

Government of Jammu and Kashmir
Home Department
Civil Secretariat, Jammu/Srinagar

Subject: RFA No. 22/2020 titled Union Territory of J&K vs. Mst. Shareefa and others.

Reference: Legal/CS-17/S/2015/60995-96 dated 15.11.2022 of the Police Headquarters, J&K.

Government Order No.: ⁴⁷³ Home of 2022

Dated : 22.12.2022

Whereas, a civil suit titled *Mst. Rehti and others vs. State of J&K and others* was filed in the Hon'ble Court of Principal District and Sessions Judge, Srinagar, wherein the plaintiffs (son of plaintiff No.1 and brother of plaintiffs 2-6) namely, Mohammad Ramzan Sheikh had disappeared on 6th June 1994 and from thereon, his whereabouts were not known. The Plaintiffs accordingly prayed for compensation from the defendants on account of disappearance of Mohammad Ramzan Sheikh; and

2. Whereas, the suit *ibid* was contested by the defendants and the contentions of the plaintiffs were rebutted in the written statement/arguments filed by the defendants 1-3 in the matter; and

3. Whereas, upon consideration of the pleadings of the parties, the Hon'ble Court framed the issues for judicial determination and directed the parties to lead the evidence. On the strength of the evidence of the parties and the arguments advanced by the Ld. Counsel for the parties, the Hon'ble Court vide its judgement dated 02.05.2019 decided the suit in favour of the plaintiffs and against the defendants. The operative part of the judgement *ibid* reads as under:

“ On the strength of the discussion made hereinabove and in view of the findings recorded on issue 1-8, the plaintiffs who are the daughters of deceased plaintiff No. 1 were the minor sisters of missing Mohammad Ramzan Sheikh, an amount of Rs. 9,72,000/- is determined as compensation to be paid by defendants 1&2 to the plaintiffs 2-6 alongwith costs of the suit including court fee. 50% of the amount shall be deposited in the FDR in the name of the plaintiffs and 50% shall be paid in cash to the plaintiffs. The court fee payable on the amount under the head costs shall also be paid by the defendants 1&2. The payment shall be made within a period of three months from the date of this judgement falling which interest @ 6% shall be payable by the defendants 1-2 upon the decretal amount. The decree sheet shall be drawn up accordingly. The original record shall be returned to the defendants forthwith”.

4. Whereas, the judgement *ibid* was examined at the Police Headquarters, J&K and vide communication dated 20.08.2019, the PHQ recommended that the judgement

being bad in law be assailed by filing an appeal in the higher forum on various grounds. Upon examination of the judgement and the PHQ proposal *ibid*, in consultation with the Department of Law, Justice and PA, it was decided to file an appeal in the Hon'ble High Court of J&K and Ladakh at Srinagar against the judgement dated 02.05.2019 passed by the Hon'ble Court of Principal District and Sessions Judge, Srinagar in the civil suit titled *Mst. Rehti and others vs. State of J&K and others*; and

5. Whereas, an appeal, which came to be registered as RFA No. 22/2020 titled *UT of J&K vs. Ms. Shareefa and others* was filed in the Hon'ble High Court at Srinagar against the judgement dated 02.05.2019 passed by the Hon'ble court of Principal District and Sessions Judge, Srinagar. The Hon'ble High Court upon consideration of the matter vide its interim order dated 22.03.2021 passed in the afore-titled appeal directed/observed as under:

"Subject to depositing of Award amount execution proceedings before the Trial Court shall remain stayed. In case appellant deposits the award amount before the Registrar Judicial, same shall be kept in FDR, initially for a period of six months, with the J&K Bank Branch High Court,

6. Whereas, the PHQ vide communication dated 19.07.2022, *inter alia*, conveyed that the appeal was listed before the Hon'ble High Court on 30.06.2022 and the Hon'ble Court vide order dated 30.06.2022 observed that in case the amount has not been deposited, respondents are at liberty to pursue the execution application. The PHQ accordingly requested that the award amount to the tune of Rs. 9,72,000/- be sanctioned/released at an earliest, for its deposition in the Hon'ble High Court of J&K and Ladakh at Srinagar well in time to avoid adverse directions from the Hon'ble Court of Law; and

7. Whereas, in the meantime, the plaintiffs filed an execution petition in the Hon'ble court of Principal District Judge, Srinagar for implementation of the judgement dated 02.05.2019, which was subsequently withdrawn on 16.04.2021 by the Counsel for the Plaintiffs. The Hon'ble Court while disposing of the execution petition vide its order dated 16.04.2021, had, *inter-alia*, observed as under:

"1. Learned Counsel for the Decree Holder has submitted that an appeal has been filed against the decree sought to be executed by way of the instant Executive Petition. It will not be in the interest to keep this Execution on Board awaiting the outcome of the appeal as the Decree Holder shall have a right of seeking execution of the decree after the appeal is decided as well.

2. The Execution Petition as not pressed is ordered to be consigned to the records, with a right of the decree holders to either seek survival of this petition of file afresh."

8. Whereas, pursuant to the interim order dated 22.03.2021 of the Hon'ble High Court, the matter was again examined in consultation with the PHQ, which vide communication dated 15.11.2022 while intimating that there is no plausible justification or reason on the basis of which the interim order ibid can be assailed in the higher forum, requested that an amount to the tune of Rs. 9,72,000/- be sanctioned/released for depositing the same in the Hon'ble High Court of J&K and Ladakh at Srinagar well in time ; and

9. Whereas, the decree holders filed another petition in the Execution court for deposition of the compensation amount by the judgement debtors in terms of the judgement dated 02.05.2019. The Hon'ble execution Court considered the execution petition whereunder, the judgement debtors were directed to deposit the compensation amount in the Hon'ble Court.

10. Now, therefore, in due deference to the interim order dated 22.03.2021 passed by the Hon'ble High Court of Jammu and Kashmir and Ladakh at Srinagar in RFA No. 22/2020 titled *UT of J&K and others vs. Shareefa and others*, sanction is hereby accorded to the drawl of an amount of Rs 9,72,000/- (Nine lakhs and seventy two thousand only) in favour of the Director General of Police, J&K Srinagar as 'Compensation' for its deposition before the Registrar Judicial, Hon'ble High Court of J&K and Ladakh at Srinagar. The amount shall be kept in FDR, initially for a period of six months with the J&K Bank, Branch High Court, Srinagar, as directed by the Hon'ble High Court in its order ibid.

11. The expenditure shall be booked after observing all the codal provisions and vouchsafing the availability of funds under the detailed Head- 633 –Compensation below Major Head 2055-Police.

The expenditure shall be booked under following classification :-

Demand No.	02
Head of Department	01-Director General of Police
Major Head	2055-Police
Sub-Major Head	00-NA
Minor Head	001-Direction and Administration
Group Head	0099- General
Sub Head	0789-Director General of Police
Detailed Head	633-Compensation

By order of the Government of Jammu and Kashmir.

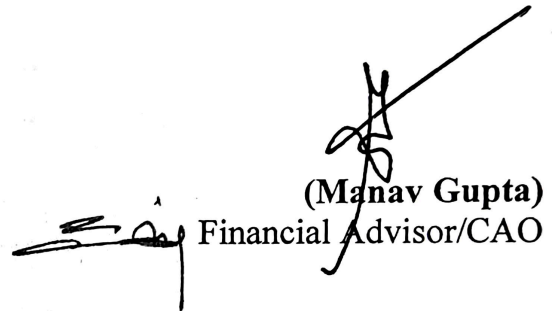
Sd/-
(R.K Goyal), IAS
Financial Commissioner/
Additional Chief Secretary

No: HOME/44/2021-10-HOME

Dated: 22.12.2022

Copy to the:

1. Financial Commissioner (Additional Chief Secretary), Finance Department J&K.
2. Director General of Police, J&K. He is advised to file an application in the above titled appeal through Ms. Asifa Padroo, Ld. AAG, Srinagar praying therein that the deposited amount may not be released in favour of the decree holders till disposal of the appeal by the Hon'ble High Court.
3. Principal Accountant General , J&K.
4. Treasury officer, Civil Secretariat Treasury.
5. Financial Advisor/CAO, PHQ for information and necessary action.
6. Mr. Bashir Ahmad Shah, Ld. Standing Counsel, District Courts Srinagar, Srinagar for informing the Hon'ble execution court accordingly.
7. I/c Website Home Department.
8. Government Orders file.(w.2.s.c.).


(Manav Gupta)
Financial Advisor/CAO