Subject: - Contempt No. 173/2014 arising out of SWP No. 1016/2013 titled Tej Krishan Koul V/s Shri Asgar Hassan Samoon (IAS) & others.

Government Order No. 36 - Agri of 2019

D a t e d: 01-04-2019

Whereas, Shri Tej Krishan Koul, Mushroom Development Assistant, Pulwama was placed under suspension vide order No. 24-30 dated 02.02.1984 by Deputy Commissioner, Pulwama for his involvement in criminal cases, as he was booked by the Vigilance Organization in FIRs No. 24 of 1984, 08 of 1984 and 21 of 1985; and

Whereas, during the period of suspension, the officer was paid subsistence allowances @ 50% plus DA w.e.f. 02.02.1984 to 31.07.1984 and thereafter he was paid @ 75% plus DA till his reinstatement; and

Whereas, the officer during suspension was placed as Subject Matter Specialist (SMS) Sub-division, Achabal vide Government order No. 282-Agri of 1988 dated 20.04.1988 erroneously; and

Whereas, the officer being aggrieved filed a writ petition bearing SWP No. 308/1992 before the Hon’ble High Court at Jammu, which was disposed of by the Hon’ble Court vide its judgment/order dated 09.12.1992 with the following directions:-

"This petition is disposed of with a direction to the respondents to reinstate the petitioner immediately, who has been under suspension for more than 8 years. However, in case any enquiry is proposed to be held against him for any alleged misconduct, the respondents are at liberty to proceed with that enquiry in accordance with law, which shall be concluded within a reasonable time. If the petitioner is charge-sheeted, in that case, he shall associate himself with the enquiry proceedings, to enable the respondents to conclude it within a reasonable
time. The salary of the petitioner shall also be paid from the date when he is reinstated. The period of suspension shall also be decided by the Competent Authority for payment of salary whichever is due to the petitioner under law."

Whereas, pursuant to the Hon’ble Court directions, the petitioner was reinstated vide Government Order No. 890-Agri of 1994 dated 22.12.1994, but the period of suspension was left undecided subject to the final outcome of criminal proceedings initiated against him by the Vigilance Organization; and

Whereas, the challans filed against the petitioner by the Vigilance Organization were dismissed by the Hon’ble Court of Special Anti Corruption, Srinagar vide judgments dated 16.05.2006 and Hon’ble Court of Additional Session Judge, Anti Corruption, Srinagar vide judgment dated 30.04.2010 and the petitioner came to be acquitted; and

Whereas, the petitioner retired on superannuation on 31.12.1994, but the period of suspension has not been decided by the department despite various representations; and

Whereas, the petitioner being aggrieved due to inaction of the department filed another writ petition bearing SWP No. 1016/2013 titled Tej Krishan Koul V/s State of J&K & others before the Hon’ble High Court at Jammu with the prayer to direct the department to accord consideration to his case for release of arrears of salary w.e.f. 02.02.1984 to 22.12.1994 alongwith other benefits and fixation of pension and the arrears thereof; and

Whereas, the said writ petition was disposed of by the Hon’ble High Court at Jammu on 07.05.2013 with the following directions:-

"In view of the submissions made by Learned Counsel for the petitioners, this petition is dispose of with the direction to the respondents to accord consideration to the case of the petitioner for release of arrears of salary w.e.f. 02.02.1984 to 22.12.1994 alongwith other benefits, and fixation of pension and the arrears thereof within a period of 08 weeks from the date a copy of the order is served upon them....."

Whereas, pursuant to the Hon’ble Court directions the matter was examined in the department and a detailed report in this regard was called from Director Agriculture, Kashmir vide communication dated 19.06.2014. The information
received from Director Agriculture, Kashmir was found deficient and ultimately it was
decided to convene a meeting of all concerned including the petitioner on 04.09.2014
in the office chamber of the then Commissioner/Secretary to Government,
Agriculture Production Department. The petitioner failed to attend the meeting on
the due date and hence no headway could be made in settling the case of the
petitioner; and

Whereas, the petitioner filed Contempt Petition bearing No. 173/2014 before
the Hon’ble High Court at Jammu, alleging violation of Hon’ble Court order/judgment
dated 07.05.2013 passed in SWP No. 1016/2013; and

Whereas, vide communication dated 20.04.2015, the Director Agriculture,
Kashmir was again requested to furnish the deficient information and after receiving
the same vide letter dated 23.07.2015, the Director Agriculture, Kashmir was asked to
consider the case of the petitioner in consultation with Director Agriculture, Jammu
and come up with specific recommendations so that Contempt petition against the
Commissioner/Secretary to Government, Agriculture Production Department could
be avoided; and

Whereas, in response, the Director Agriculture, Kashmir submitted that the
petitioner was involved in three FIRs. i.e. FIR No. 24 of 1984, FIR No. 08/1984 and FIR
No. 21/1985 and in all the said FIRs the petitioner namely Tej Krishan Koul has been
discharged/acquitted. Thereafter, vide communication dated 16.03.2016 followed by
communications dated 06.04.2016, 31.05.2016 and 21.01.2019, the Vigilance
Organization/Anti Corruption Bureau, Kashmir/Jammu have been requested to
furnish the latest status of the case viz-a-viz whether an appeal has been filed by the
Vigilance Organization in the aforementioned FIRs against the acquittal judgments
passed in favour of the petitioner; and

Whereas, the Director Anti Corruption Bureau, J&K, Jammu vide communication
No. ACB-FIR-08/1984-K-1731 dated 25.01.2019 has conveyed the department that
the trial court has acquitted the accused persons from criminal charges in case FIR
Nos. 24/1984, 08/1984 and 21/1985 vide judgments dated 16.05.2006 and
30.04.2010 respectively and no revision/appeal has been preferred against the
impugned judgments, which have been consequently accepted; and

Whereas, the department is facing contempt proceeding before the Hon’ble High
Court at Jammu and there is every apprehension that any adverse orders may be
passed against the department;
Now, therefore, after thoughtful consideration of the facts and the records pertaining to the case of the petitioners and after considering the communication dated 25.01.2019 received from the Director Anti Corruption Bureau, J&K, Jammu viz-a-viz. the Hon’ble High Court directions dated 07.05.2013 passed in SWP No. 1016/2013 titled Tej Krishan Koul V/s State of J&K & others. It is hereby ordered that the arrears of salary w.e.f. 02.02.1984 to 21.02.1994 in favour of the petitioner namely Tej Krishan Koul be released including pensionary benefits as admissible under rules.


Sd/-
(Manzoor Ahmad Lone) IAS
Secretary to the Government,
Agriculture Production Department

No. Agri/E/Legal/04/2011

Copy to the:
1. Director, Archives, Archaeology & Museums, J&K, Jammu.
2. Director, Agriculture, Jammu/Kashmir.
3. OSD to Advisor (SK) to Hon’ble Governor, J&K State.
4. Private Secretary to Secretary, Agriculture Production Department.
5. Concerned Officer/petitioner.
6. I/C Website Operator, Agriculture Production Department.

(Kritika Raina) KAS
Under Secretary to Government,
Agriculture Production Department