

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

**Case No: LPA No. 184/2025
CM No. 5571/2025
CM No. 5572/2025**

Reserved on: 10.11.2025
Pronounced on: 20.11.2025
Uploaded on: 20.11.2025

Whether the operative part or full
Judgment is pronounced : **Full**

1. UT of Jammu & Kashmir
through Commissioner
Secretary to Government,
Home Department, J&K,
Jammu/Srinagar.
2. Director General of Police
(Prisons) J&K,
Jammu/Srinagar.
3. Superintendent District Jail,
Amphalla, Jammu

...Petitioner(s)/Appellant(s)

Through: Ms. Monika Kohli, Sr. AAG with Ms. Priyanka
Bhat, Assisting Counsel.

v/s

Nand Kumar Singh
S/O Shri Sukhal Singh,
R/O Village Paloura,
Tehsil and District Jammu.

.... Respondent(s)

Through: Mr. R.K.S. Thakur, Advocate

**CORAM: HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE RAJNESH OSWAL, JUDGE.**

JUDGMENT

PER OSWAL-J

1. The respondent-writ petitioner was engaged as Warder in the Prisons Department vide Order No.17 of 1997 dated 10.04.1997 issued by the then Additional Director General Prisons/Fire Services J&K, Jammu on consolidated monthly emoluments of Rs.1500/-. Prior to his engagement, five more ex-servicemen were engaged through different orders in the year 1995 and 1996. Vide Order No. 80 of 1998 dated 18.06.1998, five ex-servicemen were regularized as Warders by the then Additional Director Prisons/Fire Services, Jammu & Kashmir in the pay scale of Rs.3050-4910 subject to the confirmation by the Home Department. The Home Department did not confirm the regularization of the above-mentioned five ex-servicemen and aggrieved of their non-confirmation, those five ex-servicemen filed a writ petition bearing SWP No. 1234/2000 titled '*Parhlad Singh and others Vs. State and others*', which came to be disposed of vide judgment dated 30.11.2002 thereby directing the respondents therein to release their salary from the date of appointment of the petitioners therein in the pay scale in which they were appointed.
2. In compliance to the aforesaid directions of the learned writ Court, the services of those five ex-servicemen were regularized as Warders in the pay scale of Rs.3050-4910 vide Order No. 935 of 2002 dated 14.12.2002 from the date of issuance of Order No.80 of 1998 dated 18.06.1998.

3. When all five ex-servicemen and Mohd Asharaf, Manohar Singh and Mangat Ram, were regularized, the respondent-writ petitioner was not afforded similar treatment. Consequently, the respondent-writ petitioner filed a writ petition bearing SWP No.802/2002 wherein the then learned AAG submitted that the case of the respondent-writ petitioner was identical to that of petitioners in SWP No. 1234/2000 titled '*Parhlad Singh and others Vs. State and others*', accordingly, learned writ Court vide its order dated 06.08.2010 directed the appellants-respondents therein to consider the claim of the respondent-writ petitioner in terms of judgment rendered in SWP No. 1234/2000 titled '*Parhlad Singh and others Vs. State and others*' decided on 30.11.2002.
4. A proposal for the regularization of 71 employees of the Prisons Department, including the respondent-writ petitioner, was initially considered by the Empowered Committee of the Finance Department under the J&K Civil Services (Special Provisions) Act, 2010. However, the proposal was deferred due to certain deficiencies. Thereafter, the cases of 20 ad-hoc/contractual/consolidated employees, including respondent-writ petitioner were again referred to the Finance Department vide Office Memorandum (O.M.) dated 19.12.2013. Since the Finance Department's records were destroyed in the September 2014 floods, the necessary details of these 20 employees were re-submitted vide O.M. dated 25.03.2015. The Empowered Committee, in its meeting on 19.08.2015, cleared only seven cases and deferred the remaining 13 cases, including the case of respondent-writ petitioner. Subsequently, in its 55th meeting on

29.06.2016, the Committee reconsidered these cases and recommended their regularization, including the respondent-writ petitioner, subject to various conditions. Finally, the Director General of Police, Prisons Department, was intimated vide communication dated 29.11.2016 to furnish the required documents (original PRC and date of birth/qualification certificates, attested appointment orders, and complete posting details) for verification as to whether the respondent-writ petitioner fulfilled the regularization conditions.

5. In response thereto, respondent No.2 vide communication dated 20.12.2016 furnished the requisite information/documents/clarification. During the course of scrutiny of the documents of the respondent-writ petitioner, it was found that he was over aged by 02 years 01 month and 25 days at the time of his initial appointment, i.e., 10.04.1997 and as such, he did not fulfill the eligibility criteria for regularization in terms of Section- 6(1) of the J&K Civil Services (Special Provisions) Act, 2010, which prescribes that “the upper age limit as prescribed under rules, for entry into Government Service shall be relaxed, in case the adhoc or contractual or consolidated appointee is otherwise eligible for regularization under this Act; provided such appointee has crossed the age limit at the time of his regularization, but was within the prescribed age for appointment into the Government service at the time of his initial appointment as such or his age was relaxed by the competent authority at the time of his initial appointment. Accordingly, the claim of the respondent-writ petitioner for regularization as Warder was rejected in terms of Order No.1775-Home of 2017 dated 14.12.2017.

6. Aggrieved thereof, respondent-writ petitioner filed writ petition bearing SWP No. 36/2021 for quashing the Govt. Order dated 14.12.2017 issued by the appellant No.3 and for commanding the appellants to treat the respondent-writ petitioner to have been appointed as Warder in the Prisons Department in the pay scale of Rs.950-1500 (pre-revised) and Rs.3050-4910 (revised) with all consequential benefits or in the alternative, for regularization of his services with effect from 18.06.1998, when five ex-servicemen were regularised. In response to the writ petition, the appellants-respondents raised objections based on the identical grounds projected in the impugned order dated 14.12.2017.
7. Vide judgment dated 02.03.2024, learned writ Court allowed the writ petition preferred by the respondent-writ petitioner thereby directing the appellants-writ respondents to regularize the services of the respondent-writ petitioner as Warder w.e.f. 18.06.1998 when the writ petitioners of SWP No. 1234/2000 titled *Parhlad Singh and others Vs. State of J&K and others* were regularized with all the consequential benefits.
8. The appellants-writ respondents being aggrieved of the judgment dated 02.03.2024, through this intra-court appeal have assailed the same on the ground that the learned writ Court has not taken into consideration Rule 37(3) (Note-5) of the J&K Civil Service Regulations Volume-1 in its right perspective as the relaxed age limit of 48 years is applicable only for recruitment to the posts reserved for ex-servicemen and respondent-writ petitioner was engaged on contractual basis as Warder in the Prisons Department, but not against

the post reserved for ex-serviceman. A further contention is that the respondent-writ petitioner does not share a similar status with the petitioners in SWP No.1243/2000 titled *Parhlad Singh and others Vs. State of J&K and others*, as those five ex-servicemen were regularized pursuant to the order of the High Court in year 2002 only and their cases were not placed before the Empowered Committee constituted in terms of J&K Civil Services (Special Provisions) Act, 2010.

9. Heard learned counsel appearing for the parties and perused the record meticulously.
10. It needs to be noted that the case of the respondent-writ petitioner was required to be considered on the principle of parity qua the five ex-servicemen, who were regularized w.e.f. 18.06.1998, but his case was not examined by the appellants-writ respondents on the principle of parity and rather, Section 6(1) of J&K Civil Services (Special Provisions) Act, 2010 was relied upon by the appellants-writ respondents to reject the case of respondent-writ petitioner.
11. A perusal of order dated 06.08.2010 reveals that in the earlier writ petition preferred by the respondent-writ petitioner, the then learned AAG appearing for the appellants-writ respondents conceded that similar benefit, which is claimed by the respondent-writ petitioner has already been extended to the writ petitioners in SWP No. 1234/2000 titled "*Parhlad Singh and others Vs. State and others*" decided on 30.11.2002 and accordingly, the writ petition bearing SWP No.802/2008 preferred by the respondent-writ petitioner was disposed of with a direction to the appellants-writ respondents to consider the claim of the respondent-writ petitioner in terms of judgment passed in

SWP No.1234/2000 titled *Parhlad Singh and others Vs. State and others* decided on 30.11.2002 and if found similar and covered by the rules, consider grant of same benefit to him.

12. Though, learned Senior AAG appearing for the appellants-writ respondents contested the claim of respondent-writ petitioner for regularization on the ground of being over aged at the time of initial engagement as Warder, but has failed to establish before this Court that the respondent-writ petitioner's case was, in fact, not similar to that of the petitioners in SWP No. 1234/2000 titled *Parhlad Singh and others Vs. State and others*. Rather, the appellants-writ respondents themselves have stated in the appeal that the writ petitioners in SWP No. 1234/2000 were regularized only pursuant to the court directions. Given that those five ex-servicemen were regularized pursuant to High Court directions, the appellants-writ respondents cannot justify denying the respondent-writ petitioner the same benefits, when all of them were similarly situated. The appellants-writ respondents cannot at their sweet will choose to implement the similar directions in two different writ petitions in different manner. The differential treatment given to the respondent-writ petitioner, when compared to the petitioners in SWP No. 1234/2000, amounts to a clear violation of Article 14 of the Constitution of India and cannot be countenanced in law.

13. The respondent-writ petitioner's claim was rejected by the appellants-writ respondents on the ground of being overage by 02 years 01 month and 25 days at the time of his initial appointment/engagement i.e., 10.04.1997 as in terms of Section 6(1) of the J&K Civil Services

(Special Provisions) Act 2010, for regularization under the Act, the appointee must have met the prescribed age limit for government service at the time of initial appointment, or have secured an age relaxation from the competent authority at the time of initial engagement.

14. In paragraph No.4 of the writ petition filed by the respondent-writ petitioner, it was specifically pleaded that the applications were invited through Zila Sainik Board by the Prisons Department for filling up of the posts of Warders from the ex-servicemen and the respondent-petitioner being eligible also offered himself for appointment as Warder. The appellants-writ respondents have not disputed these facts.

15. In terms of SRO 302 dated 17.09.1990, the upper age limit prescribed for entry to Government service was 35 years which was extended to 37 years vide SRO 47 dated 29.01.1997 upto 31.12.1998. In terms of Rule 37(3) (Note-5) of J&K Civil Service Regulations, it is provided that the maximum age limit in respect of ex-servicemen for employment on any non-gazetted post and on the posts listed in Scheduled II of J&K Civil Service Regulations under State Government including Rajya Sainik Board, is 48 years, but this age limit of 48 years is applicable only for recruitment to the posts which are reserved for ex-servicemen. The appellants-writ respondents never raised the plea that the posts were not reserved for ex-servicemen before the learned writ Court and for the first time, has raised this plea before this Court. Now it is too late to raise this plea more particularly, when the appellants-writ respondents have not denied

that the posts were advertised for ex-servicemen by the Zilla Sainik Board, pursuant to which respondent-writ petitioner applied and was engaged. In that view of the matter, respondent-writ petitioner obviously was within the maximum age prescribed for ex-servicemen i.e. 48 years, at the time of his engagement as Warder in the year 1997.

16.Upon examining the judgment rendered by the learned Writ Court, we are satisfied that the issues involved have been correctly and comprehensively adjudicated by the learned writ Court, leaving no ground for interference by this Court.

17.In view of the foregoing discussion, the appeal is found to be devoid of merit and is, accordingly, **dismissed** along with the connected CM(s), if any.

Jammu
20.11.2025
Madan Verma-Secy

(Rajnesh Oswal)

Judge

(Arun Palli)

Chief Justice

Whether order is speaking?

Yes.

Whether order is reportable?

No.