

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

CJ Court

WP(C) No. 3351/2025

Reserved on: 17.12.2025
Pronounced on: 30.12.2025
Uploaded on: 30.12.2025

Whether the operative part or full judgment
is pronounced: Full judgment.

1. **UT of J&K** Th. Chief Secretary,
Government of J&K, Civil Secretariat,
Jammu
2. **Commissioner/Secretary to Govt.** Finance
Department, Government of J&K, Civil
Secretariat, Jammu
3. **Director Accounts and Treasuries,**
Finance Department, Civil Secretariat,
Jammu.
.....Appellant(s)/Petitioner(s)
4. **Deputy Commissioner (Stamps), Jammu**

Through: Ms. Monika Kohli, Sr. AAG.

Vs

Irfan Javed S/O Sh. Gulzar Ahmed Lone,
R/O Azmathad, Tehsil Thanamandi, District
Rajouri

..... Respondent(s)

Through: Mr. Rohit Kohli, Sr. Advocate with
Mr. Raghav Gaiind, Advocate for
respondent/caveator

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

JUDGMENT

1. The petitioners are aggrieved by the order dated 11.09.2024 passed by the
learned Central Administrative Tribunal, Jammu Bench (for short 'the

Tribunal') in Transferred Application No. 61/8783/2020, titled "*Irfan Javed vs. UT of J&K and others*", whereby the learned Tribunal has disposed of the Transferred Application by directing the petitioners to regularise the services of the respondent with all consequential monetary benefits, having regard to the observations made in the order, within a period of eight weeks.

2. In the year 2011, the respondent filed a writ petition, being SWP No. 1379/2011, which was later transferred to the Central Administrative Tribunal and renumbered as T.A. No. 61/8783/2020. Through the said writ petition, the respondent sought a direction to the petitioners to consider his case for regularization or permanent absorption to the post of Assistant Tehvildar. The respondent further prayed for issuance of a restraint order against the petitioners from terminating or otherwise disturbing his services, which he had held since 1999 and also sought payment of wages at par with regular employees by invoking the doctrine of "equal pay for equal work".
3. Respondent sought the aforesaid reliefs by asserting that he was initially appointed as Assistant Tehvildar in the Office of Deputy Commissioner (Stamps), Jammu vide order dated 22.03.1999 as a temporary arrangement for a period of 89 days or till a trained cashier was posted, whichever was earlier. Subsequently, the Deputy Commissioner (Stamps), Jammu-petitioner No. 4, vide communication dated 27.08.1999, requested the Director Accounts and Treasuries, Finance Department, Civil Secretariat, Jammu-petitioner No. 3 to clarify the position as to whether the respondent was required to be relieved from the post upon completion of

89 days or he could be allowed to continue till the post was filled up. In response thereof, the petitioner No. 3 intimated petitioner No. 4 that the respondent be allowed to continue on the said post till the post was filled up by the Service Selection Board. Accordingly, the respondent continued to discharge duties on the said post. The respondent further asserted that, upon the superannuation of Sh. Ghani Shyam Pandoh, Tehvildar, the charge of Tehvildar was handed over to him, as reflected in the communication dated 16.03.2004 and vide communication dated 21.10.2004, the Commissioner, Sales Tax requested the Principal Secretary to Govt., Finance Department, Civil Secretariat, Srinagar to sanction the deputation of three persons including the respondent to attend the training course in respect of security products printed by India Press and the method employed in detection of fake one at the India Security Press Nasik with effect from 25.10.2004 to 27.10.2004, pursuant where to the respondent was deputed and attended the said training programme. The respondent placed reliance on various instances to demonstrate that he had been continuously working with the petitioners as Assistant Tehvildar on consolidated basis and even the respondent figured at Serial No. 3612 in the list of staff prepared by the petitioners, wherein his designation was shown as Technical Assistant in the grade of Rs. 4000-6000. It was also asserted by the respondent that he had been also contributing towards General Provident Fund Account and drawing salary in the regular pay Scale, for which he placed on record the salary statement for the year 2010-11. The respondent further claimed to have approached petitioner No. 3 for regularisation of his services by way of a representation dated

19.01.2009. He also placed on record various communications and orders demonstrating his engagement as Assistant Tehvildar against a vacant post of Assistant Tehvildar. The respondent pleaded that he was fully eligible and entitled to regularisation under the provisions of the Jammu and Kashmir Civil Services (Special Provisions) Act, 2010 (for short the 'Act of 2010'), as Section 5 of the Act of 2010 provides for regularization of ad hoc, contractual or consolidated appointees, subject to fulfilment of the conditions that such appointment was made against a clear vacancy or post and he continued as such on the appointed day, possesses the requisite qualification and eligibility for the post at the time of initial appointment of ad hoc, contractual or consolidated basis and that no disciplinary or criminal proceedings are pending against him.

4. The petitioners, in their response to the Transferred Application, admitted the appointment of the respondent as Assistant Tehvildar vide order dated 22.03.1999 in the Office of Deputy Commissioner (Stamps), Jammu, however, it was stated that the appointment was made purely on temporary arrangement for a period of 89 days or till a trained cashier was posted by the concerned office, whichever was earlier. The appointment of the respondent was made against the post vacated on superannuation of Sh. Zaffar Iqbal, Cashier. The respondent, however, was allowed to continue as Assistant Tehvildar on further recommendations of Deputy Commissioner (Stamps). The petitioners have, in fact, admitted the continuance of the respondent as Assistant Tehvildar ever since his engagement. The petitioners have also admitted that after superannuation of the then Tehvildar Sh. Ghani Shyam Pandoh, the respondent was asked

to hold the charge of stamps store with effect from April, 2004. It was also stated by the petitioners that a committee was constituted by the Government vide Govt. Order dated 14.10.2009, wherein the Committee was authorised to examine the cases of the Adhoc/ Contractual/ Consolidated salaried employees working in various Government Departments. Accordingly, Joint Directors, Accounts and Treasuries Kashmir/Jammu were requested to furnish the cases of such employees working in the Offices/Treasuries of respective divisions. But the case of the respondent was not received from the Joint Director Accounts and Treasuries.

5. The learned Tribunal, vide impugned order, disposed of the T.A. in the manner indicated above.
6. The petitioners have assailed the order impugned on the ground that the respondent does not meet the definition of an “ad hoc”, “contractual” or “consolidated” appointee under the Act of 2010, as his appointment was purely on a temporary arrangement and was made without any formal recommendation from the competent authority, as such, the learned Tribunal by placing wrong reliance upon the Act of 2010, passed the order impugned. It is also contended that the Jammu and Kashmir Civil Services (Special Provisions) Act, 2010 was repealed under the J&K Reorganisation (Adaptation of State Laws) Order, 2020, but the learned Tribunal has not rightly considered this contention of the petitioners.
7. Heard learned counsel for the parties and perused the record.
8. From the pleadings of the parties, the following facts are admitted:

- i. That the respondent was appointed as Assistant Tehvildar vide order dated 22.03.1999 in the Office of Deputy Commissioner (Stamps), Jammu on temporary arrangement for 89 days or till the posting of a trained cashier against the post, whichever was earlier.
 - ii. That the respondent was allowed to work and continued as Assistant Tehvildar till further orders.
 - iii. That vide communication dated 29.10.1999, the Deputy Commissioner (Stamps) Jammu was requested that the respondent be allowed to continue on the said post till the post was filled up by the Service Selection Board.
 - iv. That the respondent has been working against a regular post.
 - v. That the Joint Directors, Accounts and Treasuries Kashmir/Jammu were requested to furnish the cases of such employees working in the Offices/Treasuries of the respective divisions for examining their cases for regularisation.
9. The first contention raised by the petitioners is that the respondent was not eligible for regularisation in terms of the Act of 2010, as he was appointed only on temporary basis.
10. Section 5 of the Act of 2010, which provides for regularisation of adhoc, contractual or consolidated appointees is extracted as under:

“5. Regularization of ad hoc or contractual or consolidated appointees-

Notwithstanding anything to the contrary contained in any law for the time being in force or any judgment or order of any court or tribunal, the ad hoc or contractual or consolidated appointees referred to in Section 3 shall be regularised on fulfilment of the following conditions, namely:-

- i. That he has been appointed against a clear vacancy or post;
- ii. That he continues as such on the appointed day;
- iii. That he possessed the requisite qualification and eligibility for the post on the date of his initial appointment on ad hoc or contractual or consolidated basis as proscribed under the recruitment rules governing the service or post;
- iv. That no disciplinary or criminal proceedings are pending against him on the appointed day; and
- v. That he has completed seven years of service as such on the appointed day;

Provided that the regularization of the eligible ad hoc or contractual or consolidated appointees under this Act shall have effect only from the date of such regularization, irrespective of the fact that such appointees have completed more than seven years or service on the appointed date or thereafter but before such regularization:

Provided further that any ad hoc or contractual or consolidated appointee who has not completed seven years service on the appointed day shall continue as such till completion of seven years and shall thereafter be entitled to regularization under this Act.

11. As per record, the respondent fulfils the eligibility criteria prescribed under Section 5 of the Act of 2010. Further in terms of letter dated 19.08.2014, wherein status of the respondent has been specifically mentioned as adhoc appointee, the Commissioner Commercial Taxes, J&K Srinagar had recommended the case of the respondent for regularisation. This communication was taken note of by the learned Tribunal in the order impugned, though the date of said communication has been wrongly mentioned as 19.08.2024.
12. In view of the above discussion, we find no merit in this contention of the petitioners and the same is accordingly rejected, more particularly, inasmuch as, the petitioners have failed to demonstrate as to how the

respondent was not entitled for regularisation under the provisions of the Act of 2010.

13. It would be profitable to take note of the latest pronouncement of the Hon'ble Supreme Court of India in "**Jaggo v Union of India and others, 2024 INSC 1034**", wherein it has been held as under:

“27. In light of these considerations, in our opinion, it is imperative for government departments to lead by example in providing fair and stable employment. 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 morale. By ensuring fair employment practices, government institutions can reduce the burden of unnecessary litigation, promote job security, and uphold the principles of justice and fairness that they are meant to embody. This approach aligns with international standards and sets a positive precedent for the private sector to follow, thereby contributing to the overall betterment of labour practices in the country.

(emphasis added)

14. Further, Hon'ble Supreme Court of India in **“Dharam Singh v. State of U.P.”, 2025 SCC OnLine SC 1735** has held as under:

“11. Furthermore, it must be clarified that the reliance placed by the High Court on Umadevi (Supra) to non-suit the appellants is misplaced. Unlike Umadevi (Supra), the challenge before us is not an invitation to bypass the constitutional scheme of public employment. It is a challenge to the State's arbitrary refusals to sanction posts despite the employer's own acknowledgement of need and decades of continuous reliance on the very workforce. On the other hand, Umadevi (Supra) draws a distinction between illegal appointments and irregular engagements and does not endorse the perpetuation of precarious employment where the work itself is permanent and the State has failed, for years, to put its house in order. Recent decisions of this Court in Jaggo v. Union of India⁴ in Shripal v. Nagar Nigam,

Ghaziabad⁵ and have emphatically cautioned that Umadevi (Supra) cannot be deployed as a shield to justify exploitation through long-term “ad hocism”, the use of outsourcing as a proxy, or the denial of basic parity where identical duties are exacted over extended periods. The principles articulated therein apply with full force to the present case. The relevant paras from Shripal (supra) have been reproduced hereunder:

“14. The Respondent on Umadevi (supra)² Employer places reliance to contend that daily-wage or temporary employees cannot claim permanent absorption in the absence of statutory rules providing such absorption. However, as frequently reiterated, Umadevi itself distinguishes between appointments that are “illegal” and those that are “irregular,” the latter being eligible for regularization if they meet certain conditions. More importantly, Umadevi cannot serve as a shield to justify exploitative engagements persisting for years without the Employer undertaking legitimate recruitment. Given the record which shows no true contractor-based arrangement and a consistent need for permanent horticultural staff the alleged asserted ban on fresh recruitment, though real, cannot justify indefinite daily-wage status or continued unfair practices.

15. It is manifest that the Appellant Workmen continuously rendered their services over several years, sometimes spanning more than a decade. Even if certain muster rolls were not produced in full, the Employer's failure to furnish such records-despite directions to do so-allows an adverse inference under well established labour jurisprudence. Indian labour law strongly disfavours perpetual daily-wage or contractual engagements in circumstances where the work is permanent in nature. Morally and legally, workers who fulfil ongoing municipal requirements year after year cannot be dismissed summarily as dispensable, particularly in the absence of a genuine contractor agreement. At this juncture, it would be appropriate to recall the broader critique of indefinite “temporary” employment practices as done by a recent judgment of this court in Jaggo v. Union of India³ in the following paragraphs:

“22. The pervasive misuse of temporary employment contracts, as exemplified in this case, reflects a broader systemic issue that adversely affects workers' rights and job security. In the private sector, the rise of the gig economy has led to an increase in precarious employment arrangements, often characterized by lack of benefits, job security, and fair treatment. Such practices have been criticized for exploiting workers and undermining labour standards. Government institutions, entrusted with upholding the principles of fairness and justice, bear an even greater responsibility to avoid such exploitative employment practices. When public sector entities engage in misuse of temporary contracts, it not only mirrors the detrimental trends observed in the gig economy but also sets a concerning precedent that can erode public trust in governmental operations.

25. It is a disconcerting reality that temporary employees, particularly in government institutions, often face multifaceted forms of exploitation. While the foundational purpose of temporary contracts may have been to address short-term or seasonal needs, they have increasingly become a mechanism to evade long-term obligations owed to employees. These practices manifest in several ways:

- **Misuse of “Temporary” Labels:** Employees engaged for work that is essential, recurring, and integral to the functioning of an institution are often labelled as “temporary” or “contractual,” even when their roles mirror those of regular employees. Such misclassification deprives workers of the dignity, security, and benefits that regular employees are entitled to, despite performing identical tasks.
- **Arbitrary Termination:** Temporary employees are frequently dismissed without cause or notice, as seen in the present case. This practice undermines the principles of natural justice and subjects workers to a state of constant insecurity, regardless of the quality or duration of their service.
- **Lack of Career Progression:** Temporary employees often find themselves excluded from opportunities for skill development, promotions, or incremental pay

raises. They remain stagnant in their roles, creating a systemic disparity between them and their regular counterparts, despite their contributions being equally significant.

- Using Outsourcing as a Shield: Institutions increasingly resort to outsourcing roles performed by temporary employees, effectively replacing one set of exploited workers with another. This practice not only perpetuates exploitation but also demonstrates a deliberate effort to bypass the obligation to offer regular employment.

- Denial of Basic Rights and Benefits: Temporary employees are often denied fundamental benefits such as pension, provident fund, health insurance, and paid leave, even when their tenure spans decades. This lack of social security subjects them and their families to undue hardship, especially in cases of illness, retirement, or unforeseen circumstances.””

12. We also note the Commission's affidavit filed in 21.04.2025 pursuant to the order of this Court dated 27.03.2025, wherein reference has been made to a supervening reorganisation in 2024, whereby the U.P. Higher Education Services Commission was merged into the U.P. Education Services Selection Commission and, by a Government Order of 05.07.2024, certain Group-C posts were sanctioned while Class IV/Driver requirements were proposed to be met through outsourcing. We must point out however, that supervening structural change cannot extinguish accrued claims or pending proceedings. The successor body steps into the shoes of its predecessor subject to liabilities and obligations arising from the prior regime. **More fundamentally, a later policy to outsource Class-IV/Driver functions cannot retrospectively validate earlier arbitrary refusals, nor can it be invoked to deny consideration to workers on whose continuous services the establishment relied for decades.**

13. As we have observed in both Jaggo (Supra) and Shripal (Supra), **outsourcing cannot become a convenient shield to perpetuate precariousness and to sidestep fair engagement practices where the work is inherently perennial. The Commission's further contention that the appellants are not “full-time” employees but**

continue only by virtue of interim orders also does not advance their case. That interim protection was granted precisely because of the long history of engagement and the pendency of the challenge to the State's refusals. It neither creates rights that did not exist nor erases entitlements that may arise upon a proper adjudication of the legality of those refusals.

14. The learned Single Judge of the High Court also declined relief on the footing that the petitioners had not specifically assailed the subsequent decision dated 25.11.2003. However, that view overlooks that the writ petition squarely challenged the 11.11.1999 refusal as the High Court itself directed a fresh decision during pendency, and the later rejection was placed on record by the respondents. In such circumstances, we believe that the High Court was obliged to examine the legality of the State's stance in refusing sanction, whether in 1999 or upon reconsideration in 2003, rather than dispose of the matter on a mere technicality. **The Division Bench of the High Court compounded the error by affirming the dismissal without engaging with the principal challenge or the intervening material. The approach of both the Courts, in reducing the dispute to a mechanical enquiry about "rules" and "vacancy" while ignoring the core question of arbitrariness in the State's refusal to sanction posts despite perennial need and long service, cannot be sustained."**

(emphasis added)

15. The next contention of the petitioners is that, with the repeal of Act of 2010 in terms of J&K Reorganisation (Adaptation of State Laws) Order, 2020 issued vide SO 1229 (E) dated 31.03.2020 (for short "Order of 2020), no such direction for regularisation of the respondent could have been issued. However, in terms of Clause 6(b) of the SO dated 31.03.2020, *the repeal or amendment of any law specified in the Schedule of this Order shall not affect any right, privilege, obligation or liability acquired, accrued or incurred under any law so repealed.* Thus, this contention of the petitioners is also misconceived, as the right of the respondent to

be considered for regularisation had accrued in terms of the Act of 2010, and the same stands protected by clause 6(b) of the Order of 2020.

16. We have examined the order passed by the learned Tribunal and we do not find any illegality in the same. Accordingly, the present petition is found to be misconceived and the same is, accordingly, **dismissed**. The petitioners are directed to consider the claim of the respondent strictly in accordance with the observations made by the learned Tribunal as well as by this Court and to pass appropriate orders in accordance with law.

(RAJNESH OSWAL)
JUDGE

(ARUN PALLI)
CHIEF JUSTICE

Jammu
30.12.2025
Sahil Padha

