

**HIGH COURT OF JAMMU AND KASHMIR**  
AT JAMMU

SWP No. 871/2016, MP No. 01/2016

Date of order:-28.04.2016

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Ravi Kumar Tickoo                      Vs.                      State of J&K and anr

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**Coram:**

**Hon'ble Mr. Justice Ramalingam Sudhakar, Judge**

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**Appearing counsel:**

For the petitioner(s) :                      Mrs. Monika Kohli, Advocate  
For the respondent(s) :

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1.     Writ petition has been filed for two reliefs one for mandamus against the respondents not to consider the period of overstay in MSc Agriculture training course as extra ordinary leave and other one is certiorari to quash order No. 335/15 dated 19.10.2015, qua the petitioner.

2.     The case of the petitioner is that he was working as In-charge Assistant Agriculture Officer as well as Incharge Chief Agriculture Officer in the Agriculture department. He was deputed for undergoing MSc in Agronomy in July, 1989 vide Order No. Argi/E/212/89 dated 21.07.1989 and was relieved for joining the said post in SKAUST, J&K Srinagar on 04.08.1989. Petitioner joined the University on 05.08.1989, however due to the certain disturbances in the valley large number of people including

numerous State government employees were forced to migrate from one place to another. The petitioner migrated from the Valley to Jammu in 1990. After migration petitioner joined the Migrant cell office in the Directorate of Agriculture, Jammu and started drawing his pay and allowances as a migrant employee w.e.f. 01.02.1990 onwards, even after completion of MSc course up to 11/1995. It is the case of the petitioner that since University remained closed in the valley due to extreme disturbances, he could not continue the MSc course training. Thereafter it is stated by the petitioner that he joined the MSc training at the migrant cell SKAUST, Jammu and completed the course. Thereafter serving in the Agriculture department he retired on 31.03.2013. On 19.10.2015 Government issued an order No. 335-Agri of 2005 for settling the undecided period of overstay of the in-service /retired officers who could not complete their studies within the period of sanctioned leave and excess period spent by them on pursuing post graduation remained undecided for one or the other reasons.

3. Taking into consideration that the petitioner in this case overstayed, an order came to be passed

holding that period of 02 years from August, 1991 to August 1993 should be treated as extra ordinary leave without pay and allowances and that pay drawn while pursuing higher studies to which he is not entitled under rules was ordered to be recovered accordingly. Prima facie, it is contended that said order came to be passed on the back of the petitioner and it is adverse to his rights and that there is a failure on the part of the Government to considered the circumstances which forced the petitioner to migrate from the valley to Jammu. The Government has also not considered that petitioner was retained in the migrant cell for pursuing the course and that he was drawing special leave during the period in question. It is further submitted that these factor if had been noticed by the Government such an erroneous order could not have been passed. Pointing out all these defects, detailed representations have been made by the petitioner to the respondents on 09.12.2015, 05.02.2016 and 18.03.2016 and these representations though received by the authorities have not been considered on their own merits. Learned counsel for the petitioner pleaded that if Court is inclined to pass a direction to the respondents she will not pray for certiorari. A

mandamus can be issued to the respondents/ authorities concerned to consider the representations of the petitioner pointing out errors in the Government order by the petitioner, and the authority is called upon to relook into the issue and decide afresh and grant benefits to the petitioner on the basis of material provided. Accordingly relief of certiorari is declined giving liberty to the petitioner to challenge the order in the event his representations are not considered finally. As a result writ petition is disposed of with the direction to the respondents to consider the representations dated 09.12.2015, 18.03.2016, 05.02.2016 within a period of six weeks from the date of receipt of the order.

4. Writ petition is disposed of in the above terms.

**(Ramalingam Sudhakar)**  
**Judge**

**Jammu,**  
**28.04.2016**  
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