

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

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SWP no.1269/2016
c/w SWP no.469/2018

Date of order: 31.07.2018

All J&K State Forest Corporation Employees

v.

State of J&K and others

Coram:

Hon'ble Mr Justice M. K. Hanjura, Judge

Appearing Counsel:

For Petitioner(s):	Mr M. Y. Bhat, Advocate in SWP no.1269/2016 Mr B.A. Misri, Advocate in SWP no.469/2018
For Respondent(s):	Ms Asifa Padroo, Additional Advocate General

1. Petitioners in both the writ petitions, being employees of the J&K State Forest Corporation, grouse that they are being denied the pensionary benefits whereas concomitantly the other wings of the Forest Department receive such benefits. Though the petitioners being similarly situated to the persons/employees working in other organisations and corporations, who receive such benefits, rather have more strong footing to claim pensionary benefits, being employees of a statutory body governed by Rules, yet they have been kept in lurch for undisclosed reasons.
2. The employees of other departments/undertakings, it is averred, had approached this Court with various writ petitions with lead case, bearing SWP no.1250/2002 titled *J&K Industries Employees Association v. State of J&K and others*, which were decided vide judgment dated

12.03.2009. Thereagainst Letters Patent Appeal, filed by the respondent State, was dismissed vide judgment dated 08.06.2011. An appeal preferred before the Supreme Court, was however, withdrawn with a plea that grievances would be projected by the respondent State before this Court in a review petition. The review petition was preferred before this Court, which was also dismissed vide order dated 29.03.2016.

3. The petitioners in the present writ petitions claim that they are also similarly situated with the above writ petitioners of SWP no.1250/2002 titled *J&K Industries Employees Association v. State of J&K and others*, and therefore, are to be vouchsafed the same and similar treatment and benefits, more particularly in view of the law laid down by the Supreme Court in *J. L. Sazawal and others v. State of J&K and others*. The petitioners maintain that even in other departments/organisation/corporations, where the rules did not govern the pension related issues, the general rules of the pension of the State Government have been made applicable and the benefits have been granted to such employees. Instances, in this regard given, are employees of the Jammu Development Authority (JDA), Srinagar Development Authority (SDA), Sher-e-Kashmir University of Agriculture Science and Technology (SKUAST), SKICC, etcetera, who are being given the pensionary benefits when the rules of these corporations/organisations do not provide for the such benefits. Singling out of the petitioners from

the benefit of pension, according to the petitioners, synonymises to discrimination of their rights. The petitioners have also made reference of employees of projects/organisations created in the Forest Department, like, the Social Forestry Project, IWDP, Pollution Control Board, Social Forestry Project aided by the World Bank and even the autonomous bodies under the Forest Department, like, the SFRI and PCB, who receive the pensionary benefits. The petitioners in both the writ petitions, on the edifice of the case set up, exhort the following relief:

- a) Writ of mandamus, commanding the respondents to release/grant the pensionary benefits, as are being granted to the employees of the Forest Department, to the petitioners also.
- b) Writ of mandamus, commanding the respondents to absorb the petitioners in the Forest Department and grant all consequential benefits to which the government employees are entitled to including the pensionary, G.P. Fund, Gratuity etcetera and all other benefits accordingly.

4. Respondents have filed the Reply in both writ petitions.

They insist that the petitioners are not similarly situated persons with the employees of JDA, SDA, SKUAST, SKICC etcetera, as the services of the petitioners are governed and regulated by the J&K State Forest Corporation Act, 1978, and therefore, the petitioners are not entitled to any pensionary benefit.

5. I have heard learned counsel for the parties and considered the matter.

6. In order to avoid prolixity, let me without beating about the bush, square off the instant matter, by resorting to and discoursing what has been already handed down by this Court in SWP no.1250/2002. A Bench of this Court by a judgement dated 12.03.2009, rendered in a patch of writ petitions, with lead writ petition, bearing SWP no.1250/2002 titled *J&K Industries Employees Association v. State and others*, has dealt with and set at rest the controversy that is also bone of contention in the instant writ petitions. Letters Patent Appeal was preferred by the respondent State against the aforesaid judgement of the learned Single Judge, which, however, did not succeed and was dismissed vide judgment dated 08.06.2011. Petitions for Special Leave to Appeal (C) Nos. 26483-26488/2011 titled *State of J&K and another v. Syed Afzal Zaidi and others*, were preferred before the Supreme Court. The said SLPs were, however, withdrawn by the respondent State with a permission to file the review applications before this Court. The Review Petitions with lead Review Petition (LPA) no.07/2016, were filed before a Division Bench of this Court. The said Review Petitions were, vide judgment dated 29.03.2016, dismissed. In such circumstances, the basic judgement dated 12.03.2009 has come to prime position and is not only to be implemented in its letter and spirit in respect of the persons/employees, who had been before this Court in the aforementioned writ petitions, but it is to be implemented in respect of those

persons/employees as well who are similarly situated as are the present petitioners. Having said that, the respondent State is otherwise under obligation to give the same and similar treatment to the present petitioners that has been and/or will be vouchsafed by the respondent State in favour of the writ petitioners of SWP no.1250/2002 titled *J&K Industries Employees Association v. State and others*.

7. For all what has been stated and done above, the writ petitions on hand are disposed of with a direction to the respondents to give all the benefits as have been sought for by the petitioners in the writ petitions on hand on the same analogy as has been/will be adopted by the respondent State qua the writ petitioners of SWP no.1250/2002 titled *J&K Industries Employees Association v. State and others*. Let such consideration be accorded and the benefits be given to the petitioners at an earliest preferably within eight weeks from the date certified copy of this order is served upon respondents. **Disposed of.**

(M. K. Hanjura)
Judge

Srinagar

31.07.2018

Ajaz Ahmad