

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

**WP(C) No. 2020/2024
CM No. 4905/2024**

Rajinder Singh

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

Through: Mr. Vikas Mangotra, Sr. Advocate with
Mr. Imraz Iqbal, Advocate

Vs

UT of J&K and ors.

..... Respondent(s)

Through: Ms. Sagira Jaffer, Advocate vice
Mrs. Monika Kohli, Sr. AAG
Mr. Atul Verma, Advocate vice
Mr. Adarsh Sharma, Sr. Advocate

Coram: HON'BLE MR. JUSTICE RAJNESH OSWAL, JUDGE

ORDER (ORAL)

02.07.2026

1. The petitioner, through the medium of instant petition seeks the following reliefs:-

- (a) Certiorari, quashing order bearing no. JDA/Estt./129-33 dated 13.06.2024 issued by respondent no. 2 to the extent the same holds the petitioner having alleged liability of Rs. 24, 44, 972/- (Rupees Twenty Four Lakhs Twenty Four Thousand Nine Hundred and Seventy two Only) on account of alleged excess pay drawn by the petitioner being totally illegal, arbitrary without any jurisdiction or authority of law and nonest in the eyes of law with a further quashment of all the consequential recovery proceedings sought to be initiated by the respondents against petitioner on the basis of said impugned order dated 13.06.2024 along being totally illegal, arbitrary without any jurisdiction or authority of law and no nest in the eyes of law.
- (b) Prohibition, restraining the respondents from initiating any recovery proceedings against the petitioner who has retired on superannuation w.e.f. 31.05.2023 as Accounts Assistant from Jammu Development Authority, Jammu.

- (c) Mandamus, commanding the respondents more particularly respondent no. 2-6 to grant and pay full pension and post retiral benefits in favour of petitioner along with all consequential benefits along with penal interest @18% per annum w.e.f. the date of retirement of the petitioner on superannuation i.e. 31.05.2023 till full and final realisation of the same in favour of the petitioner.
- (d) Award cost of litigation to the petitioner and against the respondent.
And/or any other relief which this Hon'ble Court deems fit and proper may kindly be passed in favour of the plaintiff and against the respondent, in the interest of justice."

2. It is urged in the petition that, in terms of the impugned order dated 13.06.2024, sanction was accorded to the superannuation of the petitioner; however, he was held liable to pay a sum of Rs. 24,44,972/- on account of the alleged excess pay drawn by him. It is stated that the petitioner was initially engaged as a Daily Wager in the Jammu Development Authority (for short, "JDA") on 05.08.1984 and was subsequently appointed as a Helper vide order dated 16.03.1995 w.e.f. 01.04.1994. Thereafter, in the year 1999, he was promoted as an "Accounts Assistant" in the Jammu Development Authority in the pay scale of Rs. 950-1500 (subsequently revised to Rs. 3050-4910 and thereafter to Rs. 4,000-6,000) vide order dated 18.01.1999. The said order stipulated that the petitioner, along with the other Accounts Assistants, would have to qualify the Accounts Examination for Public Sector Undertakings. Thereafter, the petitioner was granted two in-situ promotions in terms of orders dated 09.09.2008 and 25.07.2017.
3. The petitioner's primary grievance in the present petition is that the impugned order, to the extent it holds him liable to pay an amount of

Rs. 24,44,972/- on account of the alleged excess pay drawn, is legally unsustainable. The petitioner contends that it was the sole responsibility of the employer, namely, the Jammu Development Authority (JDA), to conduct the requisite Accounts Examination (SAC Part-I), which was a mandatory condition for the regularization of his services as an “Accounts Assistant”. In support of this contention, the petitioner has placed reliance upon the communication dated 16.06.2004, wherein it was clarified that the Training School was not in a position to impart training to the officials of autonomous bodies and Corporations. According to the petitioner, this position was subsequently reiterated by the Department of Finance vide its communication dated 06.02.2008.

4. The principal contention of the petitioner is that where an employer fails to discharge its obligation to conduct a mandatory qualifying examination, it is estopped from holding the employee accountable for not possessing the requisite qualification. The petitioner asserts that his inability to qualify the examination was attributable solely to the failure of the respondent-Jammu Development Authority (JDA) to conduct the same. It is, therefore, contended that the respondent-JDA cannot seek recovery of the financial benefits extended to the petitioner on the ground that he had not qualified the Examination, particularly when it had consciously granted him two in-situ promotions.
5. The respondents, in their reply, state that although the petitioner was promoted to the post of “Accounts Assistant”, he was strictly required

to pass the prescribed Accounts Examination. They contend that any relaxation of the prescribed qualification or exemption from clearing the Examination falls exclusively within the domain of the Government. In a nutshell, the stand of the respondent-JDA is that, in the absence of qualifying the SAC Part-I Examination, the petitioner was not entitled to promotion as an “Accounts Assistant” in the first place. It is further urged that the pension case of the petitioner was forwarded to the Deputy Director, Local Fund Audit and Pensions, on 24.10.2024, and the Deputy Director, Local Fund Audit and Pensions, sanctioned the same vide communication dated 11.11.2024. It is further submitted that provisional pension, amounting to Rs. 26,590/- per month, has been released to the petitioner with effect from November, 2024. The commuted value of pension amounting to Rs.9,40,016/- and the arrears of pension for the period from June, 2023 to October, 2024, amounting to Rs.4,44,382/-, aggregating to Rs.13,84,398/-, have also been paid to the petitioner and were released vide communication dated 20.01.2025. However, the gratuity payable to the petitioner has been withheld by the sanctioning authority, i.e., the Deputy Director, Local Fund Audit and Pensions, on account of the pending recovery of Rs.24,44,972/-, allegedly representing the excess pay drawn by the petitioner.

6. The petitioner has filed a rejoinder, wherein reliance has been placed upon the judgment rendered by this Court in SWP No. 2159/2017, titled *Pradeep Kumar Sadhotra vs. Jammu Development Authority*, decided on 27.07.2023, as well as the order dated 21.11.2024 passed in

compliance thereof. In *Pradeep Kumar Sadhotra vs. Jammu Development Authority* (supra), this Court observed as under:-

“13. Be that as it may, even if the rules governing the service conditions of the employees of the Government are applied in the case of the petitioner, this Court finds that the petitioner had the requisite qualification except having passed the SAC-Part-I and SAC Par-II examination, the qualification which the petitioner could have acquired only from the Northern Zonal Accountancy Training Institute at the instance of the respondents. The respondents wrote one communication only in December 2014 and till the superannuation of the petitioner, no effort was made by the respondents so as to ensure that the petitioner gets the requisite training and takes the requisite examination so that he can be considered for the promotion to the next higher post of Assistant Accounts Officer. **This Court is of the considered view that because of the inaction and indolence on the part of the respondents, the petitioner has not been able to earn the promotion to next higher post during his service and as such, the order impugned is not sustainable in the eyes of law. As already noted that this court vide order dated 12.02.2005 ordered the deletion of the condition regarding withholding of increments till the clearance of SAC Part-I examination and directed the release of increments in favour of the petitioner. The respondents complied with the said order and that order has attained finality.”**

7. When, under similar circumstances, the petitioner in the case titled *Pradeep Kumar Sadhotra vs. Jammu Development Authority* was granted the benefit of promotion as an Accounts Officer despite not possessing the qualification of having passed the SAC Part-I and SAC Part-II Examinations, the recovery sought to be effected from the petitioner herein in terms of the order dated 13.06.2024 cannot be sustained.
8. Accordingly, this writ petition is disposed of by quashing the order dated 13.06.2024 to the extent it holds the petitioner liable to pay an

amount of Rs.24,44,972/-. The respondents are further directed to release the pensionary and other retiral benefits payable to the petitioner, in accordance with law, within a period of three months from the date of receipt of a copy of this order. In the event of failure to do so, the amount found due and payable to the petitioner shall carry interest at the rate of 6% per annum from the date the said benefits became due to the petitioner till the date of its actual payment.

9. **Disposed** of as above.

(RAJNESH OSWAL)
JUDGE

Jammu
02.07.2026
Neha-II

