

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

CJ Court

WP(C) No.479/2023
c/w
CCP(D) No.2/2025

MOHAMMAD YOUSUF DAR

...PETITIONER(S)

Through: - Mr. Bhat Fayaz, Advocate.

Vs.

UT OF J&K AND OTHERS

...RESPONDENT(S)

Through: - Mr. Jahingeer Ahmad Dar, GA.

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

JUDGMENT

1) The petitioner had filed a writ petition bearing SWP No.2181/2016 before the learned Writ Court for quashing the orders dated 10.09.2016, 24.09.2016 and communication dated 27.10.2016 and for commanding the respondents to release his entire salary with effect from December, 2013 without any further delay along with 18% interest and further for commanding the respondents to allow the petitioner to discharge his duties till he attains the superannuation on the basis of the date of birth i.e. 29.02.1964. The petitioner also sought issuance of writ of

prohibition against the respondents from superannuating him on account of his alleged date of birth as 29.02.1954.

2) The aforesaid writ petition was subsequently transferred to the Central Administrative Tribunal, Srinagar Bench (for short “the Tribunal) and was re-numbered as T.A No.1672/2021. The learned Tribunal, being confronted with the conflicting claim of the parties in respect of date of birth of the petitioner, which as per the petitioner was 29.02.1964 and as per the respondents as 29.02.1954, vide its order dated 25.01.2023, directed the respondents to constitute a Medical Board of Specialists to ascertain the age of the petitioner.

3) The petitioner being aggrieved of the order dated 25.01.2023 (supra), filed the instant writ petition. The writ petition was opposed by the respondents by contending that the appellant was engaged in the Department on daily wage basis in the year 1976 and was regularized in 1986 under Government Policy of mass regularization of Daily Wagers working in various departments and the date of birth recorded in the service book of the petitioner as 29.02.1964 is managed/manipulated. The respondents have further placed on record the seniority list and the regularization order of the petitioner. In the seniority list, the date of birth

of the petitioner has been mentioned as 29.02.1954 and in the regularization order dated 06.02.1986, the date of birth of the petitioner has been mentioned as 24.04.1959.

4) This Court, being confronted with three different dates of birth of the petitioner, vide order dated 04.04.2025, directed the Principal, Government Medical College, Srinagar, to conduct the Ossification test of the petitioner through competent Medical Board in order to determine the age of the petitioner and to submit the report. The report was produced before this Court in the sealed cover which was opened in the open Court and as per the Standing Medical Board, the age of the petitioner was 66 years approximately on 16.04.2025, meaning thereby that the petitioner was born some were in the year 1959. The report corroborates the date of birth of the petitioner recorded in the order of regularization dated 06.02.1986.

5) Learned counsel for the petitioner submits that the report submitted by the Standing Medical Board is acceptable to the petitioner. Mr. Jahingeer Ahmad Dar, learned GA, has also submitted that the date of birth of the petitioner recorded in the order of regularization dated 06.02.1986 is the correct date of birth.

6) In view of the above, we dispose of the present petition by directing the respondents to release the pension and other retiral benefits in favour of the petitioner by considering his date of birth as 24.04.1959, provided there is no other legal impediment in release of the same. The exercise in this regard be initiated and concluded within a period of three months from the date of receipt of copy of this order.

CCP(D) 2/2025

In view of the decision in the main writ petition, the order out of which instant contempt petition has arisen, has merged with the final order. Therefore, nothing further survives for consideration in this contempt petition. The same is, accordingly, disposed of.

(RAJNESH OSWAL)
JUDGE

(ARUN PALLI)
CHIEF JUSTICE

Srinagar
15.09.2025
“Bhat Altaf”

Whether the **Order** is reportable: **No**