

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

Reserved on: 04.07.2025
Pronounced on: 11.07.2025

RP No. 15/2025 in
WP(C) No. 249/2025
CM No. 2724/2025
CM No. 2725/2025

1. State (Now U.T) of Jammu & Kashmir,
through Commissioner/Secretary,
Rural Development Department,
Civil Secretariat, U.T of J&K,
Jammu/Srinagar. ...Petitioner(s)
2. Director, Rural Development Department,
Jammu.

Through: Mr. S.S. Nanda, Sr. AAG.

V/s

01. Sanjeev Kumar S/O Ram Lal
R/O Bigwan, Kathua.
Respondent(s)
02. Mohan Lal S/O Brite Ram
R/O Serhad, Purmandal.
03. Mohan Lal S/O Maru Ram
R/O Madana, Purmandal.
04. Kartar Chand S/O Mangal Ram
R/O Sardal, Purmandal.
05. Sukhdav S/O Mani Ram
R/O Sagwal, Purmandal.
06. Kamal Jeet Kindal S/O Sudha Ram R/O Bispur,
Purmandal.
07. Shabir Hussain S/O Nazir Hussain R/O Mendar,
Mendar.
08. Akbar Hussain S/O Said Mohd
R/O Mendhar, Mendhar.
09. Surinder Kour W/O Late Sh. Harbans Singh R/O
Poonch.
10. Mohd. Bashir S/O Mohd Zasim
R/O Poonch.
11. Manzoor Hussain S/O Ahmad Joo R/O Mandi
Poonch.
12. Sheetal Kumar, S/O Madan Lal
R/O Poonch, Poonch.
13. Madhu Bala, D/O Krishan Lal
R/O Poonch, Poonch.

14. Shakeel Ahmed S/O Mumtaz Khan, R/O Balakote, Balakote.
15. Man Singh, S/O Ghanbi Sinchand R/O Hengan, Bhaderwah.
16. Bharat Singh S/O Prem Singh, R/O Dharsakri Budal.
17. Mohd Ishaq S/O Mohd Yaqoob R/O Menjakote, Budal.
18. Karan Singh S/O Mukhtyar Singh R/O Tapyal, Ghagwal.
19. Des Raj S/O Milkhi Ram R/O Sinder, Bishnah.
20. Ashok Kumar S/O Ram Dess R/O Bigwan, Barnati
21. Dharam Pal S/O Charan Dass R/O Naryanpur, Barnati.
22. Rajneet Kumar S/O Chaman Lal R/O Bigwan, Barnati.
23. Joginder Singh R/O Barwal, Barnati.
24. Satpal, S/O Dhani Ram R/O Saktachuk, Barnoti.
25. Chuni Lal S/O Chaine Ram R/O Pathwal, Hiranagar.

Through: Mr. Pranav Kohli, Sr. Advocate with
Mr. Farhan Mirza, Advocate.

**CORAM: HON'BLE MR. JUSTICE M A CHOWDHARY, JUDGE
HON'BLE MR. JUSTICE MOHD. YOUSUF WANI, JUDGE**

JUDGMENT

Per: Chowdhary-J

1. The review petitioners seek review of the judgment/order dated 04.03.2025 passed in WP(C) No.249/2025 titled 'State (Now UT) of J&K & Ors. Vs. Sanjeev Kumar & Ors.' by a Division Bench of this Court, upholding the judgment/order dated 02.05.2024 passed by Jammu Bench of CAT, in TA No.61/1636/2020.
2. Before we advert to the grounds for review urged by the review petitioners, we deem it necessary to give few background facts, leading to the filing of this review petition.
 - 2.1 The respondents herein claimed to have been engaged as Daily Rated Workers in the Rural Development Department prior to coming into force

- of SRO 64 of 1994 dated 24.03.1994; that they completed seven years of continuous service and sought regularization of their service in terms of SRO 64 of 1994 by filing a Writ Petition bearing WP(C) No.3214/2019 in this Court, in which, the Court while issuing notice to the respondents directed them to consider the claim of the respondents having regard to the recommendation made by the Empowered Committee under Rules, during notice period.
- 2.2 On setting up a Bench of Central Administrative Tribunal, Jammu, Writ Petition was transferred to the CAT, on 15.07.2020, where it was renumbered as Transferred Application (TA) No.61/1636/2020; that in response to the directions given by the Court, Administrative Department took up the case of the respondents with the Finance Department; that the Empowered Committee in the Finance Department considered the case of the respondents in its 8th meeting held on 26.09.2016 and it was intimated that the respondents having being engaged as Casual Labourers initially and are not eligible for regularization in terms of SRO 64 of 1994. The learned Tribunal vide order dated 02.05.2024 directed the petitioners herein to accord consideration to the regularization of applicants-respondents herein, having rendered more than 07 years of continuous service as Daily Rated Wagers in terms of SRO 64 of 1994.
- 2.3 Against the judgment/order dated 02.05.2024 passed by the learned Tribunal, petitioners filed WP(C) No.249/2025 in this Court and the said writ petition also came to be dismissed vide judgment/order dated 04.03.2025 by a Division Bench of this Court. Feeling further aggrieved of the judgment/order dated 04.03.2025 passed in the WP(C) No.249/2025, the petitioners have sought review of the same in the instant review petition.

3. Review Petitioners have sought review of the judgment/order dated 04.03.2025 passed in WP(C) No.249/2025 asserting therein that this Court had decided the Writ Petition only on the stand of the respondents herein without giving sufficient opportunity to the petitioners herein, to project their stand; that there are sufficient errors apparent on the face of impugned judgment/order, as such, there are sufficient reasons which require review of the same; that the grounds raised seeking review of the impugned judgment are that the respondents had no right to be regularized or get absorbed having been engaged as Casual Labourers and that too without following any procedure prescribed under law having been engaged in utter violation of the constitutional provisions; that the respondents were working as part-time workers, therefore, they were not engaged against any sanctioned posts in the offices, where they were working as part-time workers, as such, their services cannot be regularized; that the Court had not considered the fact that the respondents namely Shakeel Ahmed, Bharat Singh and Mohd. Ishaq being minors at the time of their engagement and the respondents namely Des Raj, Satpal, Dharam Pal and Bharat Singh did not possess the necessary educational qualification at the time of their engagement and even now, required in terms of SRO 64 of 1994, as such, they are not eligible for regularization in terms of Rule 4 of the aforesaid SRO; that the Court while passing the judgment sought to be reviewed had not appreciated the fact that the Empowered Committee had already considered the claim of the respondents and rejected the same and this aspect has been overlooked by the Central Administrative Tribunal as well as this Court; that under judicial review, court has no right to direct the government to review the policy of appointment as judicial review is not permissible in the administrative matters; that the respondents herein did not place on record any documentary proof like engagement orders/ re-

engagement orders issued by the competent authorities, documentary evidence of their continuity without any break, to sufficiently establish that they have been in continuous service of the department, in order to make them eligible for regularization in terms of Rule 4 of SRO 64 of 1994.

04. The respondents, *ex adverso*, raised the preliminary objections with regard to the maintainability of the review petition, against the provision of Order XLVII Rule 1 of CPC as the petitioners have introduced new grounds, which cannot be made available to the petitioners as they cannot be allowed to argue new grounds/facts, that could have been presented earlier and that the review petitions are limited to cases where there is an error apparent on the face of record; that review petition cannot be used as a tool of appeal in disguise, to re-argue the merits of the case by urging fresh grounds; that the review petition is also not maintainable in view of the facts, which can be described as a *suggestio falsi suppressio veri* and that the review petition deserves outright dismissal on these counts; that the writ petition in which the order sought to be passed had been filed against the judgment passed by the CAT, Jammu in TA No.1636/2020 on the grounds which had already been considered by the Tribunal and this Court, while adjudicating upon the writ petition, particularly in view of the facts that this Court had adjudicated upon the writ petition upholding the order of the Tribunal as the issues raised in the writ petition had already been dealt with. It was prayed that Review Petition, being misconceived, may be rejected.
05. Mr. S. S. Nanda, learned Sr. AAG appearing for the review petitioners, while reiterating the grounds taken in the review petition, argued that the respondents, having been engaged as casual labourers without following prescribed procedure, in utter violation of the constitutional provisions, are

not entitled to be regularized and relied upon the law laid down by the Apex Court in cases titled '**Secretary, State of Karnataka & Ors. Vs. Umadevi & Ors.**' reported as (2006) 4 SCC 1 and '**A. Umarani Vs. Registrar Cooperative Societies**' reported as (2004) 7 SCC 112 wherein it has been laid down that the employees engaged on daily wages or casual basis without following due procedure of law, are not entitled to regularization. He further argued that the Court, while passing the judgment sought to be reviewed, had not considered that some of the respondents had not attained the age of majority and some of the respondents did not possess the necessary educational qualification at the time of their engagement, as such, on both counts of age as well as qualification, those respondents cannot be considered eligible for regularization in terms of Rule 4 of SRO 64 of 1994.

06. Mr. Nanda has further argued that the Court had not appreciated the fact that the Empowered Committee had already considered the claim of the respondents and rejected the same and in view of the law laid down by the Apex Court in various cases, it is settled law that Court has no authority to direct the government to review the policy of appointment in judicial review as the Court cannot interfere in the administrative matters; and that in absence of regular sanctioned posts, the Court cannot direct to create one. It was finally prayed that the judgment sought to be reviewed be kindly reviewed and grant the relief as prayed for in the writ petition.
07. Mr. Kohli, learned senior counsel appearing for the respondents, argued that the grounds taken by the review petitioners in their objections before the Tribunal/Court that the petitioners were never engaged as daily rated workers but were engaged as casual labourers and that they were not entitled to regularization in terms of SRO 64/1994, this Court had dealt

with the issue by placing reliance upon the judgment passed by the Division Bench of this Court in case titled '**State of J&K Vs. Mushtaq Ahmed Suhail and Ors.**' reported as **2013 SLJ 1974** and also a recent judgment dated 19.03.2024 of this Court in case titled **Ghar Singh Vs. University of Jammu & Ors. (SWP No.1611/2016)** directing the respondents to accord consideration to the regularization of the applicants having rendered more than 07 years of continuous service as Daily Wagers, in terms of SRO 64/1994.

08. Mr. Kohli further brought to the notice of this Court that the review petitioners in their writ petition wherein the judgment sought to be reviewed had been filed, on two grounds; viz.

- i) that the case of the respondents herein is in violation of Article 14, 15 and 16 of Constitution of India as law laid down by the Hon'ble Supreme Court of India in case titled Secretary State of Karnataka Vs. Uma Devi and Ors.; and
- ii) that the respondents herein were engaged as Casual Workers/Labourers and not Daily Rated Workers, thus, they are not entitled to regularization in terms of SRO 64/1994;

It is imperative to state here that both these grounds have been dealt with firstly by the learned Tribunal while passing judgment/order dated 02.05.2024 and thereafter, by this Court vide judgment/order dated 04.03.2025, upholding the judgment passed by the Tribunal, he emphasized.

09. He further argued that with the non-compliance of the judgment, a contempt petition was filed before the Jammu Bench of CAT for enforcement of the judgment and the Tribunal vide order dated 23.04.2025 directed the implementation of the judgment, failing which, salary of the respondents was ordered to be attached on the next date of hearing; and

that this order pinched the review petitioners, which led them to file the review petition, by taking new grounds which were never part of the writ petition against the judgment passed by the Tribunal.

10. Mr. Kohli lastly argued that Order VI Rule 2 of CPC deals with the pleadings, which are material facts, on which, issues can be raised under Order XIV Rule 1 of CPC and that the plea of having no requisite qualification not having been raised before the Hon'ble Tribunal as well as Writ Court cannot be allowed to be raised for the first time in the review petition and that there was no error apparent on the face of record so as to warrant any interference by this court while exercising review jurisdiction and prayed that the petition be dismissed.
11. Heard learned counsel appearing for the parties, considered the rival submissions and also perused the record.
12. It is well settled that parties are not entitled to seek a review of a judgment merely for the purpose of re-hearing and fresh decision of the case. The normal principle is that a judgment pronounced by the Court is final, and departure from that principle is justified only when circumstances of a substantial and compelling character make it necessary to do so. Under Order XLVII Rule 1 of CPC, a judgment may be open to review, *inter alia*, if there is a mistake or an error apparent on the face of record and an error which is not self-evident and has to be detected by a process of reasoning, can hardly be said to be an error apparent on the face of record justifying the Court to exercise its power of review under Order XLVII Rule 1 of CPC. In exercise of this jurisdiction, it is not permissible for an erroneous decision to be 're-heard and corrected'. It must be remembered that a review petition has a limited purpose and cannot be allowed to be 'an appeal in disguise'.

13. The Apex Court in a bunch of review petitions vide judgment dated 31.10.2023 with lead case titled ‘Sanjay Kumar Agarwal Vs. State Tax Officer (1) and another’ reported as **(2024) 2 Supreme Court Cases 362**, after a survey of the law laid down in various judgments with regard to scope of review petition, enumerated the gist of the provision of Review, in para 16, which is reproduced as under:-

“16. The gist of the afore-stated decisions is that: -

- (i) A judgment is open to review inter alia if there is a mistake or an error apparent on the face of the record.
- (ii) A judgment pronounced by the Court is final, and departure from that principle is justified only when circumstances of a substantial and compelling character make it necessary to do so.
- (iii) An error which is not self-evident and has to be detected by a process of reasoning, can hardly be said to be an error apparent on the face of record justifying the court to exercise its power of review.
- (iv) In exercise of the jurisdiction under Order 47 Rule 1 CPC, it is not permissible for an erroneous decision to be “reheard and corrected.”
- (v) A Review Petition has a limited purpose and cannot be allowed to be “an appeal in disguise.”
- (vi) Under the guise of review, the petitioner cannot be permitted to reargue the questions which have already been addressed and decided.
- (vii) An error on the face of record must be such an error which, mere looking at the record should strike and it should not require any long-drawn process of reasoning on the points where there may conceivably be two opinions.
- (viii) Even the change in law or subsequent decision/ judgment of a co-ordinate or larger Bench by itself cannot be regarded as a ground for review.”

14. Taking recourse to the aforesaid observations made by the Apex Court, the case projected by the review petitioners is required to be considered. On an examination of the Writ record, it is found that the order passed by the Hon’ble CAT in TA No.1636/2020, came to be challenged in WP(C)

No.249/2025, in which judgment/order passed by the Division Bench is sought to be reviewed. The review petitioners in their objections to the earlier WP(C) No.3214/2019, which on its transfer to the CAT and registered as T.A. No.61/1636/2020, has pleaded that the review petitioners herein had been directed to consider the case of the respondents herein, for their regularization in terms of SRO 64 dated 24.03.1994 with a further direction to consider them retrospectively from the date they had completed their seven years of service as Daily Wagers in the department with all monetary benefits. The review petitioners herein, as respondents before the Tribunal, had opposed the plea of the respondents herein on the ground that they were initially engaged as Casual Labourers and are, therefore, not eligible for regularization in terms of the aforesaid SRO. They denied the engagement of the applicants as Daily Wagers and claimed that Empowered Committee in its 8th meeting held on 26.09.2016 found them ineligible for regularization in terms of SRO 64/1994, having been engaged as Casual Labourers only. The Tribunal vide judgment dated 02.05.2024, which was upheld by the Division Bench of this Court, while relying upon the judgment in case titled '**State of J&K Vs. Mushtaq Ahmed Suhail & Ors.**', reported as **2013 SLJ 1974** and a recent judgment dated 19.03.2024 of this Court in case titled '**Ghar Singh Vs. University of Jammu & Ors. (SWP No.1611/2016)**', held that even the 'casual labourers' being entitled to get daily wages, are also entitled to regularization in terms of aforesaid SRO.

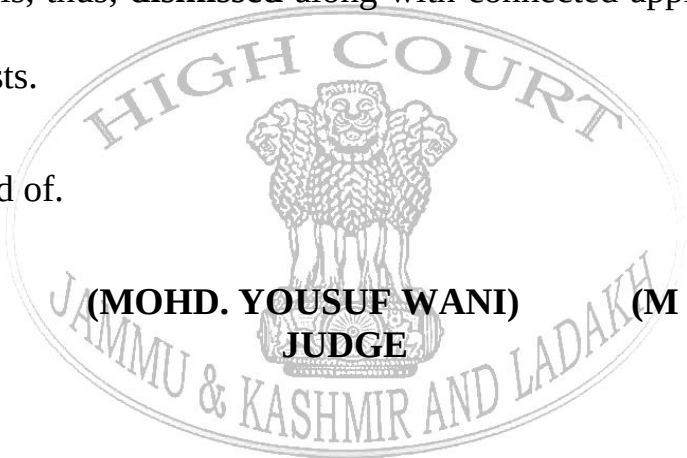
15. It is, thus, clear that the contention of the review petitioners before the Tribunal was two folds viz. i) that the respondents had not been engaged as Daily Wagers, but as Casual Labourers; and ii) that the Empowered Committee had not approved their names for regularization on this count

- only. The same contentions were raised by the review petitioners in their Writ Petition and which was dealt with in the judgment passed in the writ petition holding that the respondents herein are entitled to be regularized as has been rightly concluded by the learned CAT. The contention that has been raised by the review petitioners now in this review petition that some of the respondents herein, being minors, could not have been engaged as Casual Labourers and some of them had no requisite qualification. Both these contentions had neither been raised before the CAT nor before the Writ Court and it does not lie in the mouth of the review petitioners now to raise such a plea before this Court.
16. The next contention of learned counsel for the review petitioners that in view of '**Secretary, State of Karnataka & Ors. Vs. Umadevi & Ors.**' reported as **(2006) 4 SCC 1** wherein the Apex Court had held that 'daily wagers or temporary employees' cannot claim permanent absorption in the absence of statutory Rules providing such absorption. However, in view of the subsequent judgments of the Apex Court in cases titled **Jaggo Vs. Union of India (UOI) & Ors.** reported as **AIR 2025 SC 296**; and **Sripal & Ors. Vs. Nagar Nigam, Ghaziabad** reported as **(2025) INSC 144**, while discussing the law laid down in Uma Devi's case had taken a more pragmatic view by holding that **Uma Devi** cannot serve as a shield to justify exploitative engagements persisting for years without the employer undertaking legitimate recruitment. It had been further held that engaging workers on a temporary basis for extended periods, especially when their roles are integral to the organization's functioning, not only contravenes international labour standards but also exposes the organization to legal challenges and undermines employee's morale.

17. Having regard to the discussion made herein above in the preceding paras, we are of the considered opinion that the pleas raised by the review petitioners in this review petition had not been raised in their pleadings before the Tribunal or before the Division Bench in the writ jurisdiction, as such, those pleas cannot be raised in the review petition, in view of the limited scope for review. As discussed above, the Court while considering the review petition cannot expand consideration beyond the pleadings raised earlier. It appears that the review-petitioners want this Review Petition be heard as an Appeal and they cannot be allowed to do so under the guise of Review Petition.

18. Viewed thus, the review petition filed by the review petitioners is found to be devoid of any merit and substance and is held liable to be rejected. The petition is, thus, **dismissed** along with connected application(s). No order as to costs.

19. Disposed of.



Jammu
11.07.2025
Narinder

Whether order is speaking? **Yes**
Whether order is reportable? **Yes**