

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH**  
**AT JAMMU**

WP(C) No. 1306/2023

Ajay Sharma

.... Petitioner/Appellant(s)

Through:- Mr. Baldev Singh, Advocate

V/s

UT of J&K and others

.....Respondent(s)

Through:- Ms. Vanshika Bharghav, Advocate vice  
Mr. Ravinder Gupta, AAG  
Mr. Ajaz Chowdhary, Advocate

**CORAM: HON'BLE MRS. JUSTICE SINDHU SHARMA, JUDGE**

**ORDER**  
**27.12.2024**

01. Petitioner, by way of this petition, seeks a direction to the respondent No. 4 to refix the pension afresh on the analogy of the reference made in the judgments passed by the Hon'ble High Court of J&K and Ladakh at Srinagar and the Hon'ble Central Administrative Tribunal, Srinagar and the amount due be released in favour of the petitioner along with interest @18 % p.a.
02. The petitioner has retired from the Power Development Department, of the J&K Government, now Power Development Corporation, on 30.11.2020. The pension case of the petitioner was forwarded by the parent department (respondent No. 3) to respondent No. 4. In response, respondent No. 4 issued communication Nos. PNR-1/A&E/2021-22 dated 19.01.2022, PNRJ-1/C-5/2022-23/1708-10 dated 16.01.2023 and PNRJ-1/C-5/2022-23/2140-41 dated 22.03.2023, seeking clarification regarding implementation of SRO

149 of 1973, on the ground that some dispute with regard to the same is pending in the Hon'ble Apex Court.

03. The petitioner submits that his pay was fixed in terms of SRO 149 of 1973, as was done in the case of similarly situated employees of the respondent Department. It has been submitted that the parent department of the petitioner has fixed his pay and the same has been confirmed by the Government in terms of order No. 309-PDD of 1995 dated 30.08.1995 and entry of SRO 149 of 1973 stands confirmed vide the aforesaid Government Order. In this regard, the entry has been recorded in the service book of the petitioner which was forwarded to the office of respondent No. 4 for release of pension as per the grade and scale of pay in which the petitioner was drawing his salary at the time of his retirement. It has also been contended that respondent No. 4 has returned the pension case of the petitioner on flimsy grounds by stating that a case pertaining to SRO 149 is *sub judice* before the Supreme Court of India. The petitioner submits that he has nothing to do with the said case and is not, in any manner, connected with the case pending before the Hon'ble Supreme Court.
04. Despite availing number of opportunities, respondent Nos. 1 to 4 have not filed their reply.
05. Heard learned counsel for the parties and perused the record.
06. It is not disputed that the petitioner's pay was fixed by the parent department in accordance with the pay scale provided in SRO 149 of 1973, whereby, revision of pay scales has taken place. It is not the case of the respondents that any litigation is pending as regards the

fixation of pay of the petitioner in the Hon'ble Supreme Court or for that matter in any other Court. In the communication dated 19.01.2022, 16.01.2023 and 22.03.2023, respondent No. 4 has refused to approve the pay fixation made by the parent department of the petitioner on the ground that there is some ongoing litigation relating to SRO 149 of 1973 in the Hon'ble Supreme Court, and has asked the parent department of the petitioner to forward the pension case of the petitioner without considering the benefits of SRO 149 of 1973.

07. The respondent No. 4 cannot refuse to authorize the pension of an employee on the basis of the pay fixed by his/her parent department, as SRO 149 of 1973 has not been declared as not in accordance with law. It is not the case of respondent No. 4 that any such declaration has been made by the Supreme Court as yet, therefore, it is not open to respondent No. 4 to ask the parent department of the petitioner to ignore the benefits granted to him in terms of SRO 149 of 1973.
08. Mere pendency of a matter relating to grant of benefit under SRO 149 of 1973 to an employee of the Government of Jammu and Kashmir cannot have any effect upon the pensionary benefits of the petitioner. Therefore, inaction of respondent No. 4 in not authorizing pension of the petitioner in accordance with the recommendation made by his parent department cannot be justified in law. A similar view has been taken by Coordinate Benches of this Court in the cases of **Manzoor Ahmad Shah vs. UT of J&K & Ors.** (WP(C) No.2313/2021 decided on 27.05.2022) and **Abdul Majeed Lone vs. State of J&K & Ors.** (SWP No.754/2014 decided on 13.10.2017)

and **Farooq Ahmad Zargar Vs. UT of J&K and Ors.** (WP(C) No. 1261/2023 decided on 24.07.2024) and others.

09. In view of what has been discussed hereinabove, the writ petition is allowed and respondent No. 4 is directed not to give effect to the communication dated 19.01.2022, 16.01.2023 and 22.03.2023. It is further directed that respondent No. 4 shall fix and authorize pension as well as post retiral benefits to the petitioner in accordance with the pay fixed in his favour by his parent department.

10. **Disposed of.**

**(SINDHU SHARMA)**  
**JUDGE**

**Jammu:**  
27.12.2024  
Vishal

