

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

**Pronounced on:- 02.12.2025
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Case No:- WP(C) No. 4143/2019

Haider Ali and Anr.

.... Petitioner(s)

Through: Mr. M I Sher Khan, Advocate

Vs

State of J&K and Ors.

..... Respondent(s)

Through: Mr. Suneel Malothra, GA

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

ORDER

1. The short grievance projected by the petitioners in the instant writ petition filed under Article 226 of the Constitution of India is that the petitioners came to be engaged as Safai Karamcharis' in the Municipal Committee Ramban in the year 1992-93 and subsequently, came to be regularized vide order dated DULLJ/2009/13891-99 dated 25.11.2009 in the grade of 2550-3200 (PR) prospectively and that a representation came to be submitted by the petitioners before the respondents thereafter, seeking therein for retrospective effect to the said regularization, as also fixation pay w.e.f the year 2001, i.e., the year petitioners completed seven years of services and that though, the said representation of the petitioners came to be considered and a recommendation as well came to be made in this regard by the respondent 3 and yet the respondents sought recovery in the year 2016 of the salaries paid to the petitioners upon their regularization qua the increments, as also other monetary benefits extended to them, aggrieved whereof, the petitioners though submitted

series of representations for recalling and reviewing of the said process of recovery ordered, but the respondents remained hell bent to recover the same, resulting into the filing of the instant petition by the petitioners, for the following reliefs:-

- i. *Writ of mandamus, commanding the respondents to decide the representation of the petitioners which was forwarded by the respondent No. 3 vide No. MC/R/2019/173 dated 13.03.2019 to respondent No. 2 and other representations which have already been submitted and pending with the respondents and may commanding the respondents to give benefit of the regularization retrospectively from the date of the petitioners got completed seven years of service and may review/modify/recall the order of regularization issued vide No. DUBLJ/2009/13891-99 dated 25.11.2009 or may command the respondent to recall or to modify or review the said order or the said order may be quashed. With further prayer commanding the respondents not to recover the amount since 2009 till date by fixing increment since 2001 which was paid to the petitioners since 2009.*
- ii. *Writ of mandamus, commanding the respondents to provide two in-situ promotions (time bound promotions) to the petitioners in view of SRO 64 of 1994, since 2001 till date as the petitioners completed 18 years of service.*
- iii. *Any other appropriate order, direction or command though not prayed for which this Court may deem just, fit and proper in the facts and circumstances of the case may kindly be passed in favour of the petitioners and against the respondents."*

2. **Objections** to the petition have been filed by the respondents, wherein it is being admitted that the petitioners came to be regularized as Safai Karamcharis' vide order 25.11.2009 and that recoveries ordered from the petitioners were initiated on account of wrong fixation of the regular pay scale of the petitioners w.e.f 01.04.2001 instead of to 25.11.2009 and that since the petitioners had drawn excess amount of salary wrongly, the said amount was ordered to be recovered legally and validly.

Heard learned counsel for the parties and perused the record.

3. Perusal of the record available on the file manifestly tends to show that the respondents before seeking recovery of the alleged excess salary from the

petitioners, have neither issued a notice to the petitioners nor undertaken any inquiry thereof. It also emerges from the record in general and the reply filed to the petition by the respondents that the amount of excess salary claimed to have been drawn by the petitioners is not being stated to have been drawn by them either by misrepresentation or by playing fraud upon the respondents, therefore, seeking recovery of affected excess salary amount drawn by the petitioners, under these circumstances without either issuing a notice to the petitioners or providing them an opportunity of hearing cannot, but said to be blatant violation of the principles of natural justice.

4. In view of the aforesaid position obtaining in the matter, the instant writ petition deserves to be allowed.
5. Accordingly, the petition is allowed and respondents are commanded to refrain from seeking recovery of the alleged excess salary claimed to have been drawn by the petitioners without either issuing a notice to the petitioners or affording them an opportunity of hearing.
6. *Disposed of* along with connected applications.

(Javed Iqbal Wani)
Judge

Jammu
02.12.2025
Javid Iqbal

Whether the order is speaking? Yes/No
Whether the order is reportable? Yes/No