

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

WP(C) No.1644/2025

Reserved on: 10.09.2025
Pronounced on: 18.09.2025

1. Union Territory of J&K through its Commissioner/
Secretary to Govt. School Education Department,
Civil Secretariat, Jammu / Srinagar.
2. Director, School Education Department, Jammu
3. Chief Education Officer, Kathua.
4. Zonal Education Officer, Marheen, Kathua.

...Petitioners(s)

Through:- Mr. Sumeet Bhatia, GA

Versus

Roshan Din S/O Ilam Din Aged 50 Yrs R/O Chack
Wazir Labjoo, Tehsil Mahreen District Kathua ...Respondent(s)

Through:- Mr. Mohsin Bhat, Advocate

Coram: HON'BLE MR. JUSTICE SANJEEV KUMAR, JUDGE
HON'BLE MR. JUSTICE SANJAY PARIHAR, JUDGE

JUDGMENT

Sanjeev Kumar J

1. The Union Territory of Jammu & Kashmir along with three others are before us invoking extraordinary writ jurisdiction of this Court vested under Article 226 of the Constitution of India to throw challenge to an order and judgment dated 23rd December, 2024 passed by the Central Administrative Tribunal, Jammu Bench, Jammu [“the Tribunal”] in OA No.1830/2021 titled *Roshan Din v. UT of J&K and others*, whereby the Tribunal has, by a writ of certiorari, quashed the order

No.CEOK/5352-56 dated 29th October, 2021 passed by the Chief Education Officer, Kathua and directed the petitioners to take the respondent back in service immediately to enable him to perform his duties as general line teacher, which he was performing before issuance of the order impugned in the OA.

2. The impugned judgment is challenged by the petitioners on multiple grounds. However, before we take up the grounds of challenge for consideration, we deem it appropriate to take note of few relevant facts leading to the filing of this petition.
3. Vide order dated 23rd July, 2004 passed by the Zonal Education Officer, Marheen, the respondent was engaged as an Educational Volunteer (EV) under Sarva Shiksha Abhiyan in EGS Centre, Gujar Basti, Sprail Pain. Subsequently, on up-gradation of EGS Center to the level of Primary School in the year 2008, the respondent, who was working as EV, was converted into Rehbar-e-Taleem (Ret) and posted in Primary School, Gujar Basti, Sprail Pain, Marheen. This was done by the Zonal Education Officer concerned vide order dated 24.11.2008.
4. On completion of five years' continuous service as Ret, the respondent was regularized as General Line Teacher in terms of an order dated 21.11.2013. In the year 2018, the State Administrative Council took a decision for creation of cadre of Teachers Grade-II and Teachers Grade-III under SSA and, accordingly, in terms of order dated 20-Edu of 2019 dated

22.01.2019, all the graduate Regularized Rehbar-e-Taleems (RRets) were converted into teachers grade-II and similarly, vide order dated 12.09.2019 undergraduate RRets were converted into teacher grade-III.

5. With a view to converting the services of the respondent, who was an undergraduate RRet into teacher grade-III, document verification was undertaken by the petitioners. During verification, it came to the notice of the petitioners that the respondent had submitted 10+2 pass marks card from National Institute of Open Schooling under Roll No. 16001473030 for session April, 2009 at the time of his conversion from EV to Ret, which, upon verification from the concerned Institute, was found to be fake. During verification, it also came to be revealed that the respondent had not cleared the English subject of 10+2 and, thus, did not possess the qualification of 10+2 at the time of his conversion as Ret. The marks card downloaded from the website of Indian Institute of Open Schooling in reference to the respondent under Roll No.16001473030 clearly showed that the respondent had failed English subject in the examination session April-2010.

6. The report prepared by the Chief Education Officer, Kathua with regard to the verification of the qualification of the respondent was submitted to the Director, School Education, Jammu and upon approval by the latter, the services of the respondent were

terminated by the Chief Education Officer, Kathua vide order No.CEOK/5352-56 dated 29.10.2021. It is this order, which was called in question by the respondent in OA No.1830/2021.

7. The order of his termination was challenged by the respondent primarily on the ground that the same was passed without holding an enquiry and without giving the respondent an opportunity of being heard. The OA was resisted by the petitioners by filing reply affidavit in which a categorical stand was taken by the petitioners that the marks card of 10+2 pass submitted by the respondent at the time of his conversion from EV to Ret was fake and fabricated in which it was shown that the respondent had cleared all the subjects of 10+2 in academic session 2009, whereas, on online verification, it was found that the respondent had given examination for academic session, 2010 and had not cleared the subject of English. It is submitted that confronted with the aforesaid position, the respondent sat in the secondary examination again and cleared all the subjects including English in the year 2021, as is evident from the marks card of Secondary School Examination issued by the Institute of National Open Schooling on 23rd July, 2021.

8. The Tribunal, having considered the rival contentions and gone through the material on record, came to the conclusion that the petitioners had neither conducted any formal enquiry into the charge of forgery of 10+2 marks card nor did they provide any

opportunity of being heard to the respondent before terminating his services. The Tribunal held that the enquiry, as envisaged under Rules 33 and 34 of the J&K Civil Services (Classification, Control and Appeal) Rules, 1956 was sine qua non for passing an order of dismissal of a permanent government employee like the respondent.

9. Heard learned counsel for the parties and perused the material on record.
10. There does not seem to be any dispute with regard to the fact that the respondent came to be converted from EV to Ret vide order dated 24.11.2008 on the basis of his qualification i.e. 10+2. With a view to get the benefit of appointment as Ret, the respondent had submitted a marks card of 10+2 examination purportedly obtained by him from the National Institute of Open Schooling on 09.06.2009.
11. As per the marks card submitted, the respondent was shown to have qualified all the subjects of 10+2 examination conducted by the National Institute of Open Schooling for academic session 2009. It is on the basis of this certificate, he came to be regularized as General Line Teacher vide order dated 21st November, 2013 issued by the Zonal Education Officer concerned. It was only in the year 2018, when pursuant to a decision taken by the State Administrative Council bearing No.166/22/2018 dated 07.12.2018, two cadres of RRets were

created i.e. teachers grade-II and teachers grade-III and verification of documents of those required to be so converted was undertaken by the petitioners.

12. During the course of verification of the documents, it came to light that the respondent had submitted a false and fabricated marks card of 10+2 pass whereas he had failed to qualify the English paper. The marks card of secondary school examination session April 2010, which was available on official website of the Institute spilled the beans. It clearly proved beyond any shadow of doubt that marks cards of (10+2) examination produced by the respondent was completely fake and manufactured. The respondent had taken the secondary school examination in the year 2010 and, therefore, could not have been issued marks card of having passed the examination in the year 2009. Faced with the aforesaid position and apprehending that he may lose his appointment, the respondent appeared in the 10+2 examination and was declared pass, as is evident from the marks card issued by the National Institute of Open Schooling on 23.07.2021.

13. From the conduct of the respondent, it is evident that he did not contest the allegation of the petitioners that he was not 10+2 pass at the time of his conversion from EV to Ret and that the marks certificate purportedly obtained by him from National Institute of Open Schooling in the year 2009 was fake and fabricated. The

respondent, however, chose to appear in the said examination once again and after qualifying the same submitted a fresh marks card obtained in the year 2021.

14. In view of this admitted position, it does not lie in the mouth of the respondent to say that he has been seriously prejudiced or that affording him an opportunity of being heard would have made difference. It also needs to be taken note of that the order dated 21.11.2013 passed by the Zonal Education Officer, Marheen regularizing the services of the respondent as General Line Teacher clearly contains a note that in case any document produced by the candidate is found fake or false even after regularization as General Line Teacher, he/she shall be terminated without serving any further notice. It is, thus, quite clear that the regularization of the respondent as General Line Teacher was subject to verification of his documents.
15. Since the document of 10+2 marks card submitted by the respondent was found to be fake and false, as such, the respondent was bound to lose the benefit of regularization of his services as teacher. A disciplinary enquiry or for that matter, any other enquiry would be required only, if the facts constituting misconduct attributed to an employee are disputed.
16. In the instant case, the respondent by sitting in the 10+2 examination in the year 2021 and getting a fresh marks card of having qualified that examination in the year 2021, has explicitly

admitted that his earlier marks card was not genuine. If that be the clear position emerging, holding of an enquiry or giving opportunity of hearing to the respondent would be a useless formality.

17. It hardly needs any emphasis that the principles of natural justice have undergone a substantial change in the recent years. Useless formality theory received consideration of the Hon'ble Supreme Court in **M.C.Mehta v. Union of India, (1999) 6 SCC 237**, in which it was clearly observed that the plea of breach of natural justice cannot be raised in a case where the facts are admitted and are beyond any dispute. It was held that if serving of notice on the applicant claiming breach of natural justice is not going to change the ultimate result, adherence to the principles of natural justice would be a useless formality and not required to be adhered to.

18. In the instant case, fraud played by the respondent for obtaining appointment as Ret/Teacher is clearly established by the conduct of the respondent having sat in 10+2 examination in the year 2021 and obtaining a fresh marks card of having passed 20+2 from National Institute of Open Schooling. 2009 marks card submitted by the respondent is not available in records of the Institute rather under the same roll number, a marks card showing respondent having failed in English subject for the session April, 2010 is available on the official website of the

Institute. Needless to reiterate that fraud vitiates every solemn act. Fraud and justice never dwell together.

19. We have no manner of doubt that in the instant case, the respondent was guilty of committing a fraud by submitting a false and fabricated marks card at the time of his conversion/appointment as Ret. When the respondent was confronted by the petitioners that, upon online verification of his marks card from the concerned educational institute, he has been found to have failed in English subject that, too, in the examination session April, 2010, the respondent did not contest or dispute the result of verification and rather submitted himself to the 10+2 examination to get a fresh marks card of having passed 10+2.
20. In the face of such a position, there was hardly any need to conduct any disciplinary enquiry, more particularly, when the very order under which he was regularized as General Line Teacher contained a stipulation that regularization of the respondent as General Line Teacher was subject to verification of his documents and that if any of the documents was found to be fake or forged, he would lose his appointment.
21. Viewed from this background, we are of the considered opinion that no disciplinary enquiry, as envisaged under Rules 33 and 34 of the J&K Civil Services (Classification, Control and Appeal) Rules, 1956 was called for nor any opportunity of being heard

given to the respondent would have yielded the result different from the termination of his services by the petitioners.

22. For all these reasons, we find merit in this petition and the same is, accordingly, allowed. Impugned judgment and order passed by the Tribunal is set aside and resultantly, the OA is dismissed.

(Sanjay Parihar)
Judge

(Sanjeev Kumar)
Judge

JAMMU
18.09.2025
Vinod,PS

Whether the order is speaking : Yes
Whether the order is reportable: Yes

