



**Central Administrative Tribunal
Jammu Bench, Jammu**

**TA No. 8727/2020
SWP No. 2490/2017**

This the 15th day of March, 2021

(Through Video Conferencing)

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

1. Farooq Ahmad Malla (age 45 years),
S/o Mohd. Subhan Malla,
R/o Amargarh Sopore.
2. Fayaz Ahmad Pir (Age 45 years),
S/o Ab Jabar Pir,
R/o Rebon Baramulla.
3. Mushtaq Ahmad Parray (Age 50 years),
S/o Gh. Qadir Parray,
R/o Sangri Baramulla.
4. Ab Razak Wani (age 55 years),
S/o Gh. Rasool Wani,
R/o Tujar Sopore.
5. Davinder Singh (age 50 years),
S/o Bopendar Singh,
R/o Baramulla.
6. Mohammad Ashraf Gadu (age 55 years),
S/o Ghulam. Ahmad Gadu,
R/o Sopore.
7. Shamas ud din Baba (age 50 years),
S/o ghulam Ahmad Baba,
R.o Mundji, Sopore.
8. Ab Hamid Mir (age 48 years),
S/o Ghulam Ahmad Mir,
R/o Sopore.



9. Malik Mohammad Ashraf (age 55 years),
S/o Ali Mohammad Malik,
R/o Sopore.
10. Bashirul Hassan Malla (age 27 years),
S/o Ghulam Hassan Malla,
R/o Seer, Sopore.
11. Imran Manzoor Hajam (age 20 years),
S/o Manzoor Ahmad Hajam,
R/o Sopore.
12. Ab. Rashid Dar (age 52 years),
S/o Ghulam Ahmad Dar,
R/o Sopore.
13. Mohammad Ayoub Tanga (age 52 years),
S/o Sh. Rasool Tanga,
R/o Baramulla.

...Applicants

(Ms. Saima Mehboob, Advocate)

VERSUS

1. State of Jammu and Kashmir
through Commissioner/Secretary to Government
PHE/I&FC Department,
Civil Secretariat, Srinagar/Jammu.
2. Chief Engineer PHE Department
Kashmir, at Srinagar.

...Respondents

(Mr. Sudesh Magotra, Deputy Advocate General)

ORDER (Oral)

Mr. Justice L. Narasimha Reddy:

The applicants are working in the Public Health Engineering (PHE) Department in various capacities. It is



stated that vide order dated 18.10.2006, the Government accorded sanction for grant of one day salary (basic pay only) without Dearness Allowance for the staff of PHE Department, who worked during holidays and Sundays and, thereafter, through another order dated 20.10.2011, similar benefit of one and a half days was granted. The Chief Engineer, Kashmir, PHE Department addressed a letter dated 01.08.2017 to all the Executive Engineers to furnish the details of payment of such incentive with a view to ascertain a justification thereof. He has also issued a direction for stoppage of such payment and to recover the amount already paid. The applicants filed SWP No. 2490/2017 challenging the order dated 01.08.2017. According to them, the incentives were paid after sanction by the Competent Authority and the Chief Engineer, PHE Department passed the impugned order without any basis. Several other contentions were also urged.

2. No counter affidavit is filed by the respondents.
3. The SWP has since been transferred to the Tribunal in view of the reorganization of the State of Jammu and Kashmir and renumbered as TA No. 8727/2020.



4. Today, we heard Ms. Saima Mehboob, learned counsel for the applicants and Mr. Sudesh Magotra, learned Deputy Advocate General.

5. It is no doubt true that the Government passed orders on 18.10.2006 and 20.10.2011 providing for certain incentives to the employees, who worked during holidays and Sundays. The effort of the Chief Engineer, PHE Department, in addressing the impugned letter, seems to be to know the persons to whom such payment was made and the justification therefor. The final order is yet to be passed. However, there is force in the contention of the learned counsel for the applicant that the Chief Engineer ought not to have directed to recover the amount. The Hon'ble High Court passed an interim order on 07.12.2017 directing that the impugned order shall not be acted upon until further orders.

6. It is not known whether the incentives of two and half days or any part thereof are being paid. The recovery, at any rate, cannot be effected, once the Hon'ble High Court passed an interim order.

7. We, therefore, dispose of the TA, directing that it shall be open to the respondents to take a final decision as regards the payment of the amounts over and above the



monthly salary, as compensation for working on holidays and Sundays and to stipulate the detailed modalities thereof. The exercise in this behalf shall be completed within a period of two months from the date of receipt of a copy of this order. Till such time, the respondents shall not recover any amount from the applicants. There shall be no order as to costs.

(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

/sunil/jyoti/vandana/ankit/