

**Central Administrative Tribunal
Jammu Bench, Jammu**

T.A. No.8390/2020
(S.W.P. No.554/2017)

Wednesday, this the 31st day of March, 2021

(Through Video Conferencing)

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

Gh. Qadir Kumar, Age 52 yrs.
S/o Abdul Samad Kumar
R/o Raithan, District Budgam,

..Applicant

(Mr. Bhat Fayaz Ahmad, Advocate)

VERSUS

1. State of J&K through Commissioner/Secretary to Govt.
Irrigation and Flood Control Department, Civil Sectt;
Srinagar/Jammu.
2. Chief Engineer, Irrigational and Flood Control,
Department, Kashmir, Srinagar.
3. Executive Engineer,
Irrigational and Flood Control, Division,
Ompora, Budgam.

..Respondents

(Mr. Amit Gupta, Additional Advocate General)

ORDER (ORAL)

Mr. Justice L. Narasimha Reddy:

The applicant was taken on duty on daily wage basis @ Rs.10.70 paisa per day, through an order dated 07.03.1984 passed by the Executive Engineer, Irrigation Division, Srinagar.





He was made to work against a post of work charge Chowkidar in the grade of Rs.345-460, caused due to the retirement of his father. Thereafter, his services were regularized, through an order dated 28.03.1995 on the post of Helper. The applicant filed SWP No.554/2017 before the Hon'ble High Court of Jammu & Kashmir with a prayer to direct the respondents to pay him, the salary in the grade of Rs.345-460 with effect from March, 1984 to March, 1995 with interest. Reliance is placed upon the judgment dated 26.04.2013 in SWP No. 668/2013.

2. The record discloses that the respondents did not file any counter affidavit.

3. This SWP has since been transferred to this Tribunal in view of reorganization of the State of Jammu & Kashmir and renumbered as T.A. No.8390/2020.

4. Today, we heard Mr. Bhat Fayaz Ahmad, learned counsel for applicant and Mr. Amit Gupta, learned Additional Advocate General.

5. The relief claimed in the T.A. was that the respondents be directed to pay the salary to the applicant in the grade of Rs.345-460 from March 1984 to March, 1995. During this period, the applicant worked on daily wage @ Rs.10.70 paisa per day. The

very impression of the applicant that he was appointed against the post carrying that pay scale is wrong. The order reads as under:-



“In terms of Chief Engineer, Kmr. Irri. & FC Department, Srinagar’s letter No. 20289-90 dt. 27.2.1984 Shri. Gh.Qadir Kumar, S/o Ab.Samad Kumar, R/o Raithen, District, Budgam is appointed on daily wage basis on usual rate of Rs. 10.70 per day against the post of Work Charge Chowkidar grade 345-460 caused due to the retirement of his father Shri. Ab. Samad Kumar, R/o Raithen with effect from 2-3-1984 the date when he has actually joined in this Division and is posted to Irrigation Sub-Division, Budgam.

He will produce age and health certificate within fifteen days. “

6. From this, it is evident that (a) the wages of the applicant are fixed @ Rs.10.70 paisa per day; and (b) he is required to work against a vacancy caused on account of the retirement of his father. Reference to pay scale of Rs.345-460 was only to identify the post of work charge Chowkidar, and not to indicate the wages of the applicant.

7. Further, if the applicant was of the view that he was entitled for wages at that rate up to the year 1995, he was expected to work out the remedies at the relevant point of time. Having waited till 1995 for regularization, he cannot raise the plea, at this stage. What is still worse is that even after 1995, no such plea was raised and it was only after his retirement, that he came forward with the claim.

8. We do not find any merit in the T.A. It is accordingly dismissed. There shall be no order as to costs.



(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

March 31, 2021
/sunil/vb/ankit/akshaya