

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

SWP No. 2459/2018

CM No. 9550/2019

IA No. 1/2018

Swami Raj and ors.

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

Through: Mr. Rajdeep Singh Thakur, Advocate

vs

Union of India and ors.

..... Respondent(s)

Through: Mr. Sandeep Gupta, CGSC

Coram: HON'BLE MR. JUSTICE JAVED IQBAL WANI, JUDGE

ORDER

16.07.2025

ORAL

1. The instant petition has been filed by the petitioners under Article 226 of the Constitution seeking following reliefs:-

“a. Mandamus directing the respondents not to disengage the petitioners.

b. Mandamus directing the respondents to regularize the petitioners in terms of the policy framed by the Union of India for the regularization of porters.

c. Any other interim order final order as the Hon'ble Court may deem appropriate in the facts and circumstances of the case.”

2. It is being contended by the petitioners that they were working as porters with the Indian Army and while petitioners 1, 2, 3 and 4 have been working since 2005, 2012, 2003 and 2012 respectively under Commanding Officer 12 RR Grenadiers, the petitioner 5 herein has been working as a porter since 2004 under Commanding Officer 23 RR Grenadiers, and that in lieu of the services rendered by the petitioners as porters, the respondents would pay them Rs. 6800/- per

month. It is being next stated by the petitioners that in terms of the policy of the respondents, a porter becomes eligible for selection and appointment as multitasking staff (MTS) as 10% of the total vacancies of the multitasking staff (MTS) are to be filled up from amongst the porters. It is being further stated that the petitioners lately learnt that the respondents intend to disengage them thereby depriving them of their right to be appointed as multitasking staff (MTS) and though the representations came to be made by the petitioners for regularization of their services under the said policy, no action thereon the said representations came to be taken by the respondents, necessitating the filing of the instant petition.

3. **Objections** to the petition have been filed by the respondents wherein it is being, *inter alia*, stated that the engagement of the porters are being made for carriage of stores, stocking of posts, collection of water for troops, snow clearance etc. etc. and are being hired on adhoc and casual basis pursuant to the terms and conditions provided for hiring of porters issued by DGOL letter dated 10.01.2018. However in terms of Hq. Northern Command letter dated 21.06.2018 pertaining to the examination of various financial matters, a necessity was found to have a de-novo look into the requirement of porters under the area of responsibility of 12 RR Grenadiers and also to disengage additional porters and pony handlers where road connectivity and supply of water had been improved over the period of time in order to save Government exchequer as also to avoid audit objection by CAG audit team and based upon the said decision, petitioners 1 and 2 came to be

disengaged w.e.f. 16.09.2018, whereas petitioner 5 was disengaged on 25.09.2018, as the petitioners' services were either found to be not required. It is being next stated that as per policy in vogue, 10% of the total vacancies of the porters are eligible to be appointed as multitasking staff (MTS) and that in terms of the said policy, a candidate for selection and appointment as multitasking staff (MTS) must be of the age of 18-25 years at the time of employment with relaxation upto 10 years of service as porter and in view of the said eligibility, petitioners 1, 2 and 3 being of the age of 35 years, 43 years and 38 years are not eligible for multitasking staff (MTS).

It is being reiterated in the reply that to ensure judicious utilization of porters and ponies HQ Northern Command directed review of the requirement of the seasonal porters vide letter dated 06.03.2018 and as per the Review Board, the petitioners were found in excess of the requirement due to improvement in infrastructure and other communication system and as such, requirement of the services of the petitioners and other porters was not found required and accordingly the petitioners were disengaged.

Heard learned counsel for the parties and perused the record.

4. At the very outset, it is significant to mention here that Mr. Rajdeep Singh Thakur, appearing counsel for the petitioners would submit that at this stage, the instant petition is being pressed only on behalf of petitioner 2 alone.
5. Be that as it may, before proceeding further in the matter, it would be significant to note here that the petitioners including petitioner 2

herein have sought a writ of mandamus against the respondents for directing the respondents not to disengage them while further seeking a writ of mandamus for commanding the respondents to regularize their services in terms of the policy framed by the Union of India for regularization of porters.

6. As has been noticed in the preceding paras, the respondents in the reply filed to the petition have specifically averred that the petitioners even though were engaged as seasonal porters, yet stand already disengaged.
7. Record reveals that the said disengagement has neither been called in question by the petitioners or else is disputed and denied by filing any supplementary pleadings in opposition to the reply filed by the respondents, suggesting thus the petitioners have admitted the plea of the respondents that they stand disengaged i.e. prior to the filing of the instant petition which indisputably has been filed on 29.11.2018 and the petitioners herein in general and the petitioner 2 in particular stand disengaged on 16.09.2018. Thus in absence of any challenge to the said disengagement in the instant petition, the writ of mandamus sought by the petitioners against the respondents for allowing them to continue as porters is incapable of being granted.
8. In so far as second prayer for grant of writ of mandamus sought by the petitioners for regularization of their services in terms of policy framed by the Union of India qua porters is concerned, perusal of the record in general and the said policy annexed as 'Annexure-B' to the petition tends to show that it does not anywhere provide for

regularization of services of the porters, however the said policy provides for recruitment of porters against 10% of total vacancies of multitasking staff (MTS) in a year, subject to eligibility criteria and the process of selection undertaken thereof. Thus, in view of the said position obtaining in the matter, the aforesaid second prayer made by the petitioners for regularization of their services as well cannot be granted in law.

9. Viewed thus, for the aforesaid reasons, the instant petition is found to be grossly misconceived and is accordingly **dismissed**.

Jammu
16.07.2025
Neha-II

