

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

Subject: Judgement dated 20.09.2017 of the Hon'ble High Court in SWP No. 119/2005 & MP No. 114/2005 & 01/2016 titled Kamla Devi & Others vs. State & Others.

Government Order No.: 33/ -Home of 2021
D a t e d: 30 .12.2021

Whereas, Shri Krishan Lal Sharma, Inspector (M) then working as Clerk in Homeguards Organization, Poonch was, on the recommendations of the Anti Corruption Commission, dismissed from service vide Order No. 26-GR of 1978 dated 31.01.1978, on charges of corruption; and

2. Whereas, aggrieved of his dismissal from service, Shri Krishan Lal Sharma filed a suit in the Court of Munsif (Mobile Magistrate) District, Poonch praying therein for declaration against the defendants to the effect of declaring Order No. 26-GR of 1978 dated 31.01.1978 as bad in law and treating him in service with all consequential benefits etc. The Ld. Court vide its judgement and decree dated 28.03.1984 decided the case in favour of the plaintiff by declaring the order ibid as void with the direction that the plaintiff be deemed in service and for giving him of all benefits to which he is entitled; and

3. Whereas, an appeal filed against the order ibid was dismissed by the appellate Court (District Judge, Poonch) as being barred by limitation, vide its order dated 05.12.1985. The order passed by the appellate Court was challenged in a revision petition before the Hon'ble High Court, Jammu, which was also dismissed and an SLP against the same was disposed of by the Hon'ble Supreme Court vide its order dated 25.04.1985 with the direction to the District Judge to hear the appeal on merits. The matter was, thereafter, heard on merits by the District Judge, who upheld judgement/decree of the Ld. Munsif; and

4. Whereas, the order ibid of the District Judge was challenged by the State in an appeal before the Hon'ble High Court, which allowed the same vide its order dated 19.04.1990 and set aside the order of the District Judge, wherein he had upheld the order of the Ld. Munsiff. The order of the Hon'ble High Court was challenged by the petitioner in civil appeal before the Hon'ble Supreme Court, which vide its judgment dated 25.02.1994 allowed the appeal and directed the Division Bench of the Hon'ble High Court to dispose of the matter. The matter was finally disposed of by the Hon'ble High Court vide its judgement dated 10.12.1998 with the direction to reinstate the petitioner into service with all consequential benefits; and

5. Whereas, in compliance of the order dated 10.12.1998, the petitioner was reinstated into service vide Government order No.: 253 of 2001 dated 12.06.2001 with all the consequential benefits minus monetary benefits. The petitioner joined the service on 29.09.2001[F.N] and retired from services on attaining superannuation on 31.05.2003; and

6. Whereas, vide order No. 427 of 2007 dated 21.08.2004, the intervening period w.e.f. 31.01.1978 to 29.09.2001 i.e the date of dismissal of the petitioner upto his reinstatement into service, was treated as in-service notionally. Aggrieved of the order ibid to the extent the intervening period was treated notionally without conferring any monetary benefit, the petitioner challenged the same in (SWP No. 119/2005) titled *Krishan Lal vs. State of J&K and others* before the Hon'ble High Court, Jammu, inter-alia, praying therein for quashment of the said order to the above extent and for release of all monetary benefits for the intervening period. After the death of the petitioner, Smt. Kamla Devi and the children of the deceased were arrayed as the petitioners in the writ petition ibid. The petition was disposed of by the Hon'ble Court vide its order dated 20.09.2017, with the following directions:

" In the circumstances, I hold that husband of petitioner No. 1 was entitled to be paid consequential monetary benefits also for the period, he remained out of service w.e.f. the date of his termination till reinstatement in terms of order of the Hon'ble Division Bench dated 10.12.1998. Resultantly, SWP No. 119/2005 is allowed. Order dated 21.08.2004 to the extent, the same denies payment of monetary benefits to the husband of petitioner No. 1's is quashed. Petitioner No. 1's husband is held entitled to consequential monetary benefits for the period, he remained out of service in accordance with the orders of the Hon'ble Division Bench dated 10.12.1998 in CSA No. 01/1989. Since petitioner No. 1's husband was forced to resort to numerous rounds of litigation for no fault of his and has died while being compelled to resort to uncalled for litigation, his legal representatives are entitled to release of all monetary benefits alongwith interest @ 6% per annum on the amount due and payable w.e.f. the date the monetary benefits were due and till the date the same are paid, with the payment of entire dues to be made within a period of three months from today. In case the entire amount due is not paid to the legal representatives of the deceased Krishan Lal within aforesaid period of three months, the monetary benefits, then in that eventuality the monetary benefits shall become payable alongwith interest @ 9% per annum with effect from the date the amount was due and payable and till the date the same is paid with amount on account of higher interest of 9% i.e. 3% over and above the 6% percent ordered to be paid by the respondents to be recoverable by the respondents from the officer responsible for the delay in non-compliance with the orders of this court to make payment within three months from today".

Pr.

7. Whereas, keeping in view the totality of circumstances of the case and on consultation with the Department of Law, Justice & Parliamentary Affairs, it has been decided to implement the judgment dated 20.09.2017.

8. Now, therefore, in compliance to the judgment dated 20.09.2017 of the Hon'ble High Court, Jammu, sanction is hereby accorded to the release of monetary benefits for the intervening period i.e 31.01.1978 to 29.09.2001 in favour of legal heirs of Late Sh. Krishan Lal, retired Inspector(M).

By Order of Government of Jammu and Kashmir.

Sd/-

(Shaleen Kabra) IAS

Principal Secretary to the Government

No:- Home/HG/CD/SDRF/18/2017

Dated:- 30.12.2021

Copy to the:-

1. Commandant General, Homeguard/CD & SDRF, J&K, Jammu. He shall order an inquiry in the matter and take action against the officers/officials who have caused undue delay in processing as well as examination of the case.
2. Director, Archives, Archaeology and Museums, J&K.
3. Sh. Raman Sharma, Ld. Addl. Advocate General Hon'ble High Court, J&K, Jammu with the request to file compliance report in the Hon'ble Court.
4. Private Secretary to the Chief Secretary
5. Private Secretary to the Principal Secretary to the Government, Home Department
6. In-charge website, Home Department.
7. Ms. Kamla Devi W/o Late Sh. Krishan Lal, R/o Village Dehari, Tehsil Ramnagr, District Udhampur.
8. Government order file /Stock file

Copy also to the:

1. Joint Secretary (J&K), Ministry of Home Affairs, Government of India, New Delhi.



(Parveen Kumar)JKAS

Additional Secretary to Government