

**Government of Jammu and Kashmir**  
**Department of Law, Justice and Parliamentary Affairs.**  
**(Judicial Administration Section)** Civil Secretariat,  
Jammu/Srinagar.

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**Subject:-** SLP No 11488/2021 titled UT of J&K & Anr Vs Latief Hussain Khan & Ors read with SWP No 877/2019, WP(C) No. 1410/2019 titled Latief Hussain Khan and Ors Vs State of J&K and others.

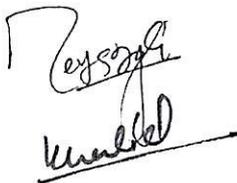
**Government Order No. 745 - JK(LD) of 2022.**  
**Dated. 18 - 02 - 2022.**

Whereas, Registrar General, High Court of Jammu and Kashmir and Ladakh vide its letter No 1622/NG dated 03-08-2016 forwarded a joint representation of Restorers working in the High Court of Jammu and Kashmir and Ladakh seeking upgradation of pay scale from Rs2610-3450 to 3050-4910 (pre-revised) on the analogy of their counterparts working in other High Courts i.e. High Court of Delhi and High Court of Punjab and Haryana.

Whereas, the matter, after being examined in detail was taken up with Finance Department vide U.O. No. LD(A)2005/113 dated 18-06-2019 for its concurrence. Finance department raised certain queries which were replied in due course. In the mean time the Restorers/Representees approached the Hon'ble High Court of Jammu and Kashmir in SWP No 877/2019 IA No. 01/2019 titled Latief Hussain Khan and Others Vs State of Jammu and Kashmir and Others inter alia praying therein for upgradation of pay scale from Rs2610-3450 to 3050-4910 (pre-revised) on the analogy of their counterparts working in other High Courts i.e. High Court of Delhi and High Court of Punjab and Haryana.

Whereas, during the pendency of aforesaid petition, Finance Department vide its OM No. A/58(02)-11-617 dated 25-07-2019 advised as under:

*"The undersigned is directed to refer the subject cited above and to advise that the uniformity in pay scale of High Court employees in the case titled Joginder Singh & Ors Vs State of J&K & others bearing SWP No. 651/2014 has already been addressed. The committee constituted for this purpose recommended sanction of "Special Pay" equivalent to 10% of the basic pay in favour of all the employees of High Court including*



*restorers. As such Department is advised to defend the case before the Hon'ble High Court on the strength of Government Order No 3181-LD(A) of 2019 dated 17-06-2019."*

Whereas, the observations of Finance Department dated 25-07-2019 were conveyed to High Court Registry with the request to reconsider its proposal as the same cannot be accepted in present form in view of sanction of "Special Pay" equivalent to 10% of the basic pay in favour of all the employees of High Court including Restorers.

Whereas, the Hon'ble High Court of Jammu and Kashmir and Ladakh disposed of SWP No 877/2019, WP(C) No. 1410/2019 titled Latief Hussain Khan and Ors Vs State of J&K and others vide its Judgement dated 26-02-2021 with the direction to consider the recommendations of the High Court for up-gradation of Pay Scale of Restorers working in the High Court notwithstanding the grant of special pay having been granted in favour of the employees working in High Court and pass appropriate orders thereon.

Whereas, pursuant to the aforesaid directions of the Hon'ble High Court, the matter was taken up with the Finance Department which vide it's U.O dated 19-04-2021 conveyed as under:-

*"Returned. The department is advised that Special Pay equivalent to 10% of the basic pay was granted in favour of employees of Hon'ble High Court on the plea that the basic pay scales of the posts of the High Court cannot be changed as it will lead to similar claims from other employees of the UT of J&K.*

*Further, there is no absolute uniformity/parity in the pay scales of the staff across the High Courts of the country. The required criteria regarding qualification, methods of recruitment for Restorers are also different from that of Delhi High Court and High Court of Haryana, Punjab and Chandigarh.*

*The department is also advised to defend the case in the Court of Law accordingly."*

Whereas, on the advice of Finance Department, Department of Law, Justice and P.A. filed an SLP against the Judgment dated 26-02-2021, passed by Hon'ble High Court in case SWP No 877/2019 IA No. 01/2019 titled Latief Hussain Khan and Others Vs State of Jammu and Kashmir and Others. The Hon'ble Apex Court disposed of the SLP(C) No. 11488/2021 titled

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UT of J&K & Anr vs Latief Hussain Khan & Ors vide its order dated 10-01-2022 with following directions:-

*"The apprehension of the petitioner-Union Territory of Jammu and Kashmir, in our opinion, is misplaced.*

*The operative order gives no direction to the petitioner to accept or reject or to decide the recommendations made by the High Court in a particular manner. Those are matters which will have to be examined by the petitioner on its own merits in accordance with law. If the High Court or for that matter, the employees concerned are aggrieved by the decision of the petitioner, the remedy would be to challenge such decision and cannot be made the basis to initiate contempt action against the petitioner. If such challenge is set forth, the same will have to be considered on its own merits in accordance with law uninfluenced by the observations made in the impugned judgment.*

*We say this because our understanding of the impugned judgment is that it has not decided any contentious issue that may arise from the final decision to be taken by the petitioner. Those aspects will have to be examined on its own merits, as and when occasion arises.*

*Besides this, nothing more is required to be said.*

*Even the grievance of the petitioner about the nature of direction issued to the High Court in the impugned judgment, need not detain us. It only means that the High Court may consider the relevant issues in accordance with law. We say no more."*

Whereas, the Hon'ble Apex Court vide its order dated 10.01.2022 has clarified, that order dated 26.02.2021 of Hon'ble High Court challenged in SLP gives no direction to the Petitioner (UT of J&K) to accept or reject or to decide the recommendations made by the High Court in a particular manner. Those are matters which will have to be examined by the petitioner (UT of J&K) on its own merits in accordance with law. If the High Court or for that matter, the employees concerned are aggrieved by the decision of the petitioner, the remedy would be to challenge such decision and cannot be made the basis to initiate contempt action against the petitioner.

Whereas, the matter has been examined again viz-a-viz the advice of Finance Department and it emerges that the Special Pay equivalent to 10% of the basic pay was granted in favour of employees of Hon'ble High Court including Restorers on the plea that the basic pay scales of the posts of the High Court cannot be changed, as it will lead to similar claims from other employees of the UT of J&K and there is no absolute

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uniformity/parity in the pay scales of the staff across the High Courts of the country including criteria viz, qualification, methods of recruitment etc.

Whereas, the petitioners are not justified in claiming parity with their counterparts working in the High Court of Delhi and High Court of Punjab and Haryana as each state/UT Government is entitled to have its own pay structure depending on its resources. More-so, there is also no uniformity in the pay scales of the staff across the High Courts of the country including eligibility and method of recruitment.

Now, therefore, the claim of the petitioners having been considered in light of the directions passed by the Hon'ble Apex Court vide order dated 10-01-2022 in SLP No 11488/2021 titled UT of J&K & Anr Vs Latief Hussain Khan & Ors read with Judgment dated 26-02-2021 passed by Hon'ble High Court of Jammu and Kashmir and Ladakh in SWP No 877/2019 IA No. 01/2019 titled Latief Hussain Khan and Others Vs State of Jammu and Kashmir and Others has been found to be devoid of any merit, hence rejected.

By order of the Government of Jammu and Kashmir.

**Sd/-**

**(Achal Sethi)**

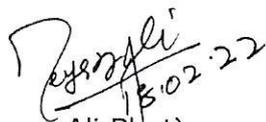
**Secretary to Government**

No. Law-Jud/15/2022-10.

Dated:18-02-2022.

Copy to the:-

1. Financial Commissioner(Additional Chief Secretary), Finance Department.
2. Principal Secretary to Government, General Administration Department.
3. Registrar General, High Court of Jammu and Kashmir and Ladakh, Jammu.
4. Joint Secretary (J&K), Ministry of Home Affairs, Government of India, New Delhi.
5. Director Finance Department of Law, Justice and P.A.
6. Director, Archives, Archaeology and Museums, J&K, Jammu/Srinagar.
7. Private Secretary to Secretary to Government, Department of Law, Justice & P.A for information of Secretary.
8. Incharge website, Department of Law, Justice and Parliamentary Affairs.
9. Government Order File.
10. Concerned File.

  
(Reyaz Ali Bhat)

**Assistant Legal Remembrancer**

  
18-02-2022