



Government of Jammu and Kashmir
Higher Education Department
Civil Secretariat, J&K.

Subject: Robkar No. 06/2024 CPSW No. 114/2019 in SWP No. 1033/2018 titled Ishtiaq Ahmed & Ors vs Talat Parvez Rohella, Secy Higher Education Department. --- Abeyance of order thereof.

Ref: (i) Petition(s) for Special Leave to Appeal (C) No(s). 20153/2024 (Arising out of impugned final judgment and order dated 07-06-2024 in CPSW No. 114/2019 passed by the High Court Of Jammu & Kashmir And Ladakh At Jammu.

Government Order No. 463 -JK(HE) of 2024
Dated: 24-09-2024

Whereas, the petitioners filed writ petition bearing SWP No 1033/2018 titled Ishtiaq Ahmad and others Vs State and others seeking benefit of SRO 149 of 1973 on the analogy of similarly situated employees. Hon'ble High Court vide order dated 25.05.2018 disposed of the writ petition in the following terms:-

"Keeping in view the submission made by the learned counsel for the petitioners and relief sought for in the writ petition, with the consent of learned counsel for the parties, this writ petition is disposed of with a direction to the respondents to consider the case of petitioners for grant of benefits of SRO 149 dated 07.04.1973, if case of the petitioners is squarely covered by the judgments referred herein above, within a period of six weeks from the date a copy of certified copy of this order is served upon the respondent."

Whereas, in compliance to the directions of Hon'ble Court, the case was examined and it was observed that SRO 149 of 1973 stands repealed on 26.08.1981 since then and by now various pay revision have been made/extended from time to time and the pay scales at every level have been enhanced.

Whereas, upon further examination, it was found that in other Government Departments, similarly situated claims were also raised and presently the matter is sub judice before the Hon'ble Supreme Court of India in 14 SLPs (SLP (c) No.2952, 2953,

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2955/2019 against the Hon'ble Division Bench judgment dated 08.05.2017 regarding grant of relief under SRO 149. The Hon'ble Supreme Court vide order dated 31.01.2019 has stayed the impugned judgment dated 08.05.2017 passed in case titled Provincial Power Employee Union Vs State of J&K.

Whereas, taking note of the order of the Hon'ble Supreme Court, the Department of Law Justice and PA vide circular No. 01-JK(LD) 2019 dated 26.11.2019 enjoined upon all the Departments to follow the order of Hon'ble Supreme Court dated 31.01.2019 in letter and spirit and advised that no order should be passed which may come in conflict with the order dated 31.01.2019 passed by the Hon'ble Supreme Court.

Whereas, in view of the order dated 31.01.2019 passed by Hon'ble Supreme Court read with advisory dated 16.11.2019 issued by Department of Law Justice and PA in this regard, the case of the petitioners was considered and it was observed that the representation of the petitioners cannot be considered at this stage and accordingly Government Order No. 27-JK(HE) of 2022 dated 31.01.2022 was issued, thereby, deferring this case till the outcome of the SLPs

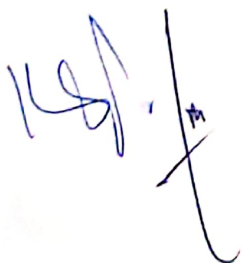
Whereas, Department filed statement of facts/detailed affidavit in the matter citing all the relevant facts. However, the Hon'ble High Court in the contempt petition filed by the petitioners did not appreciate the contentions raised by the Department and issued Robkar against the Principal Secretary, Higher Education Department as well as Director colleges J&K on 07.06.2024. The said Robkar has also been agitated before the Hon'ble Supreme Court in SLP/Diary No. 37261/2024.

Whereas, keeping in view the specific directions of the Hon'ble High Court, the claim of the petitioner was considered and Department complied the judgment dated 25-05-2018 by issuing Government Order No 439-JK(HE) of 2024 dated 02-09-2024 with the rider that it shall remain subject to the outcome of SLP (C) 2952 of 2019 titled The State of J&K Vs Provincial Power Employees Union and SLP/Diary No.37261/2024.

Whereas, the Robkar was listed on 04-09-2024 and Hon'ble High Court has directed that the Robkar be listed with Contempt and Principal Secretary, Higher Education Department and Director Colleges shall remain present before the court on the next date i.e 27-09-2024. However the SLP was listed before the Hon'ble Supreme Court on 09-09-2024 and Hon'ble Supreme Court has passed the following order:

"1. In view of order passed by this Court in SLP(C) No. 2952 of 2019 dated 31.01.2019, issue notice, returnable within four weeks.

2. Dasti, in addition, is permitted.



3. Until further order(s), the impugned judgment and order passed by the High Court shall remain stayed."

Now, therefore, in view of the stay order granted by Hon'ble Supreme Court of India, the Government Order No. 439-JK(HE) of 2024 dated 02-09-2024 is hereby kept in abeyance, with effect from the date of its issuance, till final outcome of the SLP (C) 2952 of 2019 titled The State of J&K Vs Provincial Power Employees Union and SLP/Diary No.37261/2024 or till vacation/modification of the Interim order dated 09-09-2024 by the Hon'ble Supreme Court of India.

By Order of the Government of Jammu and Kashmir.

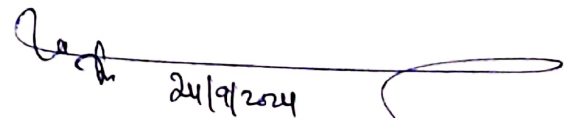
Sd/-
(Alok Kumar), IRS
Principal Secretary to the Government

No. HED-LEG/52/2021-04(69740)

Dated: 24-09-2024

Copy to the:-

1. Joint Secretary, (J&K) Ministry of Home Affairs, Government of India, New Delhi.
2. Secretary, J&K Public Service Commission.
3. Director Colleges, J&K.
4. OSD to Advisor (B) to the Honble Lieutenant Governor, J&K.
5. Nodal Principal, Jammu/Srinagar for information.
6. Pvt. Secretary to Principal Secretary to the Government, Higher Education Department.
7. ALO, Higher Education Department.
8. Ishtiaq Ahmed for information.
9. Manoj Malhotra for information
10. Munish Kumar for information.
11. I/C website, Higher Education Department.
12. Government Order Register/Monday Return (w.2.s.c).


24/9/2024

(P.N. Hamid), JKAS

Deputy Secretary to the Government

