

Serial No.22
Regular list

**IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH AT
SRINAGAR.**

WP (C) No. 804/2024

MOHAMMAD YOUSUF ARAM

..... Applicant/petitioner(s)

Through: -
Mr. S.A. Makroo, Sr. Advocate with
Mr. Rahil Noor, Advocates.

V/s

UNION TERRITORY OF J AND K AND ORS.

..... Respondent(s)

Through:-
Mr. Mohsin Qadri, Sr. AAG with
Mr. Faheem Nissar Shah, GA.
Mr. Waseem Gul, GA

CORAM:

HON'BLE MR. JUSTICE JAVED IQBAL WANI, JUDGE

(ORDER)

08.10.2025

1. The short grievance projected by the petitioner in the instant petition is that he was on permanent establishment of Jammu and Kashmir Horticulture Produce Marketing and Processing Corporation (JKHPMC) and during his service, as such, was send on deputation on 14th March, 2008, to the Directorate, Accounts & Treasuries, Finance Department) where serving as such, the petitioner retired on superannuation on 31st March, 2023 and that upon his retirement an amount of Rs. 7,47,960/- was credited into his bank account on 19.04.2023, operated by the petitioner in the J&K Bank, HSHS Branch, Srinagar by the (JKHPMC) as Leave Salary, however, on 20th March, 2024, the said amount came to be withdrawn from the said account of the petitioner pursuant to a letter dated 20th March, 2024, addressed by the respondent 4 to respondent 6-Branch Manager of the said bank without informing the petitioner and at his back on the premise that the amount has wrongly been credited in the account of the petitioner.

2. Reply to the petition has been filed by the respondents other than the respondent 4 wherein it is being admitted that the petitioner was working as deputationist in the Department of Finance though borne on the establishment of JKHPMC and that while serving in the Finance Department retired on superannuation, while stating further that the amount of leave salary was credited by the Finance Department in the bank account of the petitioner under a mistake, as the petitioner was on deputation in the Finance Department and on his retirement on superannuation retiral benefits including leave salary has to be paid by his Parent department being JKHPMC.

Heard counsel for the parties and perused the record.

3. Before proceeding further in the matter, a reference to Rule 37 of J&K Civil Services (Leave) Rules of 1979 becomes necessary which reads as under:-

“A Government servant may be paid cash equivalent of leave salary in respect of period of earned leave at his credit at the time of retirement on superannuation.

Sub Rule II of Rule 37, Clause IV also provides that the authority competent to grant leave shall suo moto issue an order granting cash equivalent of earned leave at credit on the date of retirement in favour of a Government servant on the date of retirement”.

As is manifest from the above, it is not in dispute that a Government employee is not entitled to the leave salary upon his superannuation and that an order in this regard has to be issued *suo moto* by the authority competent to grant the leave.

4. In the instant case, the petitioner upon his superannuation would be entitled to cash in lieu of leave salary for the services rendered in his parent department, i.e, (JKHPMC) as also for services rendered in the Finance Department, subject of course to conditions incorporated in Rule 37 of the

Rules, 1979 supra. The respondents, be it the parent department of the petitioner or the department where the petitioner has been working as a deputationist, thus cannot deny cash in lieu of the leave salary to the petitioner.

5. Having regard to the aforesaid position obtaining in the matter, the respondents both the parent department of the petitioner as also the Department of Finance wherein the petitioner was working on deputation are directed to process, settle and pay the leave salary case of the petitioner in coordination preferably within a period of eight weeks from the date a copy of this order is produced by the petitioner before the respondents. In the event, respondents fail to process, settle and pay the leave salary to the petitioner as directed above, the petitioner shall also be entitled to the interest over the said amount of leave salary due to the petitioner @ 7% from the date the said amount of leave salary became due to the petitioner till the date of its actual payment to the petitioner.

Disposed of.

(Javed Iqbal Wani)
Judge

SRINAGAR
08.10.2025
“Abdul Rashid”

<i>Whether the order is Speaking:-</i>	<i>Yes/No.</i>
<i>Whether approved for reporting:-</i>	<i>Yes/No.</i>