

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

**WP (C) No. 583/2025  
CM No. 1437/2025**

**Fayaz Ahmad Sheikh and Anr.**

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

**Through: - Mr. M. I. Dar, Advocate with  
M/s Ruaani Ahmad Baba & Sana Inam, Advocates.**

**V/s**

**Indian Tourism Development Corporation Limited and Anr.**

**... Respondent(s)**

**Through: -Mr. Omais Kawoos, Advocate**

**CORAM:**

**HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE**

**(ORDER)**

*15.04.2025*

01. Vide SRO 244 dated **26.07.2004**, the Government of Jammu and Kashmir came to refer an industrial dispute with respect to retrenchment of five workmen employed and engaged with the Indian Tourism Development Corporation (ITDC).

02. The reference was made to Industrial Tribunal-cum-Labour Court, Jammu & Kashmir, Srinagar which was taken on file No. 781/ITLC/2004 on **28.07.2004**.

03. It took more than 12 years for the Industrial Tribunal-cum-Labour Court, Jammu & Kashmir, Srinagar to come up with final

adjudication in terms of an industrial award bearing two dates **13.06.2016** and **13.07.2016** in terms whereof the retrenchment of five workmen was held to be bad and thus set aside by directing reinstatement with full back wages with other consequential benefits along with 9% interest.

04. During the pendency of the reference before the Industrial Tribunal-cum-Labour Court, Jammu and Kashmir, Srinagar, out of five workmen three had come to attain age of superannuation whereas two were supposed to be reinstated with the benefit, as envisaged under the award, being extended to them.

05. Said two workmen are Fayaz Ahmad Sheikh and Mohammad Shafi Mir who were petitioners No. 1 and 4 in the reference proceedings before Industrial Tribunal-cum-Labour Court, Jammu & Kashmir.

06. The employer-Indian Tourism Development Corporation Limited, acting through its Chairman/Managing Director and its Senior Vice President, came forward with institution of a writ petition **OWP No. 472/2017** filed on **18.04.2017** to challenge said award of the Industrial Tribunal-cum-Labour Court, Jammu & Kashmir, Srinagar.

07. In the said writ petition, five workmen came to be named as writ respondents.

08. In terms of an order dated **19.04.2017**, the writ court had come to direct issuance of notice to the workmen-respondents and in the meantime directed the stay of operation of the award to the extent of payment of 75% of back wages meaning thereby that the reinstatement as well as payment of 25% back wages remained very much operative against the Indian Tourism Development Corporation Limited as being employer.

09. Being aggrieved of the fact that the writ court had not granted a blanket stay with respect to award of payment of 100% back wages, a letters patent appeal **LPA(OW) No. 93/2017** came to be preferred by the Indian Tourism Development Corporation Limited which resulted in failure in terms of an order dated **07.07.2017**.

10. Acting at their own end, two of five private respondents namely Fayaz Ahmad Sheikh-respondent No. 1 and Mohammad Shafi Mir-respondent No.4 came forward with an application **CM No. 1771 of 2021** instituted on **24.03.2021** invoking the provision of section 17 (B) of the Industrial Disputes Act, 1947 stating therein that despite lapse of four years the two have not been reinstated leaving them in a lurch and, therefore, the writ petitioner-Indian Tourism Development Corporation Limited needs to be directed to pay the wages along with the allowances to the said two respondents during the pendency of the writ petition.

11. To this application **CM No. 1771/2021**, the writ petitioner-Indian Tourism Development Corporation Limited despite availing opportunity to file response thereto did not do so which lead the writ court to pass an order dated **03.08.2021** thereby directing that till the consideration of CM No. **1771/2021**, let the Indian Tourism Development Corporation Limited deposit an amount of Rs. 3.00 lac in lump sum as arrears of wages of the two respondents envisaged under section 17 (B) of the Industrial Disputes Act, 1947 which amount was to be kept in fixed deposit with the court for a period of six months.

12. Writ petition OWP No. 472/2017 came to be disposed of by the writ court in terms of its judgment dated 25.05.2022 with an end result that the direction of reinstatement and payment of back wages was converted to be for payment of compensation in lieu of reinstatement besides the grant of retrial benefits, as such, the matter was remanded back to the Industrial Tribunal for passing appropriate award.

13. This direction was only for three (3) workmen who had superannuated during the period of reference proceedings before Industrial Tribunal-cum-Labour Court whereas with respect to respondents No. 1 and 4 namely Mr. Fayaz Ahmad Sheikh and Mohammad Shafi Mir, the direction for their reinstatement as

mandated by the impugned Industrial Tribunal award was maintained but without payment of back wages.

14. Thus, in the context of the two respondents namely Mr. Fayaz Ahmad Sheikh-respondent No. 1 and Mohammad Shafi Mir-respondent No.4, who were still left with some service at their disposal to be in the employment of Indian Tourism Development Corporation Limited during the pendency of the writ petition OWP 472 of 2017 and even thereafter, the reinstatement of said two respondents was an inevitable and inescapable conclusion.

15. The writ court judgment dated **25.05.2025** was challenged in letters patent appeal No. **163/2022** which came to be dismissed in terms of order dated **10.03.2023** meaning thereby the reinstatement of the two respondents i.e., Mr. Fayaz Ahmad Sheikh-respondent No. 1 and Mr. Mohammad Shafi Mir-respondent No. 4 was to reckon from the date of institution of writ petition OWP No. 472/2017 and by that reckoning the two respondents would have started earning their monthly wages along with consequential benefits till the respective age of their superannuation from their respective employment.

16. The disposal of the writ petition had taken place without any direction as to fate of deposit of Rs. 3.00 lac made pursuant to the direction given in order dated **03.08.2021** which was reckoned by

the two respondents namely Mr. Fayaz Ahmad Sheikh-respondent No. 1 and Mr. Mohammad Shafi Mir-respondent No. 4 as the amount meant for payment in their respective favour.

17. During the pendency of writ OWP No. 472/2017, the two respondents namely Mr. Fayaz Ahmad Sheikh-respondent No. 1 and Mr. Mohammad Shafi Mir-respondent No. 4 had come forward with an application CM No. 7220/ 2021 seeking the release of the deposited amount of Rs. 3.00 lac in response whereunto the writ court vide an order dated **25.02.2022** directed the release of 1.50 lacs while retaining 1.50 lac in fixed deposit.

18. It is for claiming the said pending deposited amount of Rs. 1.50 lac that the two workmen came forward with institution of writ petition WP (C) No. 583/2025 filed on **14.03.2025** wherein by virtue of an order dated **18.03.2025**, this Court came to observe very clearly that the adjudication of this writ petition bears a very limited scope.

19. Once the two petitioners came to earn release of Rs.1.50 lac in their favour in terms of an order dated **25.02.2022** passed in the writ petition **OWP No.472/2017**, there is no disability attending the petitioners to seek withdrawal of the balance amount of **Rs.1.50 lac** which is lying in the deposit with this Court in terms of an order dated **03.08.2021** passed in the writ petition **OWP No.472/2017**.

20. Accordingly this writ petition is allowed by holding the two petitioners entitled to receive the balance payment of **Rs.1.50 lac** in equal share.

21. Registrar Judicial, Srinagar, is thus, directed to disburse the said deposited amount of **Rs.1.50 lac** in equal shares in favour of the two petitioners by bank mode transfer.

22. **Disposed of**, as such.

**( RAHUL BHARTI )**  
**JUDGE**

**SRINAGAR:**

*15.04.2025*

*Muzammil. Q*