

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

WP(C) 2529/2025 CM(6714/2025)

GH.MOHD MALIK

...Petitioner/Appellant(s)

Through: Mr. P. S. Ahmad, Advocate.

Vs.

UNION TERRITORY OF J AND K (HOUSING AND URBAN ...Respondent(s)
DEVELOPMENT) AND ORS

Through: Mr. Zahid Qais Noor, GA vice
Mr. Ilyas Nazir Laway, GA.

CORAM:

HON'BLE MR JUSTICE JAVED IQBAL WANI, JUDGE

ORDER

13.10.2025

(ORAL)

1. The short grievance projected by the petitioner in the instant petition filed under Article 226 of the Constitution is that the respondents herein upon superannuation of the petitioner from the services on 31.05.2023 rendered with the respondents initially as a contingent paid worker since 1989 and subsequently as a Mashki regularized in the year 2001, as such, the respondents failed to release his pension and other retiral benefits purportedly owing to the registration and pendency of FIR No.19/2011 registered with Crime Branch, Kashmir.

2. It is also stated in the petition that the petitioner is not arraigned as an accused in the said FIR and that neither any has been caused to the respondent Department owing to the engagement or regularization of the services of the petitioner herein nor any such loss is attributed to the petitioner by the respondents herein.

3. The counsel for the petitioner while making his submissions would submit that the issues involved in the instant petition stand already adverted to in multiple cases by this Court including incase titled as “Gulzar Ahmad Khan Vs. UT of J&K and Ors” decided on 22.08.2025.

Heard counsel for the parties and perused the record.

4. Perusal of the record indisputably suggests that the case of the petitioner is squarely covered by the judgement and order passed by this Court in WP(C) No.3342/2023 case titled as “Gulzar Ahmad Khan Vs. UT of J&K and Ors”, decided on 22.08.2025 wherein it has been, *inter alia*, held that retiral benefits of an employee are not bounties to be given by an employer to the employee, as it is earned by the employee by the dint of his long, continuous, and unblemished service while having referred to the judgement the Apex Court passed in case titled as “**Deokinandan Prasad Vs. State of Bihar**”, reported in **AIR 1971 SC 1409** wherein it has been held that the pension is a right and payment of it does not depend on the discretion of the Government, but is governed by the rules and a Government servant coming within those rules is entitled to claim pension as a right while holding further that grant of pension does not depend on anyone’s discretion.

5. It is also pertinent to mention here that record available on the file reveals that neither any judicial nor any department proceedings have had been instituted/ initiated against the petitioner by the respondents either while being in service even after his retirement, nor is any misconduct or

fraud alleged against the petitioner, so much so, no loss as well is attributed to the petitioner that may have been suffered by the respondent Department.

6. Having regard to the aforesaid position obtaining in the matter, the only inescapable conclusion that could be drawn is that respondents cannot withhold pension and other retiral benefits of the petitioner on any count much less one owing to the registration of aforesaid FIR No.19/2011 wherein the petitioner is stated to have not been arraigned as an accused.

7. Viewed thus for the aforesaid reasons, the instant petition deserves to be allowed.

8. Accordingly, petition is allowed by issuance of a writ of Mandamus, respondents are commanded to process and settle the pension and other retiral benefits case of the petitioner within a period of two months from the date a copy of this order is produced by the petitioner herein before the respondents and in the event of failure of the respondents to process, settle and release the pension and other retiral benefits to the petitioner within the aforesaid period, the respondents in that case shall be liable to pay interest to the petitioner over the said pension/retiral benefits at the rate of 7% from the date same became due to the petitioner till its actual payment thereof.

9. Disposed of, along with connected application/s.

(JAVED IQBAL WANI)
JUDGE

SRINAGAR

13.10.2025

Ishaq

Whether order is speaking ? *Yes/No*

Whether approved for reporting ? *Yes/No*