

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

**LPA No. 238/2023
CM No. 7198/2023**

Dated: 5th of February, 2025.

Union Territory of J&K and Ors.

... Appellant(s)

Through: -

Mr Abdul Rashid Malik, Sr. AAG with
Ms Rahella Khan, Assisting Counsel.

V/s

Jehangir Ahmad Khan

... Respondent(s)

Through: -

Mr R. A. Khan, Advocate.

CORAM:

Hon'ble Mr Justice Sanjeev Kumar, Judge

Hon'ble Mr Justice Puneet Gupta, Judge

(JUDGMENT)

Sanjeev Kumar-J:

01. This *intra* Court appeal, by the Union Territory of Jammu & Kashmir, is directed against an Order and Judgment dated 9th of June, 2023 passed by the learned Single Judge of this Court [“the Writ Court”] in OWP No. 2058/2015 titled ‘**Jehangir Ahmad Khan v. State of J&K and Ors.**’, whereby the Writ Court has allowed the Writ Petition filed by the Respondent herein and directed the Appellant-Union Territory to pay an amount of Rs.10.00 lacs as compensation to him.

02. The Judgment impugned is assailed by the Appellant on numerous grounds, however, before we advert to the grounds of challenge urged by Mr Abdul Rashid Malik, the learned Senior Additional Advocate General appearing for the Appellants, we deem it appropriate to take note of few material facts germane to the disposal of this appeal.

03. In the year 2000, the Respondent herein was serving as Helper in the Forest Department of the Government of Jammu & Kashmir, when he became a victim of cross firing between the security forces and the militants. The Respondent was seriously injured in cross firing, which ultimately resulted in the amputation of the right arm of the Respondent. The Respondent had to incur huge amount of money for his treatment and suffered excruciating pain because of the said injury.

04. The Respondent approached the Appellants herein for grant of compensation to him for the injuries which he suffered while serving in the Department of Forest, but the Appellants only released a meagre amount of Rs. 75,000/- as *ex-gratia* in favour of the Respondent, which was too meagre to meet the expenditure of his treatment. This constrained the Respondent herein to approach this Court by way of OWP No. 2058/2015. The Respondent claimed a sum of Rs. 15.00 lacs by way of compensation for 85% permanent disability suffered by him, including some compensation for pain and agony which he was made to suffer because of amputation of his right arm.

05. The Appellants herein contested the Petition filed by the Respondent herein and took the stand before the Writ Court that the *ex-gratia* amount of Rs. 75,000/- has already been sanctioned in favour of the Respondent and also that because of the injury suffered by the Respondent, the Respondent has not lost his source of income. It was further pleaded by the Appellants that the Respondent, being a Government employee, has been receiving regular salary and would receive pension after he demits office on superannuation.

06. The Writ Court, having considered the rival contentions of the parties and the material on record, came to the conclusion that the Writ Petitioner/ Respondent herein, who had lost his right arm, has been deprived of a pain-free life and would not be in a position to supplement his source of income after retirement, and decided the Petition in favour of the

Writ Petitioner/ Respondent herein. The Writ Court granted a compensation of Rs. 10.00 lacs in lumpsum as against the compensation of Rs.15.00 lacs claimed by the Writ Petitioner/ Respondent herein.

07. The impugned Judgment is challenged by the Appellants, *inter alia*, on the ground that the Writ Court has not appreciated the fact that the Respondent was a Government employee and, therefore, the injury suffered by him did not adversely affect his source of livelihood, i.e., salary. It is argued that the Writ Court has also not indicated the yardstick which it has applied to work out the compensation of Rs. 10.00 lacs in favour of the Writ Petitioner/ Respondent herein.

08. Having heard the learned Counsel for the parties and perused the material on record, we are of the considered opinion that the view taken by the Writ Court, in the context of Article 21 of the Constitution of India, which guarantees life and personal liberty of a citizen, is unexceptionable. It is not in dispute that the Respondent suffered injury which ultimately resulted in amputation of his right arm during the course of his employment. He was serving as Helper in the Forest Department and, therefore, was entitled to salary. Nevertheless, the Respondent, who was made to live the rest of his life without right arm, has suffered immense loss in terms of amenities of life. The Respondent would not be in a position to supplement his small amount of pension by doing any menial job after his retirement without the right arm. Besides, the Respondent would face the stigma of being a person without the right arm for the rest of his life. It also cannot be denied that because of the injury, which ultimately resulted in amputation of his right arm, the Respondent suffered huge mental pain and agony. In such circumstances, the compensation of Rs. 10.00 lacs, in addition to Rs. 75,000/-, as *ex-gratia*, cannot, by any stretch of reasoning, be said to be exorbitant or irrational.

09. For the aforesaid reasons, we find no merit in this appeal. The same is, accordingly, **dismissed**, along with the connected CM. Interim

direction(s), if any subsisting as on date, shall stand vacated. The amount of Rs.5.00 lacs, deposited by the Appellants before this Court pursuant to Order dated 2nd of September, 2024 read with Order dated 29th of November, 2024, shall be released in favour of the Respondent herein, along with interest accrued thereupon, of course, on his proper identification by the Counsel representing him before this Court.

(Puneet Gupta)
Judge

(Sanjeev Kumar)
Judge

SRINAGAR
February 5th, 2025
"TAHIR"

i. Whether the Judgment is approved for reporting? Yes/ No.

