

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

LPA 347/2024 in[SWP 375/2017]

GHULAM QADIR YATOO AND ORS. ...Petitioner/Appellant(s)

Through: Mr. H. Furrahi, Advocate

Vs.

STATE OF J AND K AND ORS. ...Respondent(s)

Through: Mr. Mohsin Qadri, Sr. AAG with
Ms. Maha Majeed, Assisting Counsel

CORAM:

**HON'BLE MR. JUSTICE SANJEEV KUMAR, JUDGE
HON'BLE MR. JUSTICE SANJAY PARIHAR, JUDGE**

ORDE R

09.07.2025

1. This intra court appeal under clause 12 of the Letters Patent Appeal has arisen from an order and judgment dated 18th October 2024, passed by the learned single judge of this Court [the “writ Court”] in SWP No. 375/2017, whereby the writ Court has dismissed the petition of the appellants seeking a direction to the respondents to release their salary for the services rendered by them with effect from March 2016 till September 2016.
2. Briefly stated the facts leading to the filing of this appeal are that the appellants were the employees of J&K Horticulture Produce Marketing and Processing Corporation [“JKHPMC”], a public sector undertaking of the Government of Jammu and Kashmir. They opted for Voluntary Retirement/Golden Handshake Scheme (VRS/GHS) issued by government vide order No. 218-F of 2007 dated 16.07.2007 read with order No. 237-F of 2010 dated 30.08.2010. The request of the appellants for seeking the benefit of VRS/GHS came to be processed in the JKHPMC and submitted to the Government for accord of sanction.

3. Vide Government Order No. 53-PER of 2016 dated 07.09.2016, sanction came to be accorded to the acceptance of VRS/GHS option exercised by the appellants. The VRS/GHS in respect of the appellants was accepted and given effect to, from 29.02.2016. This is so mentioned in the Government Order dated 07.09.2016. It appears that during the period the case was under process, the appellants were permitted to continue in service by the JKHPMC.
4. With the acceptance of the request for VRS/GHS in terms of order dated 07.09.2016 with effect from 29.02.2016, the appellants were relieved on 07.09.2016. The petitioners were given all the benefits as envisaged under the VRS/GHS but were not paid salary for the services which they had rendered with effect from 29.02.2016 to 07.09.2016 on the ground that with the passing of Government Order dated 07.09.2016 they ceased to be the employees of JKHPMC with effect from 29.02.2016.
5. Feeling aggrieved, the appellants filed SWP No. 375/2016, claiming *inter alia*, a direction to the respondents to release the salary of the appellants for the period with effect from 29.02.2016 to 07.09.2016.
6. The writ petition was contested by the respondents by filing objections supported by an affidavit of the then Managing Director of JKHPMC. In the reply affidavit, the fact that the appellants had worked in the Corporation with effect from 29.02.2016 to 07.09.2016, was not disputed. However, it was pleaded that with the passing of the Government Order dated 07.09.2016 and accepting the request of the appellants for VRS/GHS with effect from 29.02.2016, the relationship of master and servant ceased to exist and, therefore, the appellants cannot be treated to be the employees of the JKHPMC and paid the wages. It was also submitted that in case the plea of the appellants as projected in the writ petition is accepted and they are treated to be in service till 07.09.2016, many of the appellants would be rendered ineligible to avail the benefit of VRS/GHS which they have availed of in terms of Government Order dated 07.09.2016.

7. The writ petition was considered by the writ Court in the light of pleadings by the parties and their rival contentions. The writ Court came to the conclusion that the appellants had ceased to be the employees of the Corporation with effect from 29.02.2016 and, therefore, cannot be paid the salary/wages for the services, if any, rendered by them after 29.02.2016. The writ petition was accordingly disposed of vide judgment and order impugned in this appeal.
8. Impugned judgment is challenged by the appellants primarily on the ground that notwithstanding the termination of relationship of master and servant with effect from 29.02.2016, the appellants performed their duties in their respective capacities till 07.09.2016, and, therefore, cannot be denied the salary for the work which they had done. The stand of the respondents is the same as was projected before the writ Court.
9. Having heard learned counsel for the parties and perused the record, we are of the view that the facts in this case are not much in dispute. The request for VRS/GHS made by the appellants came to be processed by the Corporation in February-2016 and the same was referred to the Government for according approval. The Government took almost six months to take a decision and grant approval/sanction to the acceptance of VRS/GHS option made by the appellants. The sanction was accorded to the grant of VRS/GHS to the appellants retrospectively with effect from 29.02.2016, though the order in this regard was passed on 07.09.2016.
10. It is also not in dispute that during the intervening period, the appellants continued to perform their duties and were relieved only after the formal order was passed by the Government on 07.09.2016. It is true that in view of the clear language of Government Order dated 07.09.2016, the appellants ceased to be the employees of the Corporation with effect from 29.02.2016, but it also cannot be lost sight of that pending decision by the Government, the appellants continued to perform their duties and render services in the Corporation.

11. The appellants who had rendered their services in the corporation cannot be denied the wages only on the ground that due to the delay on the part of the Government, a decision, which ought to have been taken in the month of February, was taken in September 2016. The corporation has extracted work from the appellants and they are required to be compensated. This aspect of the matter has not been considered by the writ Court. We are aware that since the appellants ceased to be the regular employees of the Corporation with effect from 29.02.2016, and therefore cannot claim the increments, benefits and other allowances which are available to the regular employees, nevertheless, they cannot be denied the minimum wages for the period they have rendered services.
12. For the foregoing reasons, we find merit in this appeal and the same is accordingly **allowed** and the order impugned is set aside. The appellants are held entitled to the salary with effect from 29.02.2016 to 07.09.2016. The appellants shall be entitled to only the basic salary of the post which they were holding with effect from 29.02.2016 to 07.09.2016 without any allowances. The respondents shall accordingly determine the salary payable to the appellants and release the same in their favour within a period of three months, failing which, the entire arrears shall become payable with interest @ 6% per annum after the expiry of three months from today.
13. ***Disposed of.***

(SANJAY PARIHAR) (SANJEEV KUMAR)
JUDGE JUDGE

SRINAGAR:

09.07.2025

Akshil Dev

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