

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

WP(C) No. 1738/2025

**Mushtaq Ahmed, Age 55 years,
S/o Sanaullah Naik,
R/o Kastigarh,
Tehsil & District Doda.**

.....Petitioner

Through: Mr. G. A. Gattoo, Advocate

Vs

- 1. UT of Jammu & Kashmir
Through Commissioner Secretary to Govt.,
Department of PWD (R&B)
Civil Secretariat, Jammu/Srinagar.**
- 2. District Development Commissioner, Doda.**
- 3. Chief Engineer, PWD (R&B) Chenab Circle, Batote.**
- 4. Executive Engineer, PWD (R&B) Div. Doda.**
- 5. Assistant Executive Engineer, PWD (R&B), Div. Doda.**

..... Respondents

Through:

Coram: HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE

**ORDER
(23.07.2025)**

1. The petitioner came forward with institution of present writ petition on **04.07.2025** claiming issuance of writ of mandamus unto the respondents for release of work done liability claim of **Rs. 12.45 lacs** along with interest @ 7% per annum.

2. In the writ petition, the petitioner introduces himself to be a registered B-Class Contractor who, pursuant to the respondent No. 4 – Executive Engineer, PWD (R&B) Division,

Doda's allotment order **No.6460-63** dated **04.02.2010** in furtherance of **NIT No. 22** dated **04.02.2010**, had undertaken the construction of **Quick Rescue Team (QRT) Centre** at **Pul Doda**.

3. The petitioner is said to have carried out the work to its completion but in the meantime GREF Authorities are said to have started the work of cutting and realignment of By Pass Uphill side of QRT Centre so constructed by the petitioner at Pul Doda which resulted in damaging the approach road to QRT Centre which caused damage to the QRT Centre structure aggregating to **Rs. 4.60 lacs**.

4. Before the institution of the present writ petition, the petitioner had first in the year 2011 had filed a writ petition **OWP No. 1615/2011** wherein the petitioner had claimed a writ of mandamus unto the writ respondents therein who are identically placed as the writ respondents in the present writ petition are, thereby seeking release of assessed and admitted amount for the work already executed by the petitioner along with interest @ 18% from the date due to the petitioner by reference to the work done under **NIT No. 22** dated **12/2009**.

5. In said writ petition **OWP No.1615/2011**, the petitioner had come up with the same narrative as to how he

came to be allowed the work of construction of QRT centre at Pul Doda and how the alleged damage had come to be caused by the GREF Authorities while grade cutting/realignment of By Pass Road passing Uphill side of QRT Centre at Pul Doda. In this writ petition, the petitioner had claimed payment of **Rs.12.45 lacs** which payment is now being claimed in the present writ petition as well.

6. Said writ petition **OWP No. 1615/2011** came to be dismissed as withdrawn in terms of an order dated **10.02.2021**.

7. The institution of writ petition **OWP No. 1615/2011** had taken place through **Advocate Rozina Afzal**.

8. In response to said writ petition **OWP No. 1615/2011**, the Deputy Commissioner, Doda in his status report submitted on **09.03.2015** stated that there was no administrative approval granted for carrying out the establishment of QRT centre at Pul Doda but the Executive Engineer, PWD (R&B) Spl. Sub-Division, Doda on his own had purportedly allotted the construction work of QRT Centre to the petitioner vide allotment **Order No. 6460-63** dated **04.02.2010** which work the petitioner is said to have almost completed with presentation of CC Ist claim for payment of Rs. 12.45 lacs.

9. The Deputy Commissioner, Doda, however, submitted that record is not forthcoming from his office to ascertain as to whether the then DDC, Doda had issued any such order whereunder the Executive Engineer, PWD (R&B) Spl. Sub-Division, Doda would have enabled himself to go ahead with the construction work of QRT centre at Pul Doda.

10. It was further stated in the status report that instead of **Rs. 12.45 lacs** requisitioned by the Executive Engineer, PWD (R&B) Spl. Sub-Division, Doda on an earlier occasion, the same very Executive Engineer had then revised the request for release of an amount of **Rs. 7.67 lacs**. Thus, the entire onus was meant to be placed upon the Executive Engineer, PWD (R&B) Spl. Sub-Division, Doda for the manner in which the construction work was done and the liability related therewith.

11. Very intriguingly, the same very QRT Centre in the form of a shed constructed by the petitioner is said to have been damaged by the GREF Authorities due to throwing of malba and boulders upon it without **Executive Engineer concerned or** of the petitioner bothered to register any complaint to the Department concerned.

12. Withdrawal of the writ petition **OWP No. 1615/2021** was not done by Advocate Rozina Afzal engaged by the

petitioner but is said to have been withdrawn on her instructions by proxy Mr. Supreet Singh Johal, Advocate as is borne out from the order dated 10.02.2021.

13. The institution of the present writ petition comes forth as a replica to the first writ petition with an added version that in the year 2021 the petitioner had withdrawn his writ petition with an assurance that the damaged amount will be cleared within three months but from 2020-21 nothing was done for release of the said amount and, therefore, the petitioner is coming with up the second round of litigation.

14. In the present writ petition, the petitioner has not referred as to who amongst the writ respondents had assured him to withdraw his first writ petition OWP No. 1615/2011 after a pendency of almost ten years and thereafter resiled from the said assurance.

15. Nothing can be more frivolous than the aforesaid plea of the petitioner as made in para 9 of first withdrawing the writ petition OWP No. 1615/2011 on his own volition without putting himself on record that somebody had assured him from the end of the respondents that his claim would be considered and approved and secondly even if there was any such assurance which led to the withdrawal of the first writ petition

then the time lapse from 2021 till filing of the present writ petition in 2025 is too long and stretched to be taken as reasonable time and, therefore, constitutes delay and laches attending the institution of the second writ petition on the part of the petitioner.

16. In the light of the aforesaid, this writ petition is found to be frivolous and hence ***dismissed***.

(RAHUL BHARTI)
JUDGE

JAMMU
23.07.2025
Muneesh

