



2025:JKLHC-JMU:2997

Sr. No. 60

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

**WP(C) No.1598/2024**

**c/w**

**WP(C) No.64/2023**

**CM No.161/2023**

Reserved on:- 20.08.2025  
Pronounced on:- **25.09.2025**

**[WP(C) No.64/2023]**

**Ravinder Kumar Peshin**, Age 60 years  
S/O Dwarika Nath Peshin  
R/o H.No.6, Ajit Colony,  
Gole Gujral, Jammu.

....Petitioner

Through :- Mr. Abhinav Sharma, Sr. Advocate  
with Ms. Shailja Bakshi, Advocate.

Versus

1. Jammu and Kashmir Bank Ltd.  
Through its Managing Director  
Corporate Headquarters,  
MA Road, Srinagar-190001.
2. Managing Director J&K Bank  
Designated Appellate Authority  
Corporate Headquarters,  
MA Road, Srinagar-190001.
3. General Manager J&K Bank  
Disciplinary Department  
Corporate Headquarter,  
MA Road, Srinagar.
4. Assistant General Manager J&K Bank  
Zonal Office, Jammu  
Designated as Enquiry Officer.
5. Assistant Manager J&K Bank  
Zonal Office, Jammu  
Designated as Presenting Officer.

....Respondent(s)

**Through:-**Mr. P.N Raina, Sr. Advocate with  
Mr. Akash Gupta, Advocate**[WP(C) No.1598/2024]****Ravinder Kumar Peshin**, Age 60 years  
S/O Dwarika Nath Peshin  
R/o H.No.6, Ajit Colony,  
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MA Road, Srinagar-190001.
2. Managing Director  
J&K Bank Ltd.  
Corporate Headquarters Road,  
MA Road, Srinagar-190001.

....Respondents

Through :-

Mr. M.K Bhardwaj, Sr. Advocate with  
Mr. Akash Gupta, Advocate.**CORAM: HON'BLE MR. JUSTICE M A CHOWDHARY, JUDGE****JUDGMENT**

1. Both the petitions filed by the same person and involving related questions of facts and law, are proposed to be disposed of, by way of this common judgment.

**WP(C) No. 64/2023**

2. Petitioner while working as Senior Manager of the J&K Bank Ltd. for his acts of omissions/commissions, as Branch Manager, J&K Bank Branch Behrote Rajouri, on an enquiry in terms of J&K Bank Ltd. Officers Recruitment, Discipline, Conduct and Appeal Rules, 2000, was punished with,



withholding of two future increments. On an Appeal, filed by the petitioner, the matter was remanded to the Disciplinary Authority to proceed with fresh enquiry for enhanced penalty by Chairman-cum-Managing Director of the Bank [Appellate Authority]. Through WP(C) No.64/2023, petitioner challenged the fresh proceedings. Meanwhile, petitioner retired and he has filed WP(C) No.1598/2024 seeking, release of his pensionary/terminal benefits on his superannuation.

3. The brief facts as narrated in both the petitions are that:-

(i) The petitioner was served with a chargesheet dated 20.12.2021 along with article of charge, statement of imputation, list of documents and transactions, with the charges that in the capacity of Branch Head in Behrote Branch, while handling KCC portfolio, he had resorted to fake and frivolous transactions in the office account in order to window dress KCC accounts; that he had made cash receipt entries in KCC accounts for an amount equal to outstanding balance, so as to make the debit balance zero, followed by transferring entire sanction limit to sundry deposit account, cash payment equal to the outstanding amount in the KCC accounts, in violation of the office accounts policy issued vide Circular No.JKB/CHQ/S&P/2020-107 dated 08.10.2020.

(ii) The petitioner was chargesheeted for:-

- (a) breach of rules of the business of the bank;
- (b) doing acts prejudicial to the interest of the Bank involving the bank in serious loss; and



(c) manipulating the entries in records of the Bank to conceal the actual position.

(iii) In response to the chargesheet, the petitioner categorically admitted his guilt by stating that said act was done without any *malafide* and ill intention; that the aforesaid loan accounts were not term loans and these loans were for the purpose of agriculture which remained in the book of the bank for a longer period.

(iv) The Disciplinary Authority served a show cause notice to the petitioner on 30.03.2022 and decided to carry proceedings against the petitioner under Rule 390 of the Officers Service Manual of 2000 and on receipt of the reply to the notice, he was awarded penalty of withholding of two future increments. The Disciplinary Authority vide order dated 02.06.2022, imposed the punishment by stopping two future increments, besides holding him responsible for penalty/contingent liability imposed on bank as a consequence of acts and omissions of the petitioner.

4. Being aggrieved by the penalty imposed, the petitioner preferred an Appeal in terms of Rule 402 of the J&K Bank Ltd. Officers Recruitment, Discipline, Conduct and Appeal Rules, 2000.

5. The Disciplinary Authority on receipt of the orders of the Appellate Authority, ordered fresh departmental enquiry so as to impose major penalty upon the petitioner, by appointing Assistant General Manager, J&K Bank, Zonal Office Jammu as Inquiry Officer and Assistant Manager, J&K Bank,



Zonal Office Jammu as Presenting Officer, to impose major penalty upon the petitioner, vide inquiry order dated 13.12.2022.

6. The petitioner challenged the aforesaid order dated 13.12.2022 issued by the respondents, by filing WP(C) No.64/2023 before this Court and as *ad interim* measure, a Coordinate Bench of this Court vide order dated 17.01.2023 stayed the impugned order dated 13.12.2022, as well as enquiry proceedings.

7. Resisting this petition, the respondents have filed their counter, praying therein its dismissal on the ground that the petition raises disputed questions of facts, which this Court may not adjudicate upon while exercising its extraordinary writ jurisdiction under Article 226 of the Constitution of India; that in terms of the rules and regulations governing the service conditions of the petitioner, the inquiry proceedings were conducted and the petitioner was granted reasonable opportunity to defend himself against the charges leveled upon him, as per the scope of Rules of Officers Service Manual 2000.

8. The petitioner vide order dated 20.12.2021 was chargesheeted under the provisions of the Officers Service Manual 2000 Rules on account of acts of omission and commission committed during tenure as Branch Head Behrote. The aforesaid order was also based on fake and frivolous transactions made in KCC accounts and the petitioner was directed to file reply within ten days. The petitioner in his reply, admitted the charges framed against him. On admission over charges, the show cause notice dated 30.03.2022 as per the provisions of Rule 390 of the Officers Service Manual 2000 was issued by the



Disciplinary Authority proposing therein to stop two future increments, besides holding the petitioner responsible for any penalty/contingent liability imposed on the bank. It is further submitted that vide order dated 02.06.2022, the proposed action in the show cause notice was approved by the Disciplinary Authority. The relevant portion of order dated 02.06.2022 is reproduced hereunder:-

“In view of the above and considering the nature of the charges against the CSO I don’t think that CSO deserves any leniency or sympathy and as such the punishment proposed in the show cause notice is made absolute, and consequently, two future increments of CSO are stopped besides holding him responsible for any penalty/contingent liability imposed on bank as a consequence of acts of omission and commission by CSO.”

9. Aggrieved of the penalty, a Statutory Appeal was filed by the petitioner before the MD & CEO, J&K Bank, on various grounds praying therein to withdraw order dated 02.06.2022. The Appellate Authority, decided that appeal filed by the petitioner, with fresh enquiry to be conducted by the Disciplinary Authority in terms of following order:

“I have gone through the contents of the Appeal. I have also sifted through the relevant record files, and have found that the punishment awarded does not commensurate with the quantum of guilt and hence refer the case file of Mr. Ravinder Krishan Peshin (6867) Senior Manager to Mr. Shujaat Andrabi as Disciplinary Authority under Rule 402(c)(ii) of Officers Service Manual 2000 for initiation of Major penalty proceedings.”

10. Mr. Abhinav Sharma, learned senior counsel appearing for the petitioner, while referring to the chronology of the events submits that the



petitioner while working as Senior Manager was chargesheeted on 20.12.2021 with the charge that he had window dressed KCC accounts while working as Branch Manager of Jammu and Kashmir Bank, Branch Behrote Rajouri; that the petitioner had admitted the charge pursuant, on which he was issued show cause notice (SCN) on 30.03.2022 to the proposed minor penalty; that the petitioner replied to that notice on 02.06.2022; that the Disciplinary Authority on 02.06.2022 ordered to stop 'two future increments' of the petitioner, besides holding him responsible for the penalty/contingent liability imposed on bank as a consequence of acts and omissions of the petitioner; that the petitioner filed an appeal against the order dated 02.06.2022 whereby he was imposed minor punishment of withholding two future increments.

11. Learned senior counsel for the petitioner further argued that the statutory appeal was filed against the order dated 02.06.2022 whereby his two future increments had been stopped, before the Managing Director and CEO of the respondent-Bank, who neither accepted nor rejected the appeal and directed to proceed against the petitioner for imposition of major penalty instead of minor penalty which he has been imposed as penalty. He has further argued that the Appellate Authority was under a legal obligation either to accept the appeal or reject the same with regard to the penalty imposed by the Disciplinary Authority and it was not open to the Appellate Authority to order a fresh enquiry for proceeding against the petitioner for a charge to impose major penalty instead of minor penalty. It was finally prayed that the order passed by the Appellate Authority to direct for fresh enquiry against the petitioner be set aside.



12. Mr. P.N Raina, learned senior counsel assisted by Mr. Akash Gupta, appearing for the respondents-Bank argues that the Disciplinary Authority had decided to hold enquiry with regard to minor penalty and on admission by the petitioner minor penalty of 'withholding two future increments' was imposed; that since the petitioner was not satisfied with the punishment awarded to him, preferred the statutory appeal and the Appellate Authority was of the opinion that the petitioner should have faced the enquiry with regard to enhanced penalty and being legally competent to do so in terms of Rule 402 of *the Jammu and Kashmir Bank Limited Officers Recruitment, Discipline, Conduct and Appeal Rules, 2000*, the Appellate Authority, was within its jurisdiction to direct for the fresh enquiry for major penalty. He has further argued that since the proceedings before the Appellate Authority are in continuance to the disciplinary proceedings, it cannot be said that the Appellate Authority was not within its jurisdiction to direct for fresh enquiry to be conducted against the petitioner with regard to the major penalty, instead of minor penalty for which petitioner had been proceeded against by the Disciplinary Authority.

13. Mr. P.N Raina, next argued that the petitioner was not having good service record in the past, and on facing multiple departmental proceedings, vide order dated 23.08.2012 issued by the Disciplinary Authority, he was censured and advised to be vigilant in future and in another case of Departmental Proceedings, he was imposed a penalty of ₹15,000/- vide order dated 17.08.2019.

14. Lastly, it has been argued by the learned senior counsel that as per the mandate of Rule 402 the appellate authority is having jurisdiction, enhance



the penalty from minor to major, though as per the Rule 404, the Disciplinary Authority decided to hold enquiry with respect to minor penalty and in the case of petitioner, rightly imposed minor penalty.

15. Heard learned counsel for the parties, considered their submissions and perused the record.

16. As is borne out from the record, a decision was taken by the respondents-Bank to hold enquiry against the petitioner for having committed misconduct of 'window dressing' KCC accounts at Behrote Branch of the Bank, to impose minor penalty to the petitioner as delinquent officer. Instead of contesting the charge, the petitioner fairly admitted the charge, as such, no Inquiry Officer was appointed by the Disciplinary Authority to conduct an enquiry and minor punishment was awarded by the imposition of 'withholding of two future increments' as minor penalty.

17. In view of the rival submissions made by learned senior counsel for the parties, firstly by the learned counsel for the petitioner that the decision to take a call with regard to the proceedings whether for minor or major penalties is assessed and taken by the Disciplinary Authority and not by the Appellate Authority and secondly the contention of the learned senior counsel for the respondents-Bank that in terms of Rule 402 of the *Jammu and Kashmir Bank Limited Officers Recruitment, Discipline, Conduct and Appeal Rules, 2000* , the Appellate Authority, has jurisdiction to order enhanced punishment, the scheme of the governing Rules is required to be examined.



18. The petitioner being a Senior Manager employed in the respondents-Bank and his service was governed by *the Jammu and Kashmir Bank Limited Officers Recruitment, Discipline, Conduct and Appeal Rules, 2000* and within the import of the aforesaid legal framework, the delinquent Officers are to be dealt with, in disciplinary matters. As per the scheme of *the Jammu and Kashmir Bank Limited Officers Recruitment, Discipline, Conduct and Appeal Rules, 2000*, Chapter-III of the these rules deal with the disciplinary action and appeal. On receipt of any report or any information regarding omission of any type or misconduct by an Officer, a preliminary investigation is to be conducted where there is *prima facie* case, without requirement of a detailed procedure is provided under Rule 364 and after making preliminary enquiry and on being established that there is a '*prima facie*' case, under Rule 365, a decision has to be taken whether the proceedings should be taken for imposition of major penalties or for minor penalties.

19. Rule 372 provides that the competent authority may impose one or more of the penalties of minor or major to an Officer for acts of misconduct. Rule 376 provides for appointment of Inquiry Officer and Rule 377 provides to ensure the principles of natural justice to be observed by the Inquiry Officer. Rule 383 provides with regard to the decision taken by the Inquiry Officer regarding penalty, however as per Rule 384, the Disciplinary Authority has overriding power to accept, modify or even reject the findings of the Inquiry Officer and the punishment is to be imposed in terms of Rule 385 by the Disciplinary Authority after a notice to the delinquent Officer and the Disciplinary Authority reserves the right to consider all aspect of the case to



impose any punishment lesser than the one proposed in the show cause notice issued against the delinquent Officer.

20. Since the petitioner had been proceeded against after conducting the preliminary investigation with regard to minor penalties, Rule 390 provides that the chargesheet is to be issued to the delinquent Officer containing the specific charges duly supported with a statement of imputations of misconduct against each charge, for which action would be taken and the delinquent Officer will also be given reasonable opportunity of making representation against the charges. On receipt of the representation, if any, the Disciplinary Authority may straightway record its findings on each imputation or decide to hold an oral enquiry and grant the delinquent Officer a personal hearing, before the proposed punishment in terms of Rule 372-A is imposed. A delinquent Officer convicted for major or minor punishment has a right to file an appeal within a period of 45 days in terms of Rule 402.

21. Rule 402 of the Rules of 2000 provides as to what considerations are to be accorded by the appellate authority, while considering the appeal. This Rule is extracted for reference as under:

“402. In the case of an appeal against an order imposing any of the penalties specified in 402 Rule 372 or enhancing any penalty imposed under the said rules, the appellate authority shall consider:

- a) whether the procedure laid down in these regulations has been complied with and if not, whether such non-compliance has resulted in the failure of justice;
- b) whether the findings of the disciplinary authority are warranted by the evidence on the record; and
- c) whether the penalty or the enhanced penalty imposed is adequate, inadequate or severe and pass orders:
  - i) confirming, enhancing, reducing or setting aside the penalty imposed, or



- ii) remitting the case to the authority which imposed or enhanced the penalty or to any other authority' with such direction as it may deem fit in the circumstances of the Case;

Provided that no order imposing an enhanced penalty shall be made unless the appellant has been given a reasonable opportunity of making a representation against such enhanced penalty.

22. Rule 404-A provides for revision providing that the Chairman may of his own motion or otherwise, call for the record of any case decided by an authority subordinate to him in the exercise of any power conferred on such authority by these Rules and confirm, modify or reverse the order passed by such authority or direct that a further enquiry be held in the case or reduce or enhance the penalty imposed by the order or make such other order in the case it may deem fit.

23. On a bare reading of Rule 402 as extracted hereinabove, the Appellate Authority seems to enjoy wider powers as the Appellate Authority has to see whether the procedure laid down in the regulation has been complied with and if not, whether such non compliance has resulted in the failure of justice and whether the penalty or the enhanced penalty imposed is adequate, inadequate or severe and pass orders confirming, enhancing, reducing or setting aside the penalty imposed or remitting the case to the authority which imposed or enhanced the penalty or to any other authority' with such direction as it may deem fit in the circumstances of the case, with the proviso that no order imposing an enhanced penalty shall be made unless the appellant has been given a reasonable opportunity of making a representation against such enhanced penalty. The Appellate Authority is thus empowered to remit the case to the authority which imposed or enhanced the



penalty or to any other authority with such direction as it may deem fit in the circumstances of the case.

24. The Appellate Authority, in the case on hand, had observed that after sifting to the relevant record file, he has found that the punishment awarded does not commensurate with the quantum of guilt and hence case of the petitioner was referred to the Disciplinary Authority under Rule 402 (c)(ii) of Officers Services Manual 2000, for initiation of major penalty proceedings. The Appellate Authority, on perusal of the Rule 402, appears to be competent to remit the case to the authority which imposed the penalty or to any other authority with such direction as it may deem fit in the circumstances of the case. On finding that the penalty was inadequate in the case on hand, the Appellate Authority on examination of the case was of the view that the penalty imposed for the commission of the alleged misconduct on the part of the petitioner as a delinquent Officer was inadequate and instead altering or enhancing the punishment, the Appellate Authority in its wisdom decided to remit the case to Disciplinary Authority to proceed against the petitioner as delinquent Officer and hold the enquiry with regard to impose major penalty.

25. So far as the contention of the learned counsel for the petitioner that the appellate authority in terms of Rule 402 was not competent to order fresh enquiry, instead of accepting or rejecting the decision taken by the Disciplinary Authority, whereby the petitioner had been imposed a minor penalty of withholding of two future increments is concerned, on perusal of Rule 402 of the Rules of 2000, it is discernable that when an appeal is filed, the appellate authority shall consider that whether the procedure laid down in



the Regulations had been complied with and if not whether such non compliance has resulted in the failure of justice, and also that whether the penalty or the enhanced penalty imposed is adequate, inadequate or severe and pass orders confirming, enhancing, recusing or setting aside the penalty imposed or remitting the case to the authority which imposed or enhanced the penalty or to any other authority with such direction as it may deem fit in the circumstances of the cases.

26. The appellate authority in the considered opinion of this court was well within its competence and jurisdiction to remand the case for fresh enquiry with the opinion that having regard to the alleged misconduct by the petitioner to charge him for major penalty and hold fresh enquiry by a disciplinary authority named by the appellate authority. This is also required to be borne in mind that every appellate forum, be it a Court or Statutory Authority, has inherent correctional jurisdiction besides the statutory competence in the present case in terms of Clauses (a) and (c)(i)(ii) of Rule 402 of The J&K Bank Ltd. Officers Recruitment, Discipline, Conduct and Appeal Rules, 2000. Since the appeal has been heard by the then Chief Executive Officer of the Bank who as Chairman had also additional revisional powers to pass orders in the context of any enquiry or penalty under the applicable Rules of 2000. In the aforesaid circumstances, the contention on behalf of the petitioner that in the case of the departmental enquiries, the appellate authority had either to accept or reject the penalty imposed is untenable and the impugned order, in the considered opinion of this court, is well reasoned, suffering from no illegality or arbitrariness and does not call for any interference by this court under its writ jurisdiction.



27. In view of the preceding analysis, the petition in hand is found to be without any merit and substance and is liable to be rejected. As a result, the petition is dismissed accordingly, along with connected application. Impugned order is upheld. Interim direction dated 17.01.2023 shall stand vacated.

**WP(C) No.1598/2024**

1. During the pendency of WP(C) No.64/2023, the petitioner came to be superannuated on 31.03.2024, however, no retiral benefits were given to him, vis-à-vis failure to release Pension, Gratuity, Leave Encashment Salary, General Provident Fund and Commutation, as such the petitioner knocked portals of this Court again by filing petition being WP(C) No.1598/2024 in second round of litigation, to seek release of the aforesaid benefits.

2. The petition WP(C) No.1598/2024 has been objected primarily by the respondents on the ground that the writ petition also raises disputed questions of facts which this Court in exercise of its jurisdiction under Article 226 of the Constitution of India, may not adjudicate. It is submitted in the objections that no cause of action has been accrued to the petitioner to file this petition as on the one hand, the Disciplinary Proceedings initiated against him, have been stalled in WP(C) No.64/2023 filed by the petitioner, vide order dated 17.01.2023 passed by this Court and on the one hand, he is claiming retiral benefits without culmination of said Disciplinary Proceedings which is legally impermissible.

3. Mr. Abhinav Sharma, learned senior counsel for the petitioner vehemently argued that since the departmental proceedings are pending against the petitioner, therefore, the respondents are not justified in



withholding monthly pension and other retiral benefits like gratuity, general provident fund, leave encashment salary and commutation and they may be directed to release all retiral benefits along with interest accrued thereon.

4. It is further argued that in terms of para 10.8 of Chapter-III of the J&K Bank Ltd. Officers Service Rules, 2022, the respondents are under obligation to release all retiral benefits within a period of one month from the date of superannuation i.e., 31.03.2024. Therefore, it is argued that failure to release the retiral benefits by the respondents will entitle the petitioner for grant of interest as notified by the Central Government for repayment of long term deposits.

5. Mr. M K Bhardwaj, learned Sr. counsel appearing for the respondent-Bank, on the other hand, argued that since the petitioner has been imposed penalty of withholding two increments for the misconduct by the disciplinary authority which was not accepted by the appellate authority in the appeal filed by the petitioner herein and the matter stands remanded for fresh enquiry with a charge for major penalty and the petitioner had challenged the order passed by the appellate authority before this court in WP(C) No. 64/2023 and if permitted, till the conclusion of the fresh enquiry, this petition for grant of pensionary benefits is premature and if the petitioner is punished with the major penalty, particularly, in view of the fact that he has already confessed the charge, the outcome of the same shall govern the case of granting pensionary benefits to the petitioner, as such, this petition is required to be disposed of at this stage awaiting the outcome of WP(C) No. 64/2023.



6. Since this court has decided WP(C) No. 64/2023 and in view of its dismissal, the next recourse to the respondent Bank is to hold fresh enquiry by the new disciplinary authority after charging the petitioner for the misconduct for major penalty. The claim of the petitioner with regard to retiral/pensionary benefits hinges on the outcome of the enquiry to be conducted against him. The petition is thus premature at this stage and is liable to be dismissed.

7. The petition is, thus, **dismissed** at this stage with liberty to the petitioner to avail the legal remedy afresh after the enquiry contemplated against him is concluded.

8. Accordingly, this petition is also dismissed along with connected application(s).

Jammu:  
25.09.2025  
*Surinder/Raj Kumar*

**(M.A Chowdhary)**  
**Judge**

Whether the order is speaking?  
Whether the order is reportable?

Yes/No  
Yes/No