

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

WP(C) No. 373/2024

Mukesh Damral

..... Petitioner(s)

Through: Mr. Ankush Manhas, Advocate.

**Vs**

UT of J&K and Ors.

..... Respondent(s)

Through: Mr. Danish Butt, Advocate.

**Coram: HON'BLE MR. JUSTICE JAVED IQBAL WANI, JUDGE**

**ORDER**

**01.05.2025**

1. In the instant petition filed under Article 226 of the Constitution, the petitioner has sought the following reliefs:

*“(i) Quashing of Impugned Order No. Liq/JAKFED/2023-24/609-11 dated 29.01.2024 issued by the respondents, by virtue of which a penalty of Rs. 3,37,92, 319.10 has been imposed upon the petitioner, to be recovered, and the petitioner has been held not entitled for any payment from the JAKFED.*

*(ii) Directing and commanding the respondents to recalculate retiral benefits ensuring accuracy in figures related to gratuity, CPF, and arrears of the 6<sup>th</sup> Pay Commission, which is as follows:*

*(a) CP Fund Rs. 18,87,291 + 9 % interest w.e.f. 09/2020 to 12/2023 = Rs. 25,17,419.*

*(b) Gratuity Rs. 11,95,770 + 9 % interest w. e. f. 09/2020 to 12/2023 = Rs. 17, 38, 564.*

*(c) 6<sup>th</sup> Pay Commission Arrear 10,01,681 + 9 % interest w. e. f. 09/2020 to 12/2023 = Rs. 15, 20, 101.*

*Total = Rs. 57, 76, 084.*

(iii) *The respondents to impose any unjust penalty or recovery on the petitioners on account of imprest money, especially in light of the closure of the case by the ACB, as such, actions contradict the ACB's findings and are prejudicial to the petitioner's rights."*

2. The background facts under the cover of which, the aforesaid reliefs have been prayed for and as are stated in the petition are that the petitioner retired as the Assistant General Manager from the Jammu and Kashmir Co-operative Supply and Marketing Federation/ Society, commonly known as JAKFED on 28.02.2019 after having joined the JKFED as the Field Officer in the year 1982 and subsequently promoted as Manager in the year 1994 and, thereafter, as In-charge, Assistant General Manager.

3. It is stated that in the year 1984 while working as a Manager, the petitioner was entrusted with **"Using and Utilizing the imprest Money"** by the JAKFED for its utilization with a duty to render proper accounts, thereof as also to get duly verify the same by the audit team and that the audit team verified the same were duly adjusted in the books of account of the petitioner and that the petitioner has utilized the said imprest money properly.

3. It is being next stated that upon his retirement, the respondents- JKFED did not release the retiral benefits of the petitioner including the gratuity and CP Fund which necessitated the petitioner to file WP(C) No. 2311/2021 before this Court, which came to be disposed of on 27.12.2023 with a direction to the respondents, in the said petition being JKFED and its authorities, to consider and pay the petitioner's post-retiral benefits within a period of six weeks alongwith the interest at the rate of 09 % per annum thereupon the said outstanding amount of gratuity and CP fund.

3. It is being next that the respondents instead of releasing the said retiral benefits to the petitioner in compliance to the order passed by this Court dated

27.12.2023 issued Order No. Liq/JAKFED/2023-24/609-11 dated 29.01.2024 in terms whereof, the claim of the petitioner for payment of retiral benefits came to be rejected on the premise that an amount of Rs. 3,60,44,268.10/- is outstanding and recoverable from the petitioner on account of the imprest money.

4. The petitioner states to have filed a representation against the said order dated 29.01.2024 before the respondents seeking reconsideration of his case for release of post retiral benefits as also the liability imposed upon him, which the said representation, however, is stated to have not been responded by the respondents resulting into the filing of the instant petition before this Court.
5. **Objections** to the petition have been filed by the respondents wherein the petition is being opposed, *inter alia*, on the ground that in terms of order passed by this Court dated 27.12.2023, the claim of the petitioner was considered and upon verification of the records and report of the liquidator, an amount of Rs. 3,60,44,268.10/- was found to be outstanding against the petitioner on account of imprest money and consequently, the claim of the petitioner for release of post-retiral benefits came to be rejected as the petitioner had failed to produce any record pertaining to the adjustment of the said imprest money.
6. It is being further stated that the respondents- JAKFED is presently under liquidator is in position for disposal of the assets and liabilities of the respondent-JAKFED who, however, has been vested with no authority to make adjustments of the imprest money or any other outstanding amount of the erstwhile management of the JAKFED.

**Heard learned counsel for the parties and perused the material on record.**

7. Mr. Ankush Manhas, learned counsel appearing for the petitioner while making his submission in line with the case setup by the petitioner invited the attention of this Court to a final report (IKHTITAMI) bearing No. 03 pertaining to FIR No. 13/2018 registered for Offences U/s 5(1) (c) (d) r/w 5(2) J&K PC Act Svt. 2006 & Section 120-B RPC, by (VOJ) now ACB P/S Central dated 31.08.2023 wherein the petitioner herein had been implicated as an accused qua the imprest money of the JAKFED and would vehemently argue that upon conducting a full-fledged investigation therein the said FIR, in the said final closure report, the Investigating Agency held that nothing substantial surfaced against the petitioner in the case and made recommendation for closure of the same as “not pressed”.

According to Mr. Manhas, the respondents have overlooked the said closure report while issuing the impugned order and in the process unilaterally on one hand held the petitioner not entitled to the post retiral benefit and on the other hand, liable to pay the imprest money amounting to Rs. 3,37,92,319.10/-.

8. On the other hand, Mr. Danish Butt, counsel for the respondents would not dispute or deny the aforesaid closure report referred by the counsel for the petitioner in-as-much as the conclusions drawn thereof by the Investigating Agency qua the allegations of misappropriation of imprest money by the petitioner and would fairly admit that while passing the impugned order, the said final report has not been taken into consideration.

9. Having regard to the aforesaid submissions of the appearing counsel for the parties in-as-much as the contents of the closure report annexed with the petition as annexure “IV” as also the impugned order dated 29.01.2024, it is manifest that the said closure report has not seemingly been taken cognizance of by the respondents, thus, necessitating remanding of the matter back to the respondents for its reconsideration in tune with the mandate of the order dated 27.12.2023 passed by this Court in WP(C) No. 2311/2021.

10. Accordingly, the petition is **disposed of** with a direction to respondent no. 2 to revisit and reconsider the case of the petitioner afresh in accordance with the directions passed by this Court in WP(C) No. 2311/2021 dated 27.08.2023 preferably within a period of six weeks from the date a copy of this order is produced by the petitioner before the respondent no. 2.
11. The impugned order dated 29.01.2024 in view of the above shall be deemed to have been **quashed**.
12. **Disposed of.**

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