



Government of Jammu and Kashmir  
**Housing & Urban Development Department**  
Civil Secretariat, Jammu/Srinagar

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Subject: CM No.6923/2022 in WP(C) No.1776/2021 titled Gh. Mohi- ud-din Malik V/s Union Territory of J&K & Ors.

Government Order No: 40 -JK (HUD) of 2023

Dated: 02 .03.2023

**Whereas**, on receipt of many complaints from multiple quarters with allegations of mismanagement/corruption of affairs of constructional activities/building permissions/fraudulent payments etc. in Municipal Committee, Anantnag during the tenure of the petitioner, the Director, Urban Local Bodies, Kashmir vide Order No. DULB/ESTT/84-II/588 of 2019 dated 23.04.2019 constituted a Committee, to conduct in depth inquiry into the matter viz-a-viz complaints received from different quarters;

**Whereas**, taking due cognizance of the complaints, the Divisional Commissioner, Kashmir constituted another Committee vide order issued under endorsement No. DivCom/Dev46/2019/1964 dated 13.05.2019 for conducting an enquiry into the matter;

**Whereas**, on the basis of preliminary enquiry report submitted by Director, Urban Local Bodies, Kashmir and the report of Divisional Commissioner, Kashmir, Shri Gh. Mohi-ud-din Malik (petitioner), the then Executive Officer, Municipal Council, Anantnag and other three co-accused officials were placed under suspension by the Housing and Urban Development Department vide Government Order No. 153-HUD of 2019 dated 04.07.2019;

**Whereas**, Shri Reyaz Ahmad Wani, KAS, then Director, Urban Local Bodies, Kashmir was appointed as Inquiry Officer vide Government Order No. 221-HUD of 2019 dated 25.10.2019, to inquire into the alleged charges of misappropriation, irregularities in financial transaction, gross negligence and misconduct by the petitioner and the other co-accused;

1-1

**Whereas,** in view of the findings/recommendations of the Director, Urban Local Bodies, Kashmir and the Committee constituted by the Divisional Commissioner, Kashmir, the Department referred the matter to the General Administration Department and on the advise of General Administration Department, the petitioner and the other co-accused were reinstated, albeit on a lower rank of Legal Assistant and the intervening period of suspension was treated as on leave whatever kind due in their favour, vide Government Order No. 118-JK(HUD) of 2021 dated 06.08.2021;

**Whereas,** aggrieved by this, the petitioner approached the Hon'ble High Court and the Hon'ble High Court in WP(C) No. 1776/2021, CM No.5911/2021 passed the following orders on 22.12.2021:-

*".....In the meanwhile, respondents shall consider the release of salary in favour of the petitioner against the post he has been demoted provided he is performing his duties against the said post".*

**Whereas,** in compliance to the directions of Hon'ble Court, the department issued letter to Director, Urban Local Bodies, Kashmir, for compliance to the aforesaid directions of the Hon'ble Court;

**Whereas,** the Hon'ble Court while hearing the petition on 07.04.2022 has directed in the CMP as under:-

*WP(C) No.1776/2021*

*Objections are filed. Copy thereof be provided to Ms. Razia, learned counsel, appearing for the petitioner, during the course of week.*

*Heard learned counsel for the parties.*

*Admit.*

*Notice waived by Ms. Asifa Padroo, AAG, on behalf of the respondents.*

*On the request of Ms. Asifa Padroo the objections already filed by the respondents are treated as counter affidavit. Let a copy of counter affidavit be provided to Ms Razia within one week.*

*Rejoinder, if any, by the petitioner within four weeks thereafter. Ms. Asifa Padroo, learned AAG, shall keep the relevant record available on the next date of hearing.*

**Whereas,** in the meantime, General Administration Department vide Government Order No. 745-JK(GAD) of 2022 dated 24.06.2022 prematurely retired the petitioner as Legal Assistant, as he was not

performing the duties efficiently and his conduct/integrity remained doubtful/unsatisfactory while holding a post in the Department as per the recommendation of the Internal Committee;

**Whereas,** directions dated 07-04-2022 of the Hon'ble Court for release of grade was complied in favour of officials who are still in service. So far as the case of petitioner is concerned the matter was taken up with the Department of Law, Justice and Parliamentary Affairs, who returned the departmental file vide U.O No Law/Ser2/66/2022-10 dated 05.12.2022 with the following advise:

*"Returned: - The proposal of the Department to give effect to the order dated 07.04.2022 passed by the Hon'ble Court upto the period, the incumbent has been compulsorily retired vide G. O. No. 745-JK(GAD) of 2022 dated 24.06.2022 is not advisable as the said action if implemented would have a direct bearing on the order of compulsory retirement issued by General Administration Department on 24.06.2022. Such an action may eventually lead to a situation whereby the order of compulsory retirement would also require to be amended. Further, the case has not been disposed of by the Hon'ble Court as now; the Department, as such, is advised to take immediate steps for vacation of the interim stay and thereafter take appropriate action".*

**Whereas,** vide letter No. HUD-LIT0ULBK/120/2021 (C.No.57581) dated 14.12.2022, Director, Urban Local Bodies, Kashmir has been requested to get the interim stay vacated from the Hon'ble Court immediately and take appropriate action in the matter;

**Whereas,** now Hon'ble High Court of Jammu & Kashmir and Ladakh at Srinagar in CM No.6923/2022 in WP(C) No.1776/2021 titled Ghulam Mohi-ud-din Malik V/s UT of J&K & Ors. passed the following orders on 13.12.2022:-

*"Applicant-petitioner has moved this application with a prayer that the respondents be directed to release his salary as Executive Officer, Urban Local Bodies, along with all service and pensionary benefits.*

*Heard.*

*Issue notice to the respondents returnable within four weeks.*

*Requisites for service within one week.*

*List along with main case on the date already fixed. In the meanwhile, respondent are directed to consider the matter raised in the application".*

**And Whereas,** the said petitioner has also submitted a representation dated 17.12.2022 and requested to release pensionary benefits and extension of directions issued vide communication No.HUD-LIT0ULBK/14/2022 dated 10.10.2022. This department has withdrawn *ab-initio* letter dated 10.10.2022 issued in case titled CCP (S) No. 239/2020 in WP (C ) No. 1581/2021 Shabir Ahmed Wani V/s Dheeraj Gupta and anothers vide letter dated 24.02.2023;

**Now therefore,** in view of the factual position stated herein above, the representation dated 17.12.2022 of Shri Gh. Mohi-ud-din Malik, Legal Assistant (Retd) petitioner was examined in the department in compliance to Hon'ble High Court order dated 13.12.2022 and found devoid of merits and hence rejected, as the petitioner has been prematurely retired as Legal Assistant vide Government order No. 745-JK(GAD) of 2022 dated 24.06.2022.

**By order of the Government of Jammu and Kashmir.**

Sd/-

(H. Rajesh Prasad),IAS

Principal Secretary to Government

Housing and Urban Development Department

HUD-LIT0ULBK/120/2021(C.No.57581)

Dated: 02-03.2023

Copy to the:

1. Commissioner/Secretary to the Government, General Administration Department.
2. Director, Urban Local Bodies, Kashmir.
3. Director Finance, Housing & Urban Development Department.
4. Private Secretary to Principal Secretary to the Government, Housing & Urban Development Department.
5. Shri Gh. Mohi-ud-din Malik, retired Legal Assistant.
6. I/c Website, Housing & Urban Development Department.
7. Government Order file/Stock file.

(Thannaji Bhat)

Under Secretary to Government

Housing & Urban Development Department