

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

**WP(C) 887/2022**  
**CM(2187/2022).**

**JAVAID AHMAD SUMJI.**

...Petitioner(s)

Through: Mr. Usman Gani, Adv.

**VERSUS**

**UNION TERRITORY OF J AND K AND OTHERS.**

Through: Mr. Jahingeer Dar, GA.

...Respondent(s)

**CORAM:**

**HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE.**

**ORDER**  
**04.09.2025**

01.The petitioner- Javaid Ahmad Sumji had come forward with the institution of earlier writ petition- WPC No. 2140/2021 instituted on **18.10.2011** wherein the following were the respondents:

1. Union Territory of Jammu & Kashmir through Commissioner/Secretary to Govt., Public Health Engineering Department (Jal Shakti Department), Civil Sectt, Srinagar/Jammu;

2. Chief Engineer Public Health  
Engineering Department/ Jal Shakti  
Department Kashmir Srinagar;
3. Superintending Engineer Hydraulic  
Circle Anantnag, Kashmir, J&K;
4. Executive Engineer Public Health  
Engineering Division Bijbehara,  
Anantnag, Kashmir, J&K;
5. Assistant Executive Engineer Public  
Health Engineering Sub Division,  
Anantnag, Kashmir, J&K.

02.In this writ petition, the writ petitioner came up with the description of the works which he claims to have been allotted and carried out in the years 2017 and 2018.

03.The following works were identified in the said writ petition:

- a. *“Construction of balance work and successful testing and commission of 1.00 MD RSFP at Anantnag WSS High ground under LIC incid trial run maintenance for*

- a period of 9 months after completion of work vide allotment No. 5689 dated 26-8-2017 for an amount of Rs. 42.87 lacs.*
- b. P/F of MS grills cum mesh to windows of 1.00 MG RSFP WSS High ground under LIC vide allotment No 9510 dated 29-12-2018 for an amount of Rs. 1.71 lacs.*
- c. Modification of gullet wall central manifold and walls o filter beds of 1.00 MGD RSFP WSS High ground under LIC vide allotment No. 12274 dated 31-3-2018 for an amount of Rs. 9.98 lacs*
- d. Providing exterior tile works/ leveling an development of lawn on left site of 1.00 MGD RSFP WSS high ground under LIC vide allotment No. 36/LIC (MNP) of 08/2018 for an amount of Rs. 5.86lacs*
- e. Constt of drain and paths around 1.00 MGD RSFP WSS High ground under LIC vide allotment No. 34/LIC (MNP) of 08/2018 for an amount of Rs. 5.87lacs.*

- f. *Constt of poarch and other allied modification to 1.00 MGD RSFP WSS high ground under LIC vide allotment No. 32/LIC (MNP) of 08/2018 for an amount of Rs. 5.24 lacs.*
- g. *Constt of sluice chamber to 1.00 MGD RSFP WSS High ground under LIC vide allotment No. 33/LIC (MNP) of 08/2018 for an amount of Rs. 8.07 lacs.*
- h. *Costt of side walls around 1.00 MGD RSFP WSS High ground under LIC vide allotment No. 35/LIC (MNP) of 08/2018 for an amount of Rs. 5.64 lacs.*
- i. *P/F installation of MS pipes, 02 No air blowers for 1.00 MGD RSFP WSS high ground under LIC vide allotment No. 35/LIC (MNP) of 08/2018 for an amount of Rs. 5.64 laes*
- j. *L/F of 200mm dia back wash line for 1.00 MGD RSFP WSS High ground under LIC vide allotment No. 35/LIC (MNP) of 08/2018 for an amount of Rs. 14.73lacs.*

k. *P/F installation of sluice valves of various dias and other allied items 1.00 MGD RSFP WSS high ground under LIC vide allotment No. 4254 dated 8/8/2017 for an amount of Rs. 14.73.*

1. *P/F installation of mechanical equipments for bleach an alum tank/30 KVA voltage stabilize (survo make) pumping equipment and 19/18 PVC copper conductor 1.00 MD RSFP WSS High ground under LIC vide allotment No. 4253 dated 8-8-2017 for an amount of Rs. 12.61 lacs.*

m. *Making connection between 800mm dia DI supply main new with 450mm dia DI supply main old at MattanKhanwadi WSS High ground vide allotment No. 6964 dated 3/10/2018 for an amount of Rs. 14.00 lacs.”*

04.In this writ petition, the petitioner came to plead that against total payment of **Rs. 140.33 lacs**, he came to be paid an amount of **Rs. 54.86 lacs** but

the remainder of amount of Rs. 85.47 lacs was not paid to him for which a writ of mandamus was sought by him unto the said filed writ respondents.

05.In this writ petition, the petitioner further referred to a communication issued by the respondent No. 3 therein i.e., Superintending Engineer Hydraulic Circle, Anantnag Kashmir, J&K purportedly recommending release of the balance amount of **Rs. 85.47 lacs** for the payment to the petitioner. Said communication was addressed to the Chief Engineer Kashmir, PHE Department, Srinagar.

06.In this very communication, the respondent No. 3-Superintending Engineer Hydraulic Circle Anantnag/Kulgam Head Quarter Anantnag made a reference to the Executive Engineer PHE Division Bijbehara's letter **No. PHB/2843-44** dated **28.06.2019** wherein the details of 13 number of works executed against Water Supply Scheme High Ground were furnished against which arrangement/release of funds to the tune of **Rs. 85.47 lacs** was being solicited in order to settle

the work done claim of the concerned executing agency.

07.The Executive Engineer, PHE Division, Bijbehara in terms of his **letter No. PHB/8590-91** dated **04.02.2020** had called upon the Superintending Engineer Hydraulic Circle, Anantnag insisting upon being provided with funds to the tune of **Rs. 85.47 lacs** for enabling its disbursement to the executing agency for the work done for total amount of Rs. 140.33 lacs.

08.This communication of Executive Engineer, PHE Division, Bijbehara was also forwarded as a copy to the Office of Chief Engineer, PHE Kashmir, Srinagar meaning thereby that it cannot be heard from the Office of Chief Engineer, PHE Kashmir that it was not aware of the corresponding development taking place in the relation to the alleged execution of the works for an amount of **Rs. 140.33 lacs** out of which payment of **Rs. 54.86 lacs** had already been made in favour of the executing agency.

09.The Superintending Engineer Hydraulic Circle Anantnag/Kulgam in furtherance of the

communication dated **04.02.2020** of the Executive Engineer above referred addressed a communication to the Chief Engineer Kashmir, PHE Department, Srinagar requesting for provision for the requisite funds to be arranged/released under Capex Budget 2019-20 (Regular).

10.The Superintending Engineer, Hydraulic Circle, Anantnag/Kulgam Head Quarter Anantnag addressing this communication at the relevant point of time was Er. Iftikhar Ahmed Wani, meaning thereby that the Chief Engineer of the time was being constantly posted with the fact that there was a liability subsisting against the PHE Department for an amount of Rs. **85.47 lacs**.

11.However, the cause of action for the petitioner to file the first writ petition arose when a purported notice Section 80 of the Code of Civil Procedure notice dated **24.06.2020** came to be issued from the petitioner's end to the Commissioner/Secretary Jal Sakhti Department, Government of UT of Jammu and Kashmir, wherein the amount of liability being claimed by the petitioner was stated to be not as

**Rs. 85.47** but as **Rs. 71.47 lacs**, thereby creating a contradiction of its own kind at the end of the petitioner as to what was the actual amount of liability.

12.The legal notice dated issued by the petitioner was bearing a recital to the communications of the Superintending Engineer and the Executive Engineer as referred hereinabove.

13.Therefore, it cannot be heard to be said by the petitioner that there was a typographical error in the mention of amount claimed in the legal notice dated **24.06.2020** vis-à-vis the actual claim being pressed in the writ petition **WPC No. 2140/2021**.

14.In the **WPC No. 2140/2021**, the counsel for the petitioner had self-invited the disposal of the writ petition without venturing for adjudication on merits and therefore, in terms of an order dated **21.10.2021**, the writ petition came to be disposed of with a direction to the writ respondents to treat the said writ petition as a representation and accord consideration to the claim of the petitioner in

accordance with law and the rules governing the field.

15.The writ petition- **WPC No. 2140/2021** led to the passing of consideration order No. **9871-74** dated **17.01.2022** by the Superintending Engineer Hydraulic Circle, Anantnag with the operative part stating that the claims of the petitioner cannot be processed as per the present pay system and in the light of instructions issued by the Finance Department from time to time, as the works had been executed by the petitioner on authority basis which does not fall within the ambit of the present rules in vogue for processing/payment as stated in the consideration order.

16.Obviously, the Superintending Engineer Hydraulic Circle, Anantnag was not dismissing the fact that the petitioner had executed the works on the basis of which the liability was being claimed for payment of **Rs. 85.47 lacs**.

17.It is this order which has become the subject matter of writ petition in the second round filed by the petitioner meaning thereby the circle has run its full

course to come to the same point when the petitioner had come forward with the first writ petition **WPC No. 2140/2021** filed on **18.10.2011**. Without looking into the merit and demerits of the impugned order factually as well as legally, the impugned order cannot sustain its footing for the simple reason that in terms of an order dated **21.10.2021** passed by the writ court in **WPC No. 2140/2021** it were the respondents in the said writ petition who were directed to consider said writ petition of the petitioner and accord consideration.

18. No doubt, the Superintending Engineer, Hydraulic Circle Anantnag Kashmir J&K was one of the five respondents but then he was not the head of the PHE, Jal Shakti Department. In the said writ petition, respondent No. 2 was the Chief Engineer PHE, Jal Shakti Department Kashmir.

19. Therefore, what was expected from the end of Superintending Engineer Hydraulic Circle, Anantnag Kashmir J&K was to have an approval of

his order from the Chief Engineer, PHE, Engineering Department/Jal Shakti Department.

20. For the reasons best-known to the author of impugned order, the Chief Engineer, Jal Shakti/PHE Department was avoided from lending his approval/accord to the passing of the impugned order by the Superintending Engineer, Hydraulic Circle Anantnag, Kashmir J&K and therefore no legitimacy can be attached to the impugned order passed by the Superintending Engineer, Hydraulic Circle Anantnag Kashmir J&K by reference to order dated **21.10.2021** passed by the writ court in WPC No. 2140/2021 in terms whereof the writ respondents were under the direction to consider the petitioner's writ petition and dispose of the same and by that reference the Chief Engineer, Jal Shakti/PHE Department was to have the last word on such consideration.

21. Therefore, this writ petition is **disposed** of with a direction to the Chief Engineer, PHE Department/Jal Shakti Department Kashmir, Srinagar to come up with his final order in reference to the order

dated **21.10.2021** of the Superintending Engineer,  
Hydraulic Circle Anantnag Kashmir J&K by  
adverting to full facts and circumstances of the case  
as referred hereinabove by this Court.

22.Needful exercise be done within a period of three  
weeks by the Chief Engineer, PHE Department/ Jal  
Shakti Department Kashmir, Srinagar whereupon  
the petitioner shall have the liberty to resort to  
appropriate legal course of action in case of being  
still aggrieved by the outcome.

23.**Disposed** of.

(Rahul Bharti)  
Judge

**SRINAGAR**  
**04.09.2025**  
*Bisma Jan.*