

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

WP(C) No. 2422/2021

Ishant Sharma

.....Petitioner

Through: Mr. Vikram Sharma, Sr. Advocate with
Mr. Sachin Dev Singh, Advocate

Vs

UT of J&K & Ors.

.....Respondents

Through: Mrs. Monika Kohli, Sr. AAG

CORAM: HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE

**ORDER
(16.01.2026)**

01. The petitioner-Ishant Sharma came forward with the institution of present writ petition on **02.11.2021** bearing a cause of action relating to his suspension from service put into effect by virtue of **impugned order No. LA/107-11/Adm/2021 dated 11.05.2021** passed by the Additional Secretary, Jammu and Kashmir Legislative Assembly Secretariat.

02. The impugned order of suspension reads as under :-

**“.. JAMMU AND KASHMIR LEGISLATIVE ASSEMBLY
SECRETARIAT, SRINAGAR**

**Subject:- Initiation of Simultaneous Department
Action (RDA) in case FIR No. 32/2015 P/S
VOJ (now ACB)-suspension thereof.**

Reference:- LD(PAB) 2021/09 dated 05.05.2021

ORDER

In pursuance of the reference cited above, Shri Ishant Sharma, W&W Man is hereby placed under suspension with immediate effect.

By order.

11.05.2021

(Manzoor Ahmad Baba)

Additional Secretary

No.LA/107-11/Adm/2021

Dated: 11.05.2021”

- 03.** In his writ petition, the petitioner came up pleading that ever since his appointment in service, the petitioner has been discharging duties to the best of his abilities without any adverse attribute related to his name in the matter of performance of his duty.
- 04.** The petitioner refers to the fact that **FIR No. 32/2015** registered by the Police Station Vigilance Organization, Jammu, was against his father bearing accusation of commission of offence under section **5 of the J&K Prevention of Corruption Act, 2006.**
- 05.** In connection with said FIR, the petitioner's father-Kewal Krishan Sharma is said to have been arrested in the year 2017 and later on was released on bail.

06. A final police report-(challan) is said to have been presented by reference to said **FIR No. 32/2015** before the competent court of law which being the court of learned Special Judge, Anti-Corruption Court, Jammu, wherein the said criminal case is said to be pending at the time of filing of present petition.
07. The petitioner pleads that he was appointed as Class-IV employee in the year 2014 but came to be subjected to suspension by virtue of the impugned order which was issued at the instance of respondent No. 2-Secretary, J&K Legislative Assembly, Civil Secretariat.
08. The impugned order of suspension is being assailed on the grounds as cited in the **para No. 2-[x-(a to i)]**.
09. In the grounds of challenge to the impugned order, the petitioner pleads that the matter of suspension of a government employee is covered by the **Jammu and Kashmir Civil Services (Classification, Control & Appeal) Rules, 1956** which provides the contingencies when a government employee can be put to suspension and in the context of the petitioner no such contingency ever accrued for the respondent No. 3 to come forward with the suspension of the petitioner.
10. It is submitted that **FIR No. 32/2015** registered against the petitioner's father cannot be co-related with the

petitioner's conduct as a government employee and no culpability can be shifted unto the petitioner by reference to his father's implication in the **FIR No. 32/2015**.

11. It is submitted that if **FIR No. 32/2015** was to form the basis for suspending the petitioner, then the same should have happened coinciding or immediately following the registration of **FIR No. 32/2015** itself and not after six years in May, 2021 which thus reflects sheer non-application of mind on the part of the respondent No. 3 acting on the dictation of the respondent No. 2.

12. In response to the writ petition, the respondents came forward stating that a regular departmental enquiry has been initiated against the petitioner in terms of the provisions contained under **Jammu and Kashmir Civil Services (Classification, Control & Appeal) Rules, 1956** read with **circular instruction notification vide circular No. 49-GAD of 2018 dated 12.12.2018** read with **circular No. 06-JK(GAD) of 2020 dated 03.02.2020**. However, no order of setting up of a departmental inquiry against the petitioner has been referred to in the entire reply by the respondents. In fact, the reply has come forward filled with reference to the citations. On the factual side, the contents of reply are being drawn from the accusations obtaining against the petitioner's father-Kewal

Krishan Sharma, who as a forest guard and then as PRO with the Deputy Chief Minister is alleged to have indulged in corrupt and illegal practices.

13. The filing of the reply by the respondents took place in January, 2022 with no accompanying annexure meaning thereby the suspension of the petitioner was continuing without reconsideration as to for what purpose said continuing suspension was serving.
14. The very fact that the order of suspension has no context relatable to the petitioner *per-se* in terms of discharge of his duty without any act of omission or commission relating thereto renders the order of suspension bad *per-se* and that is the reason that impugned order of suspension bears no reason whatsoever as to what for the petitioner is being subjected to suspension and why after six years of registration of **FIR No. 32/2015**, the suspension of the petitioner was contemplated rather than coinciding with said **FIR No. 32/2015** though even by reference to said FIR, no justification for suspending the petitioner could have been drawn.
15. Penal act does/do not pass on to the legal heir/s of an accused person is the basis of criminal jurisprudence. If the petitioner's father was allegedly found to be involved in acts of omission or commission amounting to offence under

section **5 of the J&K Prevention of Corruption Act, Svt. 2006**, the same does not mean that the petitioner is to be perceived, projected, painted and put to bad treatment as being delivered to him in the form of the impugned suspension order.

- 16.** This Court holds the **impugned order No. LA/107-11/Adm/2021 dated 11.05.2021** passed by the Additional Secretary, Jammu and Kashmir Legislative Assembly Secretariat, utterly misconceived vitiated with malice in law if not in fact which warrants quashment and is accordingly, **quashed**.
- 17.** The petitioner be restored to his service at the post from where he was suspended.
- 18.** This writ petition is accordingly, **disposed of**.
- 19.** The detailed order is following the order dated 31.12.2024 vide which the writ petition was ordered to be allowed as is hereby being done.

(RAHUL BHARTI)
JUDGE

JAMMU
16.01.2026
SUNIL

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