



Government of Jammu and Kashmir
Revenue Department
Civil Secretariat, J&K, Jammu/Srinagar

Subject:- SWP No.1375/2009 titled Anchal Dass and others V/s State and Others.

Government Order No: 104-JK(Rev) of 2023
Dated: 02.08.2023

Whereas, the four petitioners namely (1) Anchal Dass, S/o Sh Dain Dass R/o Shiv Nagar colony Kathua (2) Hem Raj, R/o 765-A Behin J&K Bank, Rehari Colony, Jammu (3) Surinder Kumar Sharma, S/o Shri Kala Ram Sharma, R/o 716-A, Gandhi Nagar Jammu and (4) Balwant Singh Manhas, S/o Thakur Sandor Singh, R/o Village and P/s Samilpur, Tehsil & District Samba are seeking implementation of the SRO 259 of 2007 dated 18.07.2007 in their favour and consequently fixation of their pension in terms of the said SRO.

Whereas, the petitioner No.1 was appointed as Junior Assistant in the Revenue Department on 05.09.1961, petitioner No.2 on 02.04.1964, petitioner No.3 on 09.06.1966 and petitioner No. 4 on 04.08.1965.

Whereas, the petitioner No.1 was promoted as Section Officer on 15.12.1997 and retired on superannuation pension from the office of Deputy Commissioner, Jammu on 31.01.2000, petitioner No.2 was promoted as Section Officer in the year 1987 and retired on superannuation pension from the office of Deputy Commissioner, Kathua on 31.12.2001, petitioner No.3 was promoted as Section Officer on 07.08.1997 and retired on superannuation pension on 30.06.2002 from the office of Deputy Commissioner, Jammu and petitioner No. 4 was promoted as Section Officer on 01.02.2001 and retired on superannuation pension from the office of Deputy Commissioner, Jammu on 31-10-2002.

Whereas, SRO 259 of 2007 dated 18.07.2007 issued by General Administration Department regarding the pay scale of the Section Officer, reproduced as under:-

SRO 259 - In exercise of the powers conferred by proviso to section 124 of the Constitution of Jammu and Kashmir and in supersession of all the rules pertaining to the pay scale of the post of Section Officer, the Governor hereby directs that the following amendment shall be made in all such rules:-

" Section Officers of all the State Government Departments shall be in the pay Scale of Rs. 7450-225-11500 with effect from 01.01.1996 on notional basis and with monetary benefits with effect from 19.02.2003."

The pay fixation in the revised pay Scale shall be carried out notionally w.e.f. 01.01.1996 and monetarily from 19.02.2003 in terms of Jammu and Kashmir Civil Services (Revised Pay)Rules, 1998 and in accordance with Note (pay fixation on up-gradation of posts) below Article 77-B of J&K CSRs as introduced vide SRO 59 dated 20.03.1995 to the extent it is applicable to the Section Officers.

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Whereas, Mr. Anchal Dass and others filed a Writ Petition No.1375/2009 titled Anchal Dass and Others claiming for benefit under SRO 259 of 2007 dated 18.07.2007 wherein the Section Officers of the State Government Department were accorded the pay scale of Rs.7450-255-11,550 with effect from 01.01.1996 on notional basis and monetary benefits with effect from 19.02.2003.

Whereas, during the pendency of the writ petition, the petitioner No. 2, 3 and 4 expired, as a result of which the wife of petitioner No.1 namely Mst. Tripta Devi got impleaded legal representative in terms of Order dated 01.11.2022. The petitioner No.2 and 3 have been deleted from the array of parties vide order dated 26.12.2012 and the Hon'ble Court has taken up the writ petition to the extent of petitioner No. 1 and 4 only.

Whereas, the Hon'ble High Court has disposed of the writ petition vide order dated 14.02.2023, with the following directions:-

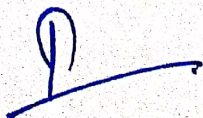
"Thus, this writ petition is disposed of with a direction to the respondent no. 2- Secretary to Government, Revenue Department, Government of UT of Jammu and Kashmir to consider and accord benefit of SRO 259 of 2007 to the petitioner no. 1-deceased Anchal Dass and the petitioner no. 4 i.e Balwant Singh Manhas in case the said petitioners otherwise did not suffer any disability/dis-entitlement to earn benefit of SRO 259. Needful be done within a period of four weeks from the date of passing of this judgment. Petitioners no. 1 and 4 to submit certified copy of this judgment to the respondent no. 2- Secretary to Govt., Revenue Department, Govt. of UT of J&K for notice and compliance.

Disposed of."

Whereas, in the meantime, the department has also received a communication dated 13.04.2023 from the Accountant General (A&E), J&K wherein it has been requested to "re-examine the matter in light of SRO 259 of 2007 dated 18.07.2007 and grant the Administrative approval, if due under Rules and also direct the concerned pension sanction authority to take action as provided under Rules".

Whereas, the case has been examined in the department and it has been found that the Government has issued SRO 259 in the year 2007 to give the notional effect to the employees from 01.01.1996 and monetary benefits w.e.f 19.02.2003. The petitioners, however, have claimed that they have retired on superannuation before the issuance of the SRO and as per rules they are not covered under the said SRO.

Whereas, the case was referred to the Finance Department vide U.O dated 10.05.2023 for advice in the matter and the Finance Department vide U.O. No.FD-Code/147/2022-02-788 dated 23.05.2023 with advised as under:-



"The Department is advised that the pay scales of Section Officers were upgraded to Rs.7450-225-1150 w.e.f. 01.01.1996 on notional basis and with monetary benefits w.e.f 19.02.2003, as such no monetary benefit will accrue to the petitioners who have retired between 2000 & 2002. The department shall also seek the opinion of General Administration Department."

Whereas, as per the advice of the Finance Department, the case was referred to the General Administration Department vide UO dated 25.05.2023 for opinion in the matter and General Administration Department vide their U.O No GAD-ESTB/156/2023-09-GAD dated 31.07.2023 opined as under:-

"The Department is advised that the benefit of implementation of SRO 259 of 2007 dated 18.07.2007 in favour of the petitioners, merit no consideration."

Now, therefore, in light of the Hon'ble High Court Order dated 14.02.2023 passed in SWP No.1375/2009 titled Anchal Dass and others V/s State and Others, it has been found that petitioners have retired from the services in the years 2000 & 2002, as such have never worked as employees after issuance of SRO 259 dated 18.07.2007, thus the case of the petitioner has been considered and it has been found that the claim of the petitioner is devoid of any merit and is accordingly rejected.

By order of the Government of Jammu and Kashmir.

Sd/-

(Dr. Piyush Singla) IAS

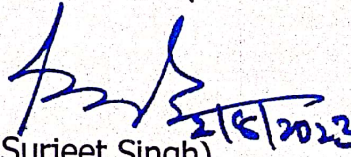
Secretary to the Government

Dated: 02.08.2023

No.REV-LIT/121/2023- (7133274)

Copy to the:

1. Financial Commissioner (Revenue), J&K.
2. Additional Secretary (JKL), Ministry of Home Affairs, GOI, New Delhi.
3. Principal Secretary to Hon'ble Lieutenant Governor, J&K.
4. Divisional Commissioner, Jammu.
5. Deputy Commissioner, Jammu/Kathua.
6. Shri S. S. Nanda, Senior Additional Advocate General, J&K High Court, Jammu.
7. Director, Achieves, Archaeology and Museum, J&K.
8. Private Secretary to the Secretary to the Government, Revenue Department
9. All concerned.
10. I/C Website
11. Government Order file.


(Surjeet Singh)

Under Secretary to the Government