Gupta, learned A.A.G/Mr. Raghu Mehta, learned Sr. C.G.S.C.)

**ORDER**  
**[O R A L]**

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

The services of the applicant were regularized and he was appointed as Watcher in the year 1995. Thereafter, the applicant was promoted to the post of Forest Guard in the year 2010 and was posted at SC & FC Division, Pohru (Kehmil Range). While the applicant was working as Forest Guard, the Vigilance Organization, Kashmir in the year 2011 registered a FIR against the applicant and some other employees with regard to construction work of farm ponds on the ground that the farm ponds were executed at exorbitant rates. When the Vigilance Organization failed to conclude the investigation and file charge sheet against the applicant and other employees even after a lapse of nine years, the applicant along with others challenged the FIR No. 21 of 2011 dated 29.11.2011 before the Hon'ble High Court by filing a petition under Section 482 of CrPC. The Hon'ble High Court on consideration of the matter, passed the order dated 03.12.2020 directing the Vigilance Organization (now ACB) not to present the challan in





FIR No. 23 of 2011 dated 29.11.2011 without the permission of the Hon'ble High Court. Vide impugned Government Order No. 06-J&K (FST) of 2021 dated 19.01.2021, the official Respondent No. 2 on the recommendation of Official Respondent No. 1 has placed the Applicant under suspension under Rule-31 of J&K Civil Services (Classification, Control & Appeal) for commission of offences punishable under Section (1) (c) (d) r/w 5(2) of the Prevention of Corruption Act, Samvat, 2006 and Section 120-B, 468, 471 RPC in case FIR No. 23/2011 P/S Vigilance Organization, Kashmir (Now ACB). Thereafter, the case of the applicant for payment of pension has been recommended to the Office of Accountant General (A&E) J&K and Ladakh, Jammu/Srinagar in favour of the applicant. However, neither pension benefits nor post retirement benefits have been paid to the applicant. Hence the present O.A.

2. It has been submitted by the learned counsel for the applicant that the applicant is entitled to full pension pending departmental or judicial proceeding against him and that pension of the retired government employee is his legal and statutory right which cannot be denied without any lawful authority.

3. We have heard Mr. Arif Sikandar Mir, learned counsel for the applicant and Mr. Amit Gupta, learned A.A.G. and Mr. Raghu Mehta, Sr. C.G.S.C. for the respondents and perused the records.

4. In the instant case, the applicant has retired from service, however, pensionary benefits have not been paid to him and the respondents have not furnished any reason for doing so. We are of the view that the respondents need to provide reason as to why pensionary benefits cannot be granted to the applicant.

5. Accordingly, we dispose of the O.A. with direction to Director General (Accounts & Treasury) to consider releasing the pensionary benefits in favour of the applicant as per rules and regulations. In case, if there is any impediment in releasing the pensionary benefits, a reasoned and speaking order needs to be passed by the respondents within a period of one month from the date of receipt of certified copy of this order.

6. It is made clear that we have not entered into the merits of the case.

7. There shall be no orders as to cost.

**(ANAND MATHUR)**  
**MEMBER (A)**  
*Manish/Shashi/Arun*

**(RAKESH SAGAR JAIN)**  
**MEMBER (J)**