HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

Case No: SWP No. 264/2008
IA No. 388/2008
c/w
SWP No. 302/2008
IA No. 462/2008

Reserved on : 08.10.2026
Pronounced on : 30.10.2026
Uploaded on: 30.10.2026

Krishan Lal c/w
Jawahar Lal

…. Appellant(s)/Petitioner(s)

Through:- Mr. Rahul Pant, Sr. Advocate with
Ms. Neha Mahajan, Advocate,
Mr. Anirudh Sharma, Advocate,
Mr. P.N.Goja, Sr. Advocate with
Mr. Abhinav Jamwal, Advocate

v/s

State of J&K and others …..Respondent(s)

Through:- Mr. Ravinder Gupta, AAG

CORAM: HON'BLE MR. JUSTICE SANJAY DHAR, JUDGE

JUDGMENT

1. Through the medium of afore-titled two writ petitions, the writ petitioners have challenged enquiry proceedings and termination orders issued against them. Since both these writ petitions arise out of a single inquiry report dated 11.12.2007, therefore, the same are being taken up together for their decision.

2. **SWP No. 264/2008**: This writ petition has been filed by Krishan Lal, who was a permanent employee of the Srinagar Municipal Corporation, Srinagar. In the year 1990, during large-scale migration

from Kashmir Valley, he migrated to Jammu and came to be adjusted in Jammu Municipal Corporation, Jammu. According to the petitioner, though he was attached to Jammu Municipal Corporation, Jammu, he continued to draw his salary from Srinagar Municipal Corporation, Srinagar, as a migrant employee. It has been submitted that the petitioner was never assigned the duties of cashier or the duty of collecting cash, but he was wrongly shown as In-charge of the single-window counter to monitor cash transactions and the remittance of cash into the Treasury.

3. On 18.09.2007, a charge sheet was served upon the petitioner, in which it was alleged that he had misappropriated an amount of ₹2,00,432/- during the years 2005-06, 2006-07 and 2007-08. It has been submitted that the petitioner furnished his reply to the charge sheet on 27.09.2007, denying the allegations. On 27.09.2007 itself, an Enquiry Officer was appointed, and on 09.10.2007, the petitioner was placed under suspension. On 11.12.2007, the Enquiry report was submitted by the enquiry officer to the Commissioner concluding that the petitioner was found responsible for mis-appropriating an amount of ₹2,00,432/-.

4. According to the petitioner, no notice was served upon him by the enquiry officer before proceeding ahead with the enquiry. It has been submitted that the charges have not been proved against the petitioner. It has been further submitted that respondent No. 3, after receiving the enquiry report from respondent No. 5, issued a show-cause notice dated 26.12.2007, informing the petitioner that the competent authority proposed to impose a penalty under Rule 30,

sub-clause (viii) of the J&K Civil Services (Classification, Control and Appeal) Rules, 1956 (hereinafter referred to as "the Rules of 1956"). The petitioner submitted his reply to the show-cause notice on 03.01.2008, wherein the findings of the Enquiry Officer were disputed. It was also submitted by the petitioner in his reply that he had been forced to part with his GP Fund and bank loan.

5. It has further been submitted that respondent No. 3, vide impugned order dated 08.02.2008, proceeded to terminate the services of the petitioner with effect from 08.02.2008, with a further direction to respondent No. 6 to initiate recovery proceedings against the petitioner.

6. The petitioner has challenged the impugned action of the respondents on the grounds that respondent no.3 had no jurisdiction to issue the impugned order of termination because the petitioner is an employee of Srinagar Municipal Corporation and not an employee of Jammu Municipal Corporation. It has been submitted that respondent no.3 is neither the appointing authority of the petitioner nor has he been authorized by the Government to take action against the petitioner.

7. It has been contended that the Enquiry Officer has not held the petitioner guilty of misconduct. It has also been contended that the petitioner has been condemned unheard.

8. Initially, the petitioner had sought a writ of *quo warranto* against respondent No. 3 on the ground that he was not authorized to hold the post of Commissioner, Jammu Municipal Corporation, but during the pendency of the writ petition, the said contention was given up by the petitioner.

9. After the filing of the reply by the respondents, the petitioner has filed a rejoinder in which he has contended that his services have been terminated in a most illegal and arbitrary manner, in complete violation of the principles of natural justice. He has further contended that the enquiry was not conducted in his presence, nor were the statements of the witnesses recorded in his presence. It has been contended that the statements of the witnesses were recorded behind his back and that the procedure for holding a departmental inquiry was not followed at all. It has been submitted that the record of the enquiry would show that he has never willfully evaded the enquiry proceedings, as has been alleged by the respondents.

10. **SWP No.302/2008**: This writ petition has been filed by Jawahar Lal Koul. As per the case of the petitioner, he was appointed as a Class-IV employee in the Jammu Municipal Corporation, Jammu, in the year 1987. It has been submitted that the employees of the Jammu Municipal Corporation are governed by the provisions of the Rules of 1956 in matters relating to disciplinary proceedings. It has been submitted that a charge sheet relating to allegations of misappropriation and embezzlement of funds came to be framed against the petitioner on 18.09.2007. The petitioner was suspended in terms of order dated 18.08.2007. The charge sheet was replied to by the petitioner in terms of reply dated 24.09.2007, whereafter, on 27.09.2007, an Enquiry Officer was appointed by respondent No. 2. It has been submitted that, vide communication dated 05.10.2007, the Enquiry Officer asked the petitioner to report to his office. The petitioner, vide his application dated 11.10.2007, sought permission

to engage an advocate or, in the alternative, to avail the services of an authorized agent or co-employee as his defence representative. It has been submitted that an *ex parte* enquiry came to be conducted by the Enquiry Officer and the petitioner was never called upon to participate in the proceedings, nor was he allowed to lead evidence in his defence. It has been further submitted that no notice was served upon the petitioner for attending the enquiry proceedings and that, on 11.12.2007, the Enquiry Officer submitted its report.

11. It has been submitted that, on 26.12.2007, respondent No. 2 issued a notice to the petitioner proposing the imposition of penalty of dismissal from service upon him. The same was replied to by the petitioner vide his communication dated 02.01.2008, wherein it was specifically mentioned that he was not allowed the assistance of a representative in the departmental enquiry, nor was he allowed to cross-examine the witnesses. It has been submitted that, without considering the reply of the petitioner, the impugned termination order dated 08.02.2008 came to be issued against him.

12. The petitioner has challenged the impugned action of the respondents on the grounds that the mandatory provisions of Rule 33 of the Rules of 1956 have not been adhered to by the respondents while issuing the impugned order against him. It has been submitted that the petitioner was attending his office and had not absconded, therefore, it was not open to the Enquiry Officer to proceed *ex parte* against him. It has been contended that the petitioner was not given an opportunity of being heard by the Enquiry Officer. It has also been contended that the petitioner is only a matriculate and, therefore, he

was not in a position to defend himself properly and, for this reason, he had sought the assistance of an Advocate or a co-employee, which was not permitted. It has been submitted that, in fact, no decision was taken by the Enquiry Officer on his application, nor was he called upon to attend the enquiry or to cross-examine the witnesses or to lead evidence in his defence. It has been contended that the impugned order of termination is bad in the eyes of law because it seeks to recover the amount allegedly misappropriated by the petitioner. It has been submitted that, as per Rule 30 of the Rules of 1956, the punishment of recovery of amount cannot be inflicted upon a delinquent employee and only the punishment of recovery from the pay of a delinquent employee can be inflicted.

13. The respondents have contested both the writ petitions by filing separate replies. However, in both the writ petitions, the stand of the respondents is similar. It has been contended by the respondents that petitioner Krishan Lal, who was a Senior Assistant (Migrant), was functioning as In-charge of the Single Window Counter to monitor cash transactions and remittances into the Treasury. It has been submitted that the said petitioner has admitted in his reply to the charge sheet that he was posted as In-charge of the Single Window Counter. It has also been submitted that petitioner Krishan Lal has admitted that he had issued temporary receipts to persons from other sections in good faith because of the heavy rush at the counter and that the entire cash amount received by him was handed over to the cashier, who was responsible for issuing GRs. It has also been submitted that petitioner Krishan Lal cannot absolve himself of his

lapse in issuing temporary receipts in respect of the cash received from other officials.

14. It has been submitted that after framing of charges against both the petitioners, the charge sheet was served upon them to which both the petitioners submitted their separate replies, which were not found to be satisfactory leading to appointment of enquiry officer. It has been submitted that after appointment of enquiry officer, petitioner Krishan Lal appeared before the enquiry officer and sought 20 days leave, which was dis-allowed. It has been submitted that petitioner Krishan Lal remained elusive and he did not report to the enquiry officer. A communication dated 05.10.2007 was issued by the enquiry officer but petitioner Krishan Lal did not report in person. It has been further submitted that on 15.10.2007, the enquiry officer gave final opportunity to petitioner Krishan Lal to record his statement, enable cross examination of the witnesses and produce material or witnesses in his defence, in response to which he submitted his reply dated 05.11.2007, but, did not present himself before the enquiry officer.

15. Regarding petitioner Jawahar Lal Koul, it has been submitted that he never appeared before the Enquiry Officer, either personally or through an Advocate. However, he submitted an application dated 11.10.2007 seeking permission to appear along with his counsel or authorised agent but never appeared personally or through an authorised agent before the Enquiry Officer. It has been submitted that a final opportunity to appear and cross-examine the witnesses and to produce material documents and witnesses in his defence was

given to the petitioner by the Enquiry Officer in terms of communication dated 15.10.2007.

16. It is the stand of the respondents that petitioner Krishan Lal, though an employee of the Srinagar Municipal Corporation, was, for all practical purposes, working under the Jammu Municipal Corporation, as such, respondent No.3, on the strength of Government Order No. 304-JK of 1990 dated 14.03.1990, was competent to pass the impugned order of termination of the petitioner-Krishan Lal. It has been contended that the enquiry was conducted in accordance with the provisions of Rule 33 of the Rules of 1956 and that the petitioners were given a full opportunity of being heard. It has been submitted that the petitioners never appeared before the Enquiry Officer and instead they chose to stay away despite having been given an opportunity in this regard. It has also been contended that the petitioners have been found guilty of having committed embezzlement of the revenue of the Municipal Corporation, for which they were required to be punished. It has also been contended that there is no legal bar to recover the embezzled amount from a delinquent employee.

17. It is pertinent to mention here that the respondents were directed to produce before the Court the record relating to the enquiry conducted against the petitioners. However, despite directions, they did not produce the record. Ultimately, an affidavit came to be filed by the Commissioner, Jammu Municipal Corporation, on 15.07.2023, wherein it has been stated that the record in question was not traceable despite the best efforts having been made by the officials to

locate the same. It has been submitted in the affidavit that the Jammu Municipal Corporation is not in a position to produce the record. In the affidavit, it has been submitted that a committee of officials was constituted to trace the record, but the record could not be traced, whereafter, the matter was referred to the Crime Branch for proper investigation in terms of communications dated 09.02.2023 and 06.06.2023.

18. I have heard learned counsel for the parties and I have perused the pleadings and record of the case.

19. The first contention that is required to be dealt with is whether the Commissioner, Jammu Municipal Corporation, Jammu, is competent to issue an order of termination in respect of an official who is admittedly an employee of the Srinagar Municipal Corporation. Petitioner Krishan Lal is admittedly an employee of the Srinagar Municipal Corporation who, after his migration to Jammu, was allowed to function as an employee in the JMC, Jammu. A perusal of the service book of petitioner Krishan Lal, which has been produced by learned counsel for the respondents, would reveal that his lien has not been terminated in his parent organization and that he has not been absorbed in the Jammu Municipal Corporation, Jammu.

20. It is to be noted that the Srinagar Municipal Corporation and the Jammu Municipal Corporation are two different entities constituted under the J&K Municipal Corporation Act. Sub Section (8) of Section 2 of the said Act defines a Corporation as a Municipal Corporation declared and constituted under Sections (3) and (4) of the said Act. As per Section (3) of the said Act, the areas comprised

within the limits of the municipal areas of Jammu and Srinagar have been declared as the Municipal Corporations of Jammu and Srinagar, respectively. As per Section (4) of the said Act, a Corporation is a body corporate having perpetual succession and a common seal, with the power to acquire, hold and dispose of property, and may, by the said name, sue and be sued.

21. From the above legal framework, it becomes clear that a Corporation constituted under the J&K Municipal Corporation Act is a distinct entity and each Corporation constituted under the said Act is an independent body. The Administrative Department of both the Srinagar and Jammu Municipal Corporations may be the same, but they have separate and independent legal existence.

22. Section 45 of the Act provides for the appointment of a Commissioner of a particular Municipal Corporation, and Section 50 of the Act prescribes the functions of the Commissioner. As per the said provision, the Commissioner of a Municipal Corporation can exercise powers for the purposes of carrying out the provisions of the Act. Thus, each Municipal Corporation has a separate Commissioner who exercises powers under the Act, subject to the control of the Corporation. Section 67 of the Act vests the Corporation with the power to appoint officers and servants of the Corporation and to prescribe qualifications, methods of recruitment, salary, leave allowances and other conditions of service, including disciplinary matters, of such officers/servants. Thus, the appointing authority of an employee of a particular Corporation is the said Corporation and not an authority that is not part of the said Corporation. Thus, the

Commissioner of the Srinagar Municipal Corporation has powers relating to appointment and disciplinary matters concerning the employees of the said Corporation, whereas the Commissioner of the Jammu Municipal Corporation, Jammu, has powers in connection with the appointment, disciplinary matters, etc., of employees of the Jammu Municipal Corporation, Jammu. In the instant case, petitioner Krishan Lal was admittedly an employee of the Srinagar Municipal Corporation who was allowed to function with the Jammu Municipal Corporation. The disciplinary control in respect of petitioner-Krishan Lal vested in his appointing authority, viz., the Srinagar Municipal Corporation.

23. Learned counsel for the respondents has relied upon Government Order No. 304-GR of 1990 dated 14.03.1990 to contend that the disciplinary control of migrant employees was vested in the organization to which they were attached. The aforesaid Government Order provides that in view of the disturbance in the Valley, employees of the departments who were working in the Kashmir Division, upon their migration to the Jammu Division, would be permitted to draw their salaries in the Jammu Division and such employees were asked to assist in the performance of additional work assigned to them in terms of the said order. Learned counsel for the respondents has particularly placed heavy reliance upon sub clauses (iv) and (v) of Clause (C) of the said order, which read as under:-

> **"(iv)** For the purpose of assisting them in the performance of the additional work assigned to them under this order, the heads of Departments and the Administrative Depts. may call upon the services of the employees who have migrated to Jammu Division temporarily. Any such employee refusing to perform the duty assigned to him shall face disciplinary action.

> **(v)** In respect of employees who have migrated to Kathua and Udhampur Districts, Heads of Departments will make special arrangements at the concerned location to collect the particulars and disburse the pay/leave salary. The pay/leave salary shall be drawn by the Head of the department but may be disbursed through the concerned District Officer."

24. From a perusal of the aforesaid clauses, it appears that any migrant employee refusing to perform the duties duly assigned to them were liable to face disciplinary action. However, there is nothing in the said order to indicate that the disciplinary control of migrant employees was transferred to the heads of the offices where they were assigned additional work. The Government Order (supra) in no manner leads to the conclusion that migrant employees were absorbed in the organizations/departments to which they were attached for the purpose of performing additional work. Therefore, it cannot be stated that the services of petitioner Krishan Lal were absorbed in the Jammu Municipal Corporation so as to conclude that the Commissioner, Jammu Municipal Corporation, had become the appointing authority of the said official.

25. In view of the aforesaid circumstances, it was not legally permissible for the Commissioner, Jammu Municipal Corporation, to pass an order of termination against petitioner Krishan Lal. If, in the enquiry initiated against him, he was found guilty of the charges, his case, for the purpose of taking a decision regarding the imposition of punishment, ought to have been placed before the appointing authority, viz., the Commissioner, Srinagar Municipal Corporation. The impugned order of termination of petitioner Krishan Lal has been issued by the Commissioner, Jammu Municipal Corporation,

who was not competent to pass such order. On this ground alone, the same is liable to be set aside.

26. That takes us to the question as to whether the enquiry proceedings were conducted by the respondents against the petitioners in accordance with the procedure prescribed under Rule 33 of the Rules of 1956. Before considering this issue, it would be apt to notice the provisions contained in Rule 33 of the Rules of 1956, which read as under:

> "33**.(1)** Without- prejudice to provisions of the Public Servants Inquiries Act, 1977, no order (other than an order based on facts which had led to his conviction in a criminal court or by a court-martial) of dismissal, removal, or reduction in rank 1 [which includes reduction to a lower post and/or lower timescale, - and/or to a lower stage in time-scale] but excludes the reversion to a lower post of a person who is holding a higher post temporarily shall be passed on a person who is a member of a Civil service, or holds a Civil post under the State unless he has been informed in writing of the grounds on which it is proposed to take action and has been afforded and adequate opportunity of defending himself. The ground s on which it is proposed to take action shall be reduced in the form of a definite charge or charges which shall be communicated to the person charged, together with a statement of tile allegations on which each charge is based and of any other circumstances which it is proposed to take into consideration in passing orders on the case. He shall be required, within a reasonable time, to put in a written statement of his defence and to state whether he desires to be head in person. If he so desires, or if the authority concerned so directs, an oral inquiry shall be held in respect of such of the allegations as are not admitted. At that inquiry such oral evidence will be heard, as the inquiring officer considers necessary. The person charged shall be entitled to cross-examine the witnesses, to give evidence in person and to have such witnesses called as he may wish; provided that the officer conducting the inquiry may for sufficient reason to be recorded in writing refuse to call a witness. The proceedings shall contain a sufficient record of the evidence and statement of the findings and the grounds thereof.
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> **(2)** The rule shall not apply where the person concerned has absconded, or where it is for other reasons impracticable to communicate with him, or where in the interest of the security of the State, it is considered not expedient to give to that person an opportunity of showing cause against the action proposed to be taken against him. All or any of the provisions of the rule may for sufficient reasons to be recorded in writing be waived, where there is difficulty in observing exactly the requirements of the rule and

those requirements can in the opinion of the inquiring officer be waived without injustice to the person charged.

(3) This shall also not apply where it is proposed to terminate the employment of a probationer whether during or at the end of the period of probation, or to dismiss, remove or reduce in rank a temporary government servant, for any specific fault or on account of his unsuitability for the service.

(4) The competent authority may inquire into the charges itself or if it considers it necessary so to do, it may appoint an inquiry officer for the purpose."

27. From a plain reading of the aforesaid Rule, it comes to the fore that punishment of dismissal of a delinquent employee can be imposed only if he has been informed in writing of the grounds on which action is proposed to be taken and has been afforded an adequate opportunity of hearing and defending himself. It further provides that the grounds on which the action is proposed to be taken have to be reduced to the form of definite charge or charges, and the same have to be communicated to the person charged, together with the statement of allegations on which the charge is based and any other circumstances which are proposed to be taken into consideration while passing orders in his case. The delinquent official has to be given a reasonable time to submit his answer to the charges and to state whether he desires to be heard in person and, if he opts to do so, an oral enquiry has to be held in respect of the allegations which are not admitted. In such an enquiry, the delinquent employee would be entitled to cross-examine the witnesses, give evidence in person and produce witnesses. There has to be a record of the proceedings containing the record of evidence and a statement of findings and the grounds thereof.

28. In light of the aforesaid legal position, let us now examine whether the aforesaid requirements have been adhered to by the respondents

while imposing the punishment of dismissal upon the petitioners. It is an admitted case of the parties that both the petitioners were served with memos of charges, to which they furnished their replies. While petitioner Krishan Lal furnished his reply to the charges vide his communication dated 25.09.2007, petitioner Jawahar Lal Koul submitted his reply to the charges vide his communication dated 24.09.2007.

29. So far as petitioner Jawahar Lal Koul is concerned, he has denied both the charges and has claimed that even if there was any loss, the same could not be attributed to him. He has contended that he was working only as a Mali and, as such, the question of his receiving cash during the operation of the single-window counter did not arise. He denied having received any money, as, according to him, the same was beyond the scope of his duties.

30. So far as petitioner Krishan Lal is concerned, he did admit that he was posted as In-charge of the single-window counter for a few days, but according to him, cash was being dealt with by petitioner Jawahar Lal Koul. He also admitted that some amount received remained un-deposited in the Treasury because the same was being used to meet office expenses, but the amount was thereafter deposited into the Treasury. He also submitted that he had issued temporary receipts to some officials in good faith and had handed over the entire cash to the cashier, who was responsible for issuing GRs. On the basis of these contentions, petitioner Krishan Lal denied his involvement in the misappropriation of any amount.

31. The contention of the respondents is that, as petitioner Krishan Lal has almost admitted the charge of receiving money and using it to meet office expenses, and issuing kacha receipts upon receipt of cash, there was hardly any requirement to hold an enquiry, but even then, a full-fledged enquiry was held in the matter.

32. In the above context, it is to be noted that even though petitioner Krishan Lal has admitted having worked as Incharge single-window counter and having received the cash against kacha receipts, still then, he has put up a defence that he handed over the cash to Jawahar Lal Koul who was supposed to issue GRs and he has also put up a defence that it was not his duty to deposit the cash into treasury as the said duty was assigned to regular cashier, namely, Jawahar Lal Koul. Thus, his admission is not an unequivocal but he has taken a definite defence in his reply to the charge sheet, therefore, enquiry was required to be conducted in the case and rightly the respondents proceeded to hold an enquiry by appointing an Enquiry Officer.

33. The next question that falls for determination is as to whether the Enquiry Officer has adhered to the procedure prescribed under Rule 33 of Rules of 1956. It is the stand of the respondents that the Enquiry Officer served notice dated 05.10.2007 upon both the petitioners calling upon them to participate in the enquiry proceedings. It has also been submitted that another notice dated 15.10.2007 was served upon both the petitioners calling upon them to appear for recording their statements, to cross-examine the witnesses and to produce material or witnesses in defence. Inspite of this, they did not participate in the enquiry proceedings. It has been submitted,

in fact, petitioner Krishan Lal had responded to notice dated 15.10.2007 by filing his reply meaning thereby that he has received the said notice.

34. So far as petitioner Jawahar Lal Koul is concerned, his definite stand is that he did not receive notice dated 15.10.2007 and that the receipt placed on record by the respondents along with their reply, has not been executed by him.

35. If we have a look at the reply filed by petitioner Krishan Lal to notice dated 15.10.2007 issued by the Enquiry Officer, it would reveal that, in the said reply, he has reiterated what he had stated in his reply to the charge sheet. He has further stated that, after filing his reply to notice dated 18.09.2007, he had proceeded to Haryana to attend to his ailing brother due to an emergency. Regarding petitioner Jawahar Lal Koul, the receipt of notice dated 15.10.2007 annexed to the reply filed by the respondents would reveal that it was received by some person, 'Aarti' on 25.10.2007. The signatures on the receipt do not pertain to petitioner Jawahar Lal Koul; therefore, it cannot be stated that he had received the said notice.

36. There is nothing on record to show that the petitioners were given notice of the date and venue of the enquiry by virtue of notices dated 05.10.2007 and 15.10.2007, upon which the respondents have placed reliance. In the absence of notification of the date and venue of the enquiry, it was not possible for the petitioners to come forward to cross-examine the witnesses of the Department, nor was it possible for them to produce their own witnesses before the Enquiry Officer. Mere issuance of notices by the Enquiry Officer, which may have

been received by the petitioners, does not satisfy the requirements of law. A delinquent employee has to be informed about the date and venue of the enquiry proceedings so that, on the appointed date and at the fixed venue, he is able to appear before the Enquiry Officer to make submissions and produce his defence. It seems that the Enquiry Officer has only completed an empty formality by issuing notices to the delinquent officials without actually following the mandate of law.

37. The fact that the respondents have been unable to produce the record relating to the enquiry before this Court makes the matters worse for them. In the absence of the record and in view of the definite stand of the petitioners that they were not afforded an opportunity to cross-examine the witnesses of the Department and to produce their own witnesses/documents, it can be safely inferred that the requirements of Rule 33 of the Rules of 1956 were not adhered to by the Enquiry Officer before concluding the inquiry. A perusal of the enquiry report would reveal that no reference has been made to the statements of the witnesses examined during the enquiry proceedings. Even the dates on which important events, such as the examination of witnesses, had taken place do not find mention in the report. The names of the witnesses also do not find mention in the report. As already stated, Rule 33 of the Rules of 1956 mandates the Enquiry Officer to maintain a record of the proceedings, which, in the instant case, does not appear to have been maintained by the Enquiry Officer.

38. For the foregoing reasons, it is clear that the Enquiry Officer has not followed the mandate of Rule 33 of the Rules of 1956 while

conducting the enquiry against the petitioners. The enquiry report is, therefore, vitiated, and as such, the order of dismissal of the petitioners could not have been based upon such a report.

39. Ordinarily, the respondents ought to have been given an opportunity to hold a fresh inquiry against the petitioners by remanding the matter to the Enquiry Officer, but during the pendency of the writ petitions, both the petitioners have crossed the age of superannuation, therefore, it would not be open to the respondents to hold a fresh inquiry against them once the relationship of employer and employee has come to an end.

40. For the reasons stated hereinbefore, both the writ petitions are allowed and the impugned termination orders of the petitioners shall stand quashed. The petitioners are directed to be reinstated in service with 50% of the back wages. The respondents shall also proceed to process the cases of the petitioners for release of retiral benefits including pension in their favour. Entire exercise shall be undertaken by the respondents within a period of three months from the date of receipt of copy of this order.

41. **Disposed** of as above along with connected CM(s).

(Sanjay Dhar)
Judge

Jammu
30.10.2026
Madan Verma-Secy

Whether order is speaking? Yes.
Whether order is reportable? Yes.

MADAN LAL VERMA
2026.10.30 16:48
I attest to the accuracy and
integrity of this document