

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

WP (C) No. 1288/2021

Reserved On: 17th of September, 2026.
Pronounced On: 26th of September, 2026.
Uploaded On: 26th of September, 2026.

Whether the operative part or
full Judgment is pronounced: **Full.**

Ghulam Ahmad Ganai, (61 Years)
S/O Abdul Jabbar Ganai
R/O Goigam Magam,
District Budgam.

... Petitioner(s)

Through: -

Mr Ahmad Javid, Advocate.

V/S

- 1. Union Territory of Jammu & Kashmir,**
Through Commissioner/ Secretary to Government,
Housing and Urban Development Department/
PW (R&B) Department, Civil Secretariat,
Srinagar/ Jammu.
- 2. Director Local Bodies,**
Kashmir, Srinagar.
- 3. Senior Superintendent of Police (Vigilance),**
Kashmir, Srinagar.

... Respondents

Through: -

Mr Ilyas Nazir Laway, Government Advocate for R-1 & 2; and
Mr Mohsin-ul-Showkat Qadri, Sr. AAG with
Mr Haris Khan, Advocate for R-3.

CORAM: HON'BLE MR JUSTICE M. A. CHOWDHARY, JUDGE.

(JUDGMENT)

01. The Petitioner, through the medium of the instant Writ Petition filed under Article 226 of the Constitution of India, seeks a direction upon the Senior Superintendent of Police, Vigilance (now ACB), Kashmir, Srinagar-Respondent No.3 herein to issue the requisite 'No Objection Certificate' (NOC) in favour of the Petitioner, as also a direction upon the

Director, Local Bodies Kashmir, Srinagar- Respondent No.2 herein to release all pensionary as well as promotional benefits in his favour.

02. The Petitioner claims that he came to be engaged in the Respondent-Department initially in the year 1984 on consolidated basis, whereafter, he was regularized as Junior Assistant in the year 1987; that, thereafter, he was promoted to the post of Senior Assistant and was posted in the Notified Area Committee, Magam; that he was again promoted to the next higher post of Head Assistant and was posted in Municipal Committee, Uri, whereafter he claims to have been posted as Incharge Secretary at Budgam.

03. The Petitioner further pleads that, although he discharged his services honestly and to the best satisfaction of the Respondents, his promotion, along with other similarly situated employees, was withheld, which constrained the Petitioner and other similarly situated employees to approach this Court by way of a Writ Petition which was disposed of with a direction to the Respondents to consider the promotion of the Petitioners to the next higher post of Secretary, pursuant thereto the case of the Petitioner was considered in the Departmental Promotion Committee (DPC) which was duly convened and the Petitioner was cleared for his promotion at S. No.7, however, despite the Petitioner having been cleared by the DPC, the promotion was not given effect to, solely on account of the alleged pendency of NOC from the Vigilance Organization Kashmir and his case was consequently kept in a sealed cover; that the Petitioner ultimately attained the age of superannuation and retired from service on 30th of April, 2019, without being extended the promotional and consequential service benefits to which he had become entitled to; that consequently his provisional pension was fixed on the basis of his earlier post of Head Assistant, whereas, at the time of his retirement, he was actually discharging his duties as Incharge Executive Officer; that thereafter other service and retiral benefits of the Petitioner were also withheld or released only on the basis of his lower/ previous grade, though certain benefits were

subsequently released in favour of the Petitioner, the same were calculated on the basis of the old grade, whereas, the gratuity of the Petitioner continues to remain withheld with the Respondents.

04. Upon notice having been issued, the Respondents No. 1 and 2 have filed their Counter Affidavit, *inter alia*, stating therein that the Vigilance Organization, Kashmir (now ACB) had registered a case under FIR No. 32/2003 regarding the allegations of appointments/ regularization made in Municipal Committee, Magam by the then Administrator, Notified Area Committee, Magam and others, including the Petitioner, during the year 1993-94; that as per the final investigation report submitted by the Investigating Agency, the FIR was registered against eight persons, including the Petitioner and other beneficiaries, as per the said report, it was proved that among others the Petitioner was also directly involved in the illegal appointments of the beneficiaries, as the said appointment was initiated by the Petitioner through an undated note/ proposal directly submitted to the then Administrator; that since the act of the Petitioner was against the public interest and with a view to demonstrate the policy of the Government to deal strictly with officer(s) involved in misconduct, it was necessary to get Vigilance Clearance of such delinquent officials/ officers from the concerned authority to ensure that an employee has no pending cases or adverse records before finalization of his post-retirement benefits, because mushroom of illegal appointments had been made in the ULBs of Kashmir Division and various FIRs registered in VOK (now ACB), including the said FIR No. 32/2003 under Section 5 (2) of the J&K Prevent of Corruption Act Svt. 2006 read with Section 120-B RPC.

05. Respondent No.3-SSP, Anti-Corruption Bureau, South Kashmir has also filed Objections to the Petition, stating therein that the Petitioner is figuring in as many as three cases in the Police Station VOK (now ACB) viz. FIR No. 16/1997, FIR No. 32/2003 and Verification BK-03/2009; that the case FIR No. 32/2003 was registered in Police Station

VOK (now ACB) with regard to illegal appointments made by the public servants in the Municipal Committee, Magam and that the case, on being investigated, was submitted to General Administration Department vide No. SVO-FIR-32/2003-K-14472-73 dated 29th of November, 2006 for accord of sanction for launching prosecution against the public servants, including the Petitioner herein, who were responsible for these illegal appointments; that the Government, instead of according sanction, referred the matter vide No. GAD (Vig) 72-SP/2006 dated 9th of March, 2007 to the Secretary to Government, Housing and Urban Development Department, for initiating departmental action against the then in-service public servants; that since the Government denied to accord sanction for launching prosecution against the public servants, therefore, final report (*Ikhtitami*) in the case was presented before the Court of Special Judge, Anti-Corruption, Kashmir, which was accepted by the said Court vide Order dated 12th of May, 2007; that verification No. BK-03/2009, subsequent to being probed, was submitted to the Government vide Vigilance Organization communication No. SVO/veri-BK-03/09-2971-73 dated 24th of February, 2014, with the recommendation to initiate regular departmental action against various public servants, including the Petitioner; that with regard to case FIR No. 16/1997, it is submitted that the case, after being investigated, was closed, with the recommendation of initiating a regular departmental action against Shri G. A. Ganai/ Petitioner herein.

06. The Petitioner has also submitted his Rejoinder to the Counter Affidavit filed by the Respondents, wherein he has stated that the Objections/ Counter Affidavit filed by the Respondents does not furnish any substantial justification for denying the Petitioner his legitimate rights, rather, the material placed on record, including the Respondents' own admission that there is nothing pending or adverse against the Petitioner, supports the case of the Petitioner and demonstrates the fact that the continued withholding of his promotional and consequential pensionary benefits, particularly the gratuity, is wholly unjustified.

07. Heard learned Counsel for both the sides, perused the pleadings available on record and considered the matter.

08. From the perusal of the pleadings available on record, it is discernible that the Petitioner, along with other public servants, had been facing proceedings before the Vigilance Organization, Kashmir (now Anti-Corruption Bureau) in a case registered vide FIR No. 32/2003, relating to illegal appointments, for which the Vigilance Organization, Kashmir (now Anti-Corruption Bureau) had submitted the said case to the General Administration Department for accord of sanction for launching prosecution against the public servants, including the Petitioner herein. The Government, instead of according sanction, recommended initiation of departmental action against the said public servants and, as per the Vigilance Organization, Kashmir (now Anti-Corruption Bureau), in the said case, the final report (*Ikhtitami*) was presented before the Court of competent jurisdiction, which was accepted. In another case registered vide FIR No. 16/1997 with VOK, the Petitioner was facing investigation, however, in that case also, departmental action was recommended to be taken against him. The Respondents No. 1 and 2, in their Counter Affidavit, have submitted that they had requested the Respondent No.3 to issue the requisite NOC in favour of the Petitioner, so that the case of the Petitioner for release of post-retiral benefits could be considered, but the same has not been issued because of non-conclusion of departmental action against the accused, including the Petitioner herein, allegedly involved in the said illegal appointments.

09. It is an admitted fact that neither sanction for launching prosecution was accorded by the Government with respect to the case in which the Petitioner, along with others, was allegedly stated to be involved relating to illegal appointments, nor in any departmental proceedings, the Petitioner has been subjected to any penal consequences by a formal order. In such a situation, the Petitioner, who has attained the age of

superannuation on 30th of April, 2019, cannot be denied the service benefits as have accrued to him as per Rules, as such, the continued withholding of NOC by the Respondent No.3 in favour of the Petitioner and the denial of consequential benefits in his favour by the Respondents No. 1 and 2, on that pretext, cannot be justified, in any manner, whatsoever.

10. The Petitioner, having rendered his services with the Respondent-Department for quite a long number of years and having retired from service on reaching the age of superannuation, cannot be denied his legitimate pensionary and other post retiral benefits.

11. Viewed thus, the present Writ Petition is **disposed** of with a direction to the Respondent No.3 to grant the requisite NOC in favour of the Petitioner for consideration of his case by the Respondents No.1 and 2 for accord of promotion on notional basis from the date he was proposed to be promoted, re-fixation of his pension and release of all post-retiral benefits, expeditiously, preferably within a period of two months from the date of receipt of certified copy of this Judgment. The Respondents No. 1 and 2, on receipt of the said NOC, shall process the case of the Petitioner for accord of promotion on notional basis from the date he was proposed to be promoted, re-fixation of his pension and release of all post-retiral benefits as per Rules, within two months, thereafter.

12. Writ Petition is, thus, **disposed** of on the above terms, along with connected CM(s).

(M. A. CHOWDHARY)
JUDGE

SRINAGAR

September 26th, 2026

"TAHIR"

i. Whether the Judgment is approved for reporting?

Yes.