

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

WP(C) 920/2025

ALI MOHD GANAIE AND ORS

...Appellant(s)/Petitioner(s)

Through: Mr. Bhat Fayaz, Advocate

Vs.

UT of JK and Others

...Respondent(s)

Through: Ms. Rekha Wangnoo, GA
Ms. Rahila Khan, Assisting counsel
Mr. Irshad Ahmad, For R-4,5,8 to 11

CORAM:

HON'BLE MR. JUSTICE VINOD CHATTERJI KOUL-JUDGE

ORDER
19.11.2025

Ms. Rekha Wangnoo, GA submits that matter was being represented by Mr. Mohsin Qadiri, Sr.AAG, but he is not present today, therefore, she had been asked to assist the Court in this matter on behalf of the respondents.

Heard.

The petitioners are claiming following reliefs in this petition:

“... Writ of Mandamus commanding upon the respondents to revise the pensionary benefits of the petitioners in pay band corresponding to Grade pay of 4200 by treating the petitioners on same and similar analogy from the date it was due on the basis of sanction of the pension sanctioning authority, guidelines occupying the field by adopting the same yard stick that has already been adopted by respondents No. 4 and 5 in similarly situated cases.

Writ of Mandamus commanding upon the respondents to release all the consequential benefits in favour of the petitioners after revising the pension of the petitioners.”

The said reliefs are being claimed by the petitioners on the following grounds:

That the petitioners were employees of erstwhile State/UT of J&K working in the JK INDUSTRIES LTD. SRINAGAR, KASHMIR. However are aggrieved of the fact that the fixation of the petitioners has been authorized in the lower pay grade i.e grade pay of 2400/2800 by the respondent No.4 & 5, on the contrary the similarly situated employees have been given the higher grade pay of Rs 4200, at the time of fixation of pension

,thereby discriminating the petitioners which is unknown to law the copy of the PPO are Annexed as Annexure I for kind perusal of this Hon'ble court.

That at the time of establishment of JK INDUSTRIES LTD. its staff was drawn from J&K Govt. Industries and Commerce Department.

That at the time when the staff drawn from J&K Govt. department started superannuating from service from JK INDUSTRIES LTD. they were denied pensionary benefits as per provisions of J&K Govt. CSR's. The matter thus attracted a civil suit which was eventually heard by the Hon'ble Supreme Court of India under SWP in which the Hon'ble Court delivered its judgement in favour of the petitioners.

That on the basis of Hon'ble High Court order dated 26-12-2017 in contempt No. 134/2017, MP Nos. 01 of 2017, 02/2017 and 03/2017, Contempt No. 177/2017 MP No. 03/2017 and Contempt No. 343/2017 Govt. of J&K in Industries and Commerce Department issued Govt. Order No. 35-IND of 2018 dated 25-01-2018 for grant of pensionary benefits in favour of employees of JK Industries Ltd. who was falling under the purview of the said Order.

That as per Govt. Order No. 35-IND of 2018 referred to above, JK Industries Ltd. started preparing pension cases of retired/deceased employees of JK Industries Ltd. The JK Industries Ltd. i.e. Respondent No. had no trained Accountants or trained staff to prepare the pension cases. However, the Respondent No. office made all the efforts to submit the pension/family pension cases to the office of PAG (AE) for expeditious settlement of the cases. The JKI accordingly started the process of submission of pension/family pension cases to office of PAG(AE) for authorization of pensionary benefits in favour of the concerned.

That while processing the pension/family pension cases the Office of PAG(AE), J&K felt some doubts about the manner in which the cases of the retirees/deceased employees of JK Industries Ltd. were to be settled and, therefore, referred the matter to J&K Govt. Finance Department vide letter No.PNR-3/2019-20/JKI/1072-73 dated 08-01-2020 for clarification. The J&K Govt. Finance Department clarified the matter vide letter No.A/Clar(2018)-1-106/S dated 24-09-2020. The J&K Govt. Finance Department advised to implement the Hon'ble Supreme Court decision in letter and spirit by treating the JKI employees as State Govt. employees ab initio and they may be allowed presumptive pay which they would have drawn had they not been in the employment of the Corporation (JKI). The difference between the presumptive pay and the pay actually drawn shall be accounted for and the excess pay, if any, drawn be recovered or otherwise arrears paid. The pensionary benefits shall be paid on the basis of presumptive pay. Accordingly, JKI

has allowed the pay structure of State Govt. employees to its retired employees. However, in case of employees presently working in JKI (who have not retired yet) the pay structure as notified vide Govt. Order No. 278-F of 2018 dated 06-06-2018 is applicable. Once the serving employees retire, their pension cases will be settled on the same analogy as has been done in case of employees retired before 1-1-2016. The copy of the detailed letter of pension Sanctioning authority (JK) to respondent No.4 for revision of pensionary benefits as per actual grade equivalent to grade pay of 4200.

That after receipt of clarification from JK Govt. Finance Department the Office of PAG(AE) started processing the pension/family pension and payment authorities were accordingly authorized in favour of the concerned pensioners.

That it is a matter of record that in preparing the pension/family pension cases in JK Industries Ltd. office certain omissions and errors had taken place in the preparation of pension/family pension cases owing to shortage of trained staff as submitted at para- above. However, the Pension Sanctioning Authority is not debarred from preparing a revision of Pension case in the light of Rule 284-A(f) of J&K Govt. CSR Vol-1 which reads as under:

"In spite of every effort imperfections may remain in the records and procedures but it would be unfair to a retiring Govt. servant if had to suffer because of the lapse of those responsible for the proper maintenance of service records, the fact that under the new procedures the presumption will be in favour of the Govt. servant if the records are incomplete or deficient in any manner underlines the importance of ensuring the proper, regular and timely completion of all the service and accounts records by the officers concerned, so as to minimize the occasion for making such presumptions. If in future service records are found to be incomplete or imperfect at the time of processing and finalizing pension cases, those cases will not be delayed but the officials responsible for maintenance of the records will be held accountable for any deficiencies, failure or omissions therein and action will be initiated against them." Having taken note of the omissions in finalizing the pension cases the JKI (i.e Respondent No.) submitted Revision of pension cases in favour of the petitioners because the pension cases of petitioners had initially been submitted to Office of PAG(AE) i.e Respondent No. on lower pay scale than that to which they were entitled Annexed as That Prior to their retirement from service the petitioners had held corporation pay scale of 4650-160-7050 corresponding to pay scale of 5000-150-8000 in Govt. set up introduced vide SRO 18 of 2018 corresponding to pay band carrying Grade Pay of 4200.

That in respect of officials holding same corporation pay scale of 4650-160-7050 which had initially been submitted by the JKI in lower pay scales i.e Grade pay of 2400 or 2800 were subsequently revised by the JKI and Revision of pension cases were accordingly submitted by JKI Ltd. to the office of PAG (AE) for revising pensionary benefits in these cases

That the gap between the date of retirement of the petitioners and the date of submission of Pension/Revision cases to Office of PAG (AE), J&K ranges from 01 to 18 years. The delay in submission of the cases is not attributable to the petitioners, but the delay has occurred only due to the fact that the case viz-a-viz grant of pensionary benefits in respect of the JKI employees was sub-judice till final judgement in the case by Hon'ble Supreme Court of India. After the Hon'ble Court judgement the Govt. of J&K issued Order No. 35-IND where-under the cases of all the JKI retirees are being regulated. The office of PAG (AE) J&K has taken the plea that old cases have been re-opened without the approval of the Administrative Department while as the referred Govt. Order has been issued by the Administrative Department itself. It is thus amply clear that the objection regarding sanction of the Govt. under Rule 2.43 raised by the Office of PAG(AE) that too only in few cases of petitioners is completely un-called for and without any basis.

That as would be seen in above the office of respondent No.4,5 has raised piecemeal objection in same cases at different time with the sole object of denying rightful claim of the petitioners and for willfully putting the petitioners to hardship. The Respondent has raised these piecemeal objections in the Pension/Revision cases of petitioner's in erstwhile Corporation Pay scale of 4650-160-7050 in Pay Band carrying Grade Pay of 4200 in Govt. set up instances) of which have been submitted above.

That as would be seen from details given above the Office of PAG(AE) i.e Respondent No 5. has used two yardsticks in dealing with similar cases. According to one yardstick they have rightly settled the cases of retirees having held the erstwhile corporation pay scale of 4650-160-7050 in Pay Band corresponding to Grade Pay of 4200 in the Govt. set up and authorized pensionary benefits accordingly. It is regretful that according to another yardstick the Respondents have denied authorization of pensionary benefits to the petitioners in the Pay band corresponding to Grade pay of 4200 who also held the erstwhile corporation pay scale of 4650-160-7050 in the corporation set up. The irony is that the Office of PAG(AE), J&K has raised piecemeal objections in the cases of the petitioners as borne out by details in foregoing paras. At one point of time one objection was raised and when that was replied by the Pension Sanctioning Authority another as well as different objection was raised only to cause delay and as a dilly

dallying tactics with the object of putting the helpless petitioners to harassment and mental agony.

That the respondents are duty bound under law to extend the benefit of pensionary benefits to the petitioners at par with their other counterparts of the department from the date they retired from service. The copy of the G.O 278-F of 2018 which is applicable to serving employees of JKI and not the retirees, because the retirees are to be treated as JK state Employees ab initio.

That, once the similarly placed employees have already been granted the revised pensionary benefits by the Respondents, then there is no reason why same yardstick could not be applied in case of petitioners as well. The same and similar cases like those of petitioners done by the respondent No.4 & 5 in higher grade pay of Rs 4200, by adopting a discriminatory yardstick.

That the petitioners have been deprived from the benefit of revised pensionary benefits, the petitioners seek the mercy of this Hon'ble Court for treating the petitioners on same and similar analogy which has been adopted by the respondents with regard to persons who have been accorded the benefit of revised pensionary benefits in Pay band corresponding to Grade pay of 4200 or Pay Level-6 under 7th CPC. As such discriminatory treatment adopted by the Respondents needs to be quashed, the petitioners need to be given same treatment as has been given to other similar employees. Denial of similar treatment to the petitioners and giving preferential treatment to others within the same class without there being any difference, is not sustainable in law.

The question which arises for consideration is as to whether on the grounds taken up by the petitioners they are entitled to the relief which has been sought by them in this writ petition. The respondents are required to take into account the grounds taken and consider the claim of the petitioners and, if they are found entitled to, provide the same.

The case of the petitioners is that similarly situated employees have already been allowed revision of pay as well as revision in their pension.

Having regard to the relief claimed by the petitioners, it would be appropriate in case respondents are asked to consider their case and pass orders accordingly.

Learned counsel for the respondents Ms. Rekha Wangnoo, GA, also submits that the claim of the petitioners on the grounds taken up by them in this petition that their claim would be decided also by taking into account the

benefit as claimed by them having been given to similarly situated employees.

In view of the submissions made no purpose would be served by keeping this petition pending, therefore, this petition is disposed of by providing that let petitioners make a detailed representation to the respondents for said reliefs who shall consider their claim strictly in accordance with the provisions of law and shall also take into account the case of those employees who were similarly situated and whose pay grades have been revised and have also revised their pension. The said process shall be completed within a period of two months.

In the event, respondents fail to do it, petitioners are at liberty to approach this, Court.

(VINOD CHATTERJI KOUL)
JUDGE

SRINAGAR
19.11.2025
"Imtiyaz"