

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

**WP (C) No. 2351/2025
CAV No. 1892/2025**

1. UT of J & K through Applicant(s)/Petitioner(s)
Commissioner/Secretary to Govt.,
Floriculture, Gardens & Parks Department,
Civil Secretariat, Jammu-180001.
2. Director,
Floriculture, Gardens & Parks Department,
Jammu-180006.

Through :- Mr. Suneel Malhotra, GA

v/s

1. Kuldeep Raj, S/o Munshi Ram, ...Respondent(s)
R/o H. No. 29, Old Janipur, Jammu.
2. Joginder Lal, S/o Girdhari Lal,
R/o Village Karloop, Jammu.
3. Rajesh Kumar, S/o Suraj Prakash,
R/o Village Mawa Bhrama, Akhnoor, Jammu.
4. Sushil Kumar, S/o Krishan Chand,
R/o Village Patta, Udampur.
5. Mulk Raj Parihar, S/o Roshan Lal,
R/o Dachhan, Kishtwar.
6. Chaman Lal, S/o Munshi Ram,
R/o Village Rakh Nagwani, Jammu.
7. Vijay Kumar Saproo, S/o Sham Lal Saproo,
R/o Durga Nagar, Jammu.
8. Suram Chand, S/o Chanu,
R/o Ward No. 7, Udampur.
9. Vijay Kumar Sharma, S/o Sansar Chand,
R/o Village Chak Patyali, Jammu.
10. Khursheed Ahmed, S/o Ghulam Hussain,
R/o Village Village Mori, Bonjwah, Kishtwar.
11. Sushil Kumar Bhat, S/o Bansi Lal,
R/o Muthi, Jammu.
12. Tilak Raj, S/o Uttam Chand,
R/o Mandi, Dansal, Samba.
13. Shokat Ali, S/o Lal Hussain,
R/o Surankote, Poonch.
14. Mohammad Aslam, S/o Lal Mohammad,
R/o Jawahar Nagar, Rajouri.

15. Mohammad Shabir, S/o Makhna,
R/o Koteranka, Rajouri.
16. Jameel Ahmed, S/o Noor Hussain,
R/o Thanamandi, Rajouri.
17. Mohammad Javed Iqbal, S/o Shah Mohammad,
R/o Ward No. 9, Rajouri.
18. Ghulam Rasool, S/o Abdul Samad,
R/o Ward No. 7, Poonch.
19. Satish Kumar Bhat, S/o Nathi Ji Bhat,
R/o Muthi Camp, Jammu.
20. Zakir Hussain, S/o Akhter Hussain,
R/o Ward No. 1, Doda.
21. Majid Alyas, S/o Mohammad Sabir,
R/o Ward No. 3, Doda.
22. Mushtaw Ahmed, S/o Ghulam Nabi,
R/o Shaheedi Mohalla, Kishtwar.
23. Shabir Ahmed, S/o Mohammad Abdullah,
R/o Link Road, Kishtwar.
24. Mohammad Iqbal Malik, S/o Ghulam Rasool,
R/o Marwah, Kishtwar.
25. Adil Hussain, S/o Ghulam Hussain,
R/o Village Nagam, Banihal.
26. Mohammad Tariq Sheikh, S/o Ghulam Din,
R/o Loran Mandi, Poonch.
27. Mulkh Raj, S/o Banarsi Lal,
R/o R S Pura, Jammu.
28. Mukesh Kumar, S/o Jagdish Raj, सत्यमेव जयते
R/o Village Garladore, Marh, Jammu.
29. Mohammad Khalid, S/o Lal Mohammad,
R/o At present Gujjar Nagar, Jammu.

Through :- Mr. Sudesh Sharma, Advocate

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

ORDER (ORAL)
10.09.2025

CAV No. 5439/2025

- 1) Heard learned counsel for the caveators.
- 2) *Caveat stands discharged.*

WP (C) No. 2351/2025

1. Impugned in this petition filed under Article 226 of the Constitution of India by the UT of J & K is an order and judgment dated 03.03.2025 passed by the Central Administrative Tribunal, Jammu Bench, Jammu [**“the Tribunal”**] in OA No. 706/2021 titled *“Kuldeep Raj & Ors. Vs. UT of J & K & Anr.”* whereby, the learned Tribunal has allowed the OA of the respondents and held them entitled to the benefit of regularization of their services retrospectively w.e.f. 30.12.2011 i.e. the date of completion of their continuous seven years’ service on contractual basis as Gardeners (Malies) in Floriculture Department.
2. The impugned judgment is challenged by the petitioners, primarily on the ground, that the Tribunal has not appreciated that in view of first proviso to Clause (v) of Section 5 of the J & K Civil Services (Special Provisions) Act, 2010 [**“the Act of 2010”**], the respondents were entitled to the regularization of their services only from the date of issuance of formal order of regularization, irrespective of the fact, that they may have completed more than seven years of service on the appointed date or thereafter.
3. **Heard learned counsel for the parties and perused the material available on record.** Admittedly, the respondents who were working as Gardeners (Malies) on contractual basis against clear vacancies completed seven years’ continuous service on 30.12.2011 and, therefore, attained the eligibility to be regularized under the provisions of the Act of 2010. Apart from the other grounds raised by the respondents in support of the OA, it was specifically pleaded

that similarly situated Gardeners (Malies) who were engaged in the Directorate of Floriculture, Kashmir along with respondents on 30.12.2004 were given the benefit of regularization w.e.f. 25.10.2013. It was thus, a clear case setup by the respondents in the OA that the respondents being similarly situated with their counterparts working in Kashmir Division could not have been discriminated. This aspect of the matter has not been given due consideration by the Tribunal.

4. The Tribunal has allowed the OA only on the ground that the respondents acquired the right of regularization immediately on completing the continuous contractual service of seven years. We could have adverted to the argument of Mr. Suneel Malhotra, learned GA appearing on behalf of the petitioners that in the face of provisions of Section 5 (v) of the Act of 2010, the benefit of regularization can be given to the respondents only w.e.f. the date of their actual regularization and not from the date they completed their seven years of service. However, having regard to the fact that we find it a case of discrimination between two set of employees who are similarly situated who have been treated differently by the same department.
5. It is not in dispute that pursuant to the creation of 150 posts of Gardeners (Malies) by the Government vide Government Order No. 249-TSM of 2004 dated 06.12.2004, several candidates, both in Jammu Division and Kashmir Division came to be engaged as Gardeners (Malies) on contractual basis on 30.12.2004. All of them completed their seven years' continuous service on 30.12.2011.

However, the cases of the Gardeners (Malies) working in Kashmir Division came up for consideration before the empowered committee earlier and regularization orders in their favour were issued on 25.10.2013, whereas, in the case of respondents who were similarly placed, the regularization order was issued only on 14.08.2015.

6. We are, therefore, in agreement with the submissions made by learned counsel appearing on behalf of the respondents that the respondents are at least entitled to be regularized w.e.f. 25.10.2013.
7. For the foregoing reasons, **we allow this petition partially and hold the respondents entitled to their regularization w.e.f. 25.10.2013** i.e. when their counterparts engaged along with them on contractual basis in Kashmir Division came to be regularized, with all consequential benefits.
8. The judgment of the Tribunal is modified to the aforesaid extent.
9. ***Disposed of along with connected application(s), if any.***

(Sanjay Parihar)
Judge

(Sanjeev Kumar)
Judge

JAMMU
10.09.2025
Manan

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