

S. No.14
Regular List

IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

WP(C) No.3294/2025
CM No.8850/2025

RAFIQ AHMAD DHOBI

.....Petitioner(s)

Through: Mr.S.N.Ratanpuri and Ms Mir Fiza,
Advocates

V/s

J AND K CABLE CAR CORPORATION AND ANR.

.... ..Respondent(s)

Through: Mr.Furqan Yaqoob, GA

CORAM:

HON'BLE MR. JUSTICE SANJAY DHAR, JUDGE

ORDER

06.05.2026

CM No.2620/2026:

1. This is an application filed by the respondents seeking permission to place on record the objections. The application for the reasons stated therein is allowed and the objections filed by the respondents are taken on record.

WP(C) No.3294/2025:

2. The petitioner through the medium of present writ petition has challenged order dated 26.11.2025, passed by respondent No.2, whereby, his claim for release of retiral benefits has been found to be devoid of merit and

the same has been rejected. The petitioner has further sought a direction upon the respondents to release his retiral benefits, including leave salary and gratuity etc. alongwith the interest.

3. As per case of the petitioner, he was appointed as Cashier in the respondent Corporation by virtue of order bearing No.CCC/72/91 dated 17.07.1991. He was promoted from time to time and rose to the rank of Assistant Manager Finance. The petitioner was transferred to Jammu Regional Office by virtue of order No.39 of 16 dated 31.08.2016, whereafter by virtue of order No. 17 of 2020 dated 11.01.2020 he was transferred back to Corporate Office at Srinagar. The petitioner ultimately superannuated from service on 30.11.2022.

4. According to the petitioner, he obtained 'No Objection Certificates' from all the relevant offices/departments and further submitted an undertaking before the respondents in connection with settlement of his retiral benefits. However, the terminal benefits, including gratuity and leave salary have not been released in his favour. The petitioner is stated to have made a representation dated 04.01.2024 before the respondents. In response to the said representation, the

petitioner was informed that there were certain deficiencies on his part in maintenance of record with respect to Jammu Rope Way Project.

5. According to the petitioner there were no deficiencies on his part and despite producing 'No Demand Certificates' and 'No Objection Certificates' the respondents continue to withhold his terminal benefits. This prompted the petitioner to file writ petition bearing WP(C) No.2438/2025 before this Court. The petition came to be disposed of by this Court in terms of order dated 28.10.2025 directing the respondents to consider the claim of the petitioner for release of retiral benefits.

6. In compliance with the aforesaid directions of this Court, respondent No.2 passed the impugned order, whereby the claim of the petitioner for release of retiral benefits has been rejected.

7. The petitioner has challenged the impugned order dated 26.11.2025 on the grounds that retiral benefits earned by the petitioner is his property and the same cannot be taken away by the respondents without adopting due process of law. It has been contended that the documents which are referred to in the impugned order dated 26.11.2025, were handed over by the respondent Corporation to Anti-corruption Bureau in

terms of letter dated 05.4.2021 issued by respondent No.2. Therefore, the petitioner could not be held responsible for not producing the said documents.

8. The respondents in their reply to the writ petition have submitted that until and unless the petitioner clears all the deficiencies and fulfills all requisite formalities, the terminal benefits cannot be released in his favour. It has been submitted that the impugned order is self explanatory and it discloses the reasons for not releasing the retiral benefits in favour of the petitioner. According to the respondents, the petitioner has failed to get requisite NDC from respondent Corporation and unless he obtains the said NDC his retiral benefits cannot be released. It has been submitted that a Committee consisting of three responsible officers of the respondent Corporation was constituted to look into the matter and the Committee in its report has clearly stated that the petitioner has failed to submit deficient documents which are essential for audit closure. On this basis the Committee suggested that retiral benefits shall be released only after the petitioner submits the requisite documents.

9. I have heard learned counsel for the parties and perused record of the case.

10. So far as the appointment of the petitioner with respondent Corporation is concerned, the same is not in dispute. It is also not in dispute that the petitioner has served with respondent Corporation from the date of his appointment i.e 17.07.1991 upto the date of his superannuation i.e, 30.11.2022. It is an admitted position that upon his superannuation the petitioner has not been paid the terminal benefits by the respondents. The reason given by the respondents for withholding the terminal benefits of the petitioner is that he has not handed over the entire record including cash book, original vouchers, journals and ledgers and other supporting documents pertaining to Jammu Ropeway Project. It is also alleged that original cash vouchers amounting to crores of rupees were handed over to Vigilance Department, but no receipt or acknowledgement in support of his claim has been furnished by the petitioner. It is being further alleged that the petitioner has failed to maintain cash book and other records in accordance with prescribed accounting norms.

11. The petitioner has served with the respondent Corporation for about thirty years and during this period the respondents have not conducted any enquiry with

regard to the allegations levelled against him in the impugned consideration order, nor any FIR has been registered against him for having committed any criminal offence relating to discharge of his official functioning. In fact, the petitioner has placed on record alongwith his writ petition a copy of communication dated 05.04.2021 addressed by Investigating Officer of ACB Jammu to Sr. Superintendent of Police ACB J&K Jammu, which shows that Shri Rakesh Bhat, Assistant Manager Incharge Jammu Ropeway has handed over a large number of documents to the Investigating Officer. Thus, deficiency in documents, if any, cannot be attributed to the petitioner, as the said documents were handed over by one of the employees of respondent Corporation to the investigating agency. The respondents cannot ask the petitioner to furnish these documents.

12. In any case, the respondents without holding any departmental enquiry and without lodging any criminal prosecution against the petitioner, cannot withhold the his retiral benefits. Though Article 168-A and 168-D of Jammu & Kashmir Civil Service Regulations provides for recovery of amount from the retiral benefits of an officer/official, if it is found that the action/inaction of

the said official/officer has resulted in loss to the Government in judicial or departmental proceedings, yet, in the present case, no such departmental proceedings have been conducted by the respondents for the purpose of ascertaining loss to them, that may have been caused due to negligence or fraud committed by the petitioner during his career. It is not the case of respondents that any FIR or charge sheet has been filed against the petitioner before the Court as yet, meaning thereby, that there is no judicial proceeding pending against the petitioner. The respondents, therefore, are not legally justified to withhold the retiral benefits of the petitioner, as the same would amount to violation of his right to property, which can be denied to him only through authority of law. The action of the respondents in withholding the pension and terminal benefits of the petitioner is, therefore, not sustainable in law.

13. For the foregoing reasons, the petition is **allowed** and the impugned order dated 26.11.2025 issued by respondent no.2 is quashed. The respondents are directed to release the terminal benefits of the petitioner in his favour within a period of two months from the date of this order, failing which, the amount of terminal benefits due to the petitioner, shall carry an interest @

6% per annum from the date of filing of this writ petition
till realization of the said amount.

(SANJAY DHAR)
JUDGE

SRINAGAR
06.05.2026
Sarveeda Nissar

Whether the order is speaking: Yes/No
Whether the order is reportable: Yes/No

