

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

SWP 799/2019[WP(C) 1236/2019]

1. (a) Humeera
Wd/O: Mohammad Maqbool
Khoosa
(b) Adnan Maqbool
S/O Late Mohammad Maqbool
Khoosa
Residents of Nund-Reshi
Colony-B, Bemina, Srinagar,
Kashmir.
2. Zahoor Ahmed Najar Aged 54
years.
S/O: Ghulam Qadri Najar
R/O: Owais-Abad, Bemina,
Srinagar Kashmir.

...Petitioner(s)

Through: Mr. Moomin Khan, Advocate

Vs.

1. State of J&K J&K, through
Commissioner/Secretary to
Government, Law, Justice and
Parliamentary Affairs, Civil
Secretary, Jammu.
2. Hon'ble High Court of J&K,
Through its Registrar General, High
Court Complex, Janipur, Jammu.

...Respondent(s)

Through: Mr. Aatir Javed Kawoosa, Advocate
Mr. Faheem Nisar Shah, GA

CORAM:

**HON'BLE THE CHIEF JUSTICE (ACTING)
HON'BLE MR. JUSTICE MOHD YOUSUF WANI, JUDGE**

ORDER(ORAL)

09.07.2026

Per: Sanjeev Kumar-J:

01. Impugned in this petition filed by the petitioners, two in
number, is a Government Order bearing No. 6069-LD (Lit) of 2018

dated 6th December, 2018, whereby the respondent No. 1 has accorded sanction to the grant of 2 ½ days additional salary in favour of the petitioners working as electricians in the High Court.

02. The case has a chequered history. Way back in the year 2012, the Registrar General of this Court took up the matter with the Secretary to the Government, Department of Law, Justice and Parliamentary Affairs for grant of sanction for payment of 2 ½ days' pay in favour of electricians working in this Court in lieu of holidays/Sundays on the analogy of similarly situated employees working in the Power Development Department.

03. The recommendations made by the Registrar General of this Court were not acceded to by the Department of Law, Justice and Parliamentary Affairs on the ground that, as per the order of creation of two posts of electricians, the posts were required to be filled up by deputation from the Power Development Department.

04. Feeling aggrieved, the petitioners approached this Court by way of SWP No. 2450/2012 claiming, *inter alia*, a writ of certiorari for quashing Government Orders dated 25.03.1992 and 17.07.1998 and a writ of mandamus commanding respondent No.1 to sanction and release the 2 ½ days pay retrospectively in favour of petitioner No. 1 from 02.02.1995 and petitioner No. 2 from 08.02.2007, i.e., the dates from which they had been working and were found entitled thereto, along with arrears.

05. The writ petition was contested by the respondents and the same came to be disposed of finally by the learned Single Judge of this Court vide order and judgment dated 3rd December, 2014. The operative portion of the judgment reads thus:-

“This petition is, accordingly, allowed. The impugned communication No. LD(A) 87/106 dated 16.07.2012 addressed by respondent no. 1 to respondent No. 2 and Government Order No. 3262-LD (Lit) of 2013 dated 23.09.2013 are quashed. Respondent No. 1 is directed to accord a fresh consideration to the request of respondent No. 2 as contained in the letter’s letter No. 2265/RG dated 25.04.2012 and pass fresh order in the matter in consonance with Government Order No. 20-PDD of 1995 dated 02.02.1995 read with communication No. PDD/VI/J/38/2000 dated 07.03.2008 addressed by the Additional Secretary to Government Power Development Department to the Development Commissioner (Power) J&K, and keeping in view what has been said and held in the judgment hereinabove. The fresh consideration, as ordered above, shall be accorded within a period of two months from the date of this judgment.”

06. In compliance with the judgment dated 3rd December, 2014 (supra), the respondents filed LPA No. 106/2015, which was considered and disposed of by a Division Bench of this Court vide

its order and judgment dated 23rd July, 2015. The operative portion of the judgment of the Division Bench reads as under:

“In such a view of the matter, this appeal is disposed of with a direction to respondent No. 3 to ascertain as to whether the respondents No. 1 and 2 are discharging their duties as Electricians on Saturdays and Sundays’ and send a proposal to the appellant within a period of two weeks from the date copy of this order is received by respondent No. 3. The appellant on receipt of the proposal from respondent No. 3 is directed to consider the matter afresh as already directed by learned Single Judge within a period of four weeks.”

07. The judgment of the writ Court was not interfered with, however, the Division Bench further provided that the High Court shall send a fresh proposal to the Government after ascertaining as to whether the petitioners herein were actually discharging their duties on Saturdays and Sundays.

08. In compliance with the Division Bench judgment, the Registrar General of this Court vide communication dated 04.08.2015 sent a fresh proposal to the Government indicating, *inter alia*, that the petitioners/ electricians were attending to their duties during odd hours even on Sundays/Gazetted holidays. This proposal too did not find favour with the Government and, accordingly, vide Government Order dated 16.11.2015, the recommendations made by this Court were once again rejected on the ground that, as per the proposal of the Registrar General, the

petitioners may have been working during odd hours but were enjoying off days and were not performing roster duties round the clock as were performed by the employees of the Power Development Department.

09. The petitioners once again knocked the doors of this Court and accordingly they filed SWP No. 1868/2016, which was disposed of by a Division Bench of this Court vide its order and judgment dated 11th September, 2017. The operative portion of the judgment reads as under:

“In the aforesaid backdrop, we allow this writ petition and direct the Registrar General of the High Court to submit a detailed fresh proposal to respondent No. 1 within four weeks from today and 1st respondent thereafter shall accord due consideration afresh and pass appropriate orders as expeditiously as possible preferably within a period of four weeks. We further hold the impugned Government Order No. 42000-LD (Lit) of 2015 dated 16.11.2015 shall not stand in the way of 1st respondent in considering the proposal afresh in the light of directions made hereinabove.”

10. The Division Bench found the proposal earlier submitted by the Registrar General incomplete and accordingly directed the Registrar General to submit a detailed fresh proposal to the Government within a period of four weeks from the date of judgment for according fresh consideration. The Government was also put under an obligation to dispose of the fresh proposal and

pass appropriate orders expeditiously as possible, preferably within a period of four weeks.

11. The judgment of the Division Bench dated 11th September, 2017, was assailed by the Government before the Hon'ble Supreme Court by way of Special Leave Petition (SLP) No. 16215/2018 which was dismissed by the Hon'ble Supreme Court vide order dated 20.08.2018.

12. Having failed on all fronts the Government acceded to the fresh proposal of the High Court and granted 2 ½ days salary as monthly allowances w.e.f. 06.12.2018, in terms of Government Order No. 6069-LD (Lit) of 2018 dated 06.12.2018 which is called in question in this petition only to the extent it provides for grant of benefit prospectively w.e.f. 6th December, 2018.

13. Having heard learned counsel for the parties and perused the material on record, we are of the considered opinion that the petitioners are entitled to the benefit of 2 ½ days salary as allowance w.e.f. 11.11.2017. This is so because the Division Bench, while disposing of SWP No. 1868/2016, clearly provided that a fresh proposal containing all the details shall be submitted by the Registrar General within four weeks from the date of judgment and Government shall accord consideration afresh to the proposal and pass appropriate orders within four weeks thereafter. Essentially, the Court granted eight weeks' time to comply with the judgment. Since the judgment was passed on 11th September,

2017, it ought to have been complied with by or before 11th November, 2017.

14. The delay, if any, whether it is on part of the High Court or the Government, cannot deprive the petitioners of the benefit of higher pay i.e., 2 ½ days salary as allowance granted to them in terms of judgment dated 11.09.2017. We, however, do not agree with the learned counsel for the petitioners that they were entitled to the benefit retrospectively from the date they joined as electricians. The right to claim 2 ½ days salary by an employee who may be performing duties beyond his usual office hours is not as a matter of right but is subject to fulfillment of certain conditions. The Government cannot be blamed for not granting the benefit of 2 ½ days salary to the petitioners when it was never brought to their notice that the petitioners had been working on Sundays and Gazetted holidays and were performing roster duties. It is only when the fresh proposal in terms of judgment dated 11.09.2017 was submitted to the Government that it considered the matter in right perspective and acceded to the proposal by passing the impugned Government order.

15. By granting the benefit of 2½ days' salary with effect from 6th December, 2018, the Government failed to comply with the judgment within the time stipulated therein. As noticed above, the judgment was required to be complied with by 11th November, 2017, i.e., within eight weeks from the date of the

judgment, and, therefore, the petitioners ought to have been granted the benefit from the said date.

16. For the foregoing reasons, this petition is partly allowed and the petitioners are held entitled to the benefit of 2 ½ days salary granted in terms of Government Order dated 6th December, 2018 w.e.f. 11th November, 2017, together with arrears of salary and consequential re-fixation of pension. Let the needful be done by the respondents within a period of two months from today.

17. Disposed of.

(Mohd Yousuf Wani)
Judge

(Sanjeev Kumar)
Chief Justice (Acting)

SRINAGAR:

09.07.2026

"Mir Arif"

- (I) Whether the order is reportable? Yes/No.
(II) Whether the order is speaking? Yes/No.

