

Central Administrative Tribunal Jammu Bench, Jammu



T.A. No.6128/2020
(S.W.P. No.1406/2012)

Tuesday, this the 27thday of April, 2021

(Through Video Conferencing)

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Ms. Aradhana Johri, Member (A)**

1. Parveena Akhter, age 30 years d/o Ghulam Rasool Wani r/o Tengpona Pulwama, presently posted at Sub Center Gadipora, Pulwama
2. Shahzada Akhter, age 27 years d/o Ghulam Mohi-ud-Din, r/o Mandina Pulwama, presently posted at Sub Center Prichal Pulwama
3. Shahnaz Akhter, age 30 years d/o Habibullah Bhat, r/o Pinglana Pulwama, presently posted at Singo Narbal Pulwama

..Applicants

(Nemo for applicants)

VERSUS

1. State of J&K through Commissioner/Secretary to Government, General Administration Department, Civil Secretariat, Srinagar/Jammu
2. Commissioner Secretary, Finance Department Civil Secretariat, Srinagar/Jammu
3. Director Accounts and Treasuries, Srinagar/Jammu
4. Accounts Officer, Joint Directorate Accounts and Treasuries, Jammu/Srinagar
5. Deputy Director Health Services Old Sectt. Srinagar
6. Chief Accounts Officer, Srinagar
7. Chief Medical Officer, Pulwama
8. District Treasury Officer, Pulwama

9. Block Medical Officer, Pampore

10. Treasury Officer, Pampore ..Respondents
(Mr. Rajesh Thappa, Deputy Advocate General)

ORDER (ORAL)

Mr. Justice L. Narasimha Reddy:



The applicants are engaged as contractual employees in various establishments of the State of Jammu & Kashmir. It is stated that they were extended certain benefits on the basis of the recommendations of the 6th Central Pay Commission (CPC). The Office of the Director of Accounts and Treasuries, respondent No.3 herein, issued circular dated 11.04.2012 to all the District Treasury Officers, stating that the certain benefits, referable to the 6th CPC were wrongly extended to the contractual employees and directions were issued to take steps for recovery of such amount. This was followed by a circular dated 02.05.2012. When the respondents were trying to recover the amount on the strength of the said circular, the applicants filed SWP No.1406/2012 before the Hon'ble High Court of Jammu & Kashmir. They pleaded that the amounts were paid to them strictly in accordance with law and there was no basis for the respondents to recover the amount without following the procedure prescribed in law.

2. The respondents filed a counter affidavit, stating that the applicants and several other employees were extended the benefits contrary to law.



3. The Hon'ble High Court granted stay of recovery.

4. The SWP has since been transferred to the Tribunal in view of the reorganization of the State of Jammu & Kashmir and renumbered as T.A. No.6128/2020

5. Today, there is no representation for the applicants and we heard Mr. Rajesh Thappa, learned Deputy Advocate General; and perused the record.

6. A perusal of the impugned circular discloses that the steps were initiated for recovery of the amount from contractual employees on the basis of certain news reports. In case the applicants were extended any benefit, which they were otherwise not entitled to, the law requires that notice must be issued and explanation submitted by the recipients of notice must be taken into account. Whatever may be the reason, the recovery, without issuing any notice, cannot be sustained in law.

7. We, therefore, allow the T.A. and directed that the respondents shall not effect any recovery from the applicants, without issuing any notice and without passing orders considering the explanation submitted by them.



There shall be no order as to costs.

(Aradhana Johri)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

April 27, 2021
/sunil/jyoti/sd/