

**Government of Jammu and Kashmir  
Finance Department, (Codes Division)  
Civil Secretariat, Jammu/Srinagar**

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**Subject:-Judgment dated 22.03.2021, in TA No. 3749/2021 (SWP No. 2134/2020) passed by Hon'ble Central Administrative Tribunal, Jammu Bench and order dated 09.09.2021 passed by Hon'ble High Court of Jammu & Kashmir and Ladakh in WP(C) No. 1722/2021, titled "Er. Sheikh Mohammad Hussain and Ors Vs U.T of Jammu & Kashmir and Ors".**

**Government Order No.319-F of 2021**

**Dated:- 06-12-2021**

Whereas Jammu & Kashmir Government issued Jammu & Kashmir Civil Service (Revised Pay) Rules,1992 vide SRO-75 dated 30.03.1992 wherein the pay scales of Government employees were revised.

Whereas, District & Session Judges/selection Grade District and Session Judges of Jammu & Kashmir State approached the Hon'ble High Court by way of SWP No. 529/92 titled "T.N. Bhat & others v/s State and others" with the prayer that they have been given lower pay scales of Rs. 3700-5000 and 4500-5700 in 1992, against the old pay scales of Rs 3150-4500 and Rs 3300-5050 (appearing at S.No. 23 & 25 respectively of the schedule to the SRO-75 of 1992) instead of the appropriate pay scales i.e., Rs. 4500-5700 and Rs. 5100-6300 respectively.

Whereas, Hon'ble High Court vide its judgement dated 17.04.1996 quashed the fixation of their pay scales as Rs.3700-5000 and Rs 4500-5700 and directed the respondents to treat them to have always been in the pay scale appearing at S.No. 25 & 26 of the schedule to

notification SRO-75 dated 30.03.1992 i.e., Rs 4500-5700 and Rs. 5100-6300 respectively, right from date of its issuance, with all the consequential benefits to them including the payment of arrears for the past.

Whereas the said judgement was implemented by the State Government and SRO-163 dated 13.06.2005 was issued which is reproduced as under:-

*"The Selection Grade District and Sessions Judges and District and Sessions Judges/Additional District and Sessions Judges only shall be deemed to have been placed in the pay scale of 5100-150-6300 and 4500-150-5700 in place of 3300-5050 and 3150-4500 respectively. The benefit shall be available notionally from 01.04.1987 and monetarily from 1.4.1990".*

Whereas, thereafter certain Superintending Engineers of various departments also filed a writ petition on the same analogy bearing SWP 1608/92 (Santokh Singh & others v/s State) praying for same grades as have been granted to District and Session Judges vide SRO-163 dated 13.06.2005. Hon'ble High Court disposed of the writ petition with the directions to the respondents to grant the petitioners the pay scale of Rs 4500-5700 w.e.f. 01.04.1987 in accordance with SRO-75 dated 30.03.1992 at par with District and Session Judges.

Whereas, State Government vide Government Order No. 239-F of 2013 dated 30.11.2013 implemented the orders of Hon'ble High Court and accorded sanction for grant of the pay scale of Rs. 4500-5700 revised to Rs. 14300-18300 and further revised to Pay Band 4 of Rs 37400-67000 + Grade Pay of Rs. 8700, in favour of petitioners(Superintending Engineers) namely Shri Santokh Singh, Shri V.K. Raina, Shri P.N. Gupta & Shri Gajan Singh notionally from 1.4.1987 and monetarily from 1.4.1990 at par with pay scale held by District & Session judges.



Whereas, State Government vide Government Order No. 139-F of 2018 dated 26.03.2018, extended the benefit of the judgment passed in SWP No. 1608/1992 titled "Santokh Singh & Ors Vs State of J&k & Ors" to the petitioner Superintending Engineers in CMA No. 188/2013 titled "Er. Saif-ud-Din Shangloo and Ors Vs State of J&K & Ors". However, the Hon'ble High Court on 28.08.2018 desired to issue an SRO in the same manner as issued in the case of District and Sessions Judges.

Whereas, in compliance to the orders of the Hon'ble High Court dated 28.08.2018, Government of Jammu & Kashmir extended the benefit to the non petitioners also and accordingly issued notification vide SRO-403 dated 14<sup>th</sup> September, 2018 wherein the pay scales of Superintending Engineers were upgraded from Rs. 3150-4500 to Rs. 4500-5700 notionally w.e.f. 01-04-1987 and monetarily w.e.f. 01-04-1990.

Whereas, the petitioners namely **Er. Sheikh Mohammad Hussain and Ors**, filed SWP No. 2134/2020 before the Hon'ble High Court of Jammu & Kashmir at Srinagar with the prayer that the cascading effect of the revision of Pay Scale of Superintending Engineers in terms of SRO 403 of 2018 in the higher post of Chief Engineer and Development Commissioner has not been mentioned in the said SRO which has resulted in denial of the benefits which were otherwise available to them.

Whereas, the said writ petition was transferred to the Hon'ble Central Administrative Tribunal, Jammu Bench for adjudication.

Whereas, the Hon'ble Central Administrative Tribunal on 22.03.2021 disposed of the aforesaid case bearing TA No. 3749/2021 with the following directions:

*"We, therefore, dispose of the T.A., directing the competent authority, i.e. respondent Nos. 1 and 2, to pass appropriate orders on the representations submitted by the applicants on 03.09.2018 and subsequent thereto, within three months from the date of the receipt of a copy of*



*this order. We, however, make it clear that we did not express any view on the merits of the matter. Any benefit, which may result on account of such revision, shall be prospective in nature."*

Whereas, the petitioners challenged the aforesaid order before the Hon'ble High Court of Jammu & Kashmir and Ladakh through the medium of WP(C) 1722/2021 and the Hon'ble High Court on 09.09.2021 passed the following order:

*"Meanwhile, respondents shall consider the representations of the petitioners submitted on 03.09.2018 and subsequent thereto, within three months from the date copy of this order is received for the benefit sought and the portion of the order impugned to the extent of rider is stayed and shall not come in the way of the respondents".*

Whereas, in compliance to the judgment dated 22-03-2021 passed by the Hon'ble Central Administrative Tribunal in TA No. 3749/2021 and the order dated 09.09.2021 passed by the Hon'ble High Court of Jammu & Kashmir in WP(C) No. 1722/2021, the matter has been examined in the Finance Department as per relevant recruitment rules notified vide SRO-297 dated 14.09.2006 governing the Jammu & Kashmir Engineering (Gazetted) services. It has been observed that the Pay Scale of the post of Chief Engineer as per the recruitment rules is Rs 14300-400-18300 revised to Pay Band PB-4 Rs 37400-67000+G.P 8700 (as per 6<sup>th</sup> Pay Commission) which has been further revised to Pay Level-13 Rs 123100-215900 (as per 7<sup>th</sup> Pay Commission).

Whereas an employee is governed by the conditions of service and same are accepted by the employee once appointed to the post.

Whereas, the post of Chief Engineer is a Head of Departments Level Post, which is equivalent to that of Special Scale of KAS, and other Head of Department Level posts. In case the post of Chief Engineer is placed in a



higher scale than that of any of the Head of Department, similar claims will pour in from other departments, and is bound to generate resentment/criticism besides litigations.

Now, in view of the above stated position, the representation of the petitioners has been considered in compliance to the judgment dated 22-03-2021 passed by the Hon'ble Central Administrative Tribunal in T.A No. 3749/2021 and order dated 09.09.2021 of Hon'ble High Court of Jammu & Kashmir & Ladakh in WP(C) No. 1722/2021 and found devoid of any merits and the same is accordingly rejected.

**Sd/-**  
**Atal Dulloo, (IAS),**  
**Financial Commissioner,**  
**(Additional Chief Secretary),**  
**Finance Department.**

No. FD-Code/6/2021-Part (1)-781

Dated: 06.12.2021.

**Copy to the:**

1. Ld. Advocate General, J&K.
2. Principal Secretary to Government, Power Development Department.
3. Principal Secretary to Government, Public Works (R&B) Department.
4. Commissioner/Secretary to Government, General Administration Department.
5. Registrar General, Hon'ble High Court of J&K & Ladakh, Jammu.
6. Secretary to Government, Law, Justice & PA Department.
7. Registrar, Central Administrative Tribunal, Jammu.
8. Private Secretary to Chief Secretary for information of the Chief Secretary.
9. Private Secretary to Financial Commissioner (Additional Chief Secretary), Finance Department for information of the Financial Commissioner (Additional Chief Secretary).
10. Er. Sheikh Mohammad Hussain (Petitioner) for information.
11. I/C website, FD ([www.jkfinance.nic.in](http://www.jkfinance.nic.in)).
12. Government Order File(W2scs).

  
**(S.L. Pandita),**  
**Director General (Codes),**  
**Finance Department.**