

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

WP(C) No.666/2023

FAROOQ AHMAD BHAT

...Petitioner/Appellant(s)

Through: Mr. Z. A. Qureshi, Sr. Advocate

Vs.

UNION TERRITORY OF J&K AND ORS.

...Respondent(s)

Through: Mr. Mohsin Qadri, Sr.AAG with
Ms. Maha Majid, Assisting Counsel.

CORAM:

HON'BLE MR JUSTICE SANJEEV KUMAR, JUDGE

HON'BLE MR JUSTICE SANJAY PARIHAR, JUDGE

ORDER

15.07.2025

(ORAL)

1. Impugned in this petition filed by the petitioner under Article 226 of the Constitution of India, is an order and judgement dated 25.01.2023 passed by the Central Administrative Tribunal, Srinagar Bench, (for short 'the Tribunal') in T.A. No.4336/2022 titled "*Farooq Ahmad Bhat Vs. State of J&K and Ors.*" whereby the writ petition filed by the petitioner seeking *inter-alia* a direction to the respondents to consider his case for adjustment as Forester on the analogy of Anil Kumar Pandita and Zahid Ahmad Wani, has been dismissed.
2. Briefly stating the facts leading to the filing of this petition, are that the petitioner came to be engaged as Daily Wager in the year 1993. He came to be regularized as Helper w.e.f. 01.04.2001 vide Government Order No.283 FST of 2006 dated 19.05.2006. The post of Helper is equivalent to the Class-IV post, borne on the cadre of J&K Forest Subordinate Service, but the same does not find specific mention in the Recruitment

Rules. Otherwise also, the respondents while regularizing the services of the petitioner and many other similarly situated persons clearly provided that their regularization against the post of Helper would be co-terminus with their superannuation.

Since the post of Helper was not borne on the cadre of J&K Forest Subordinate Service, as such, the petitioner and many other similarly situated with him were left without any avenues of promotion.

Feeling aggrieved, the petitioner approached this Court by way of SWP No.2620/2012 which was disposed of by the learned Single Judge of this Court on 17.12.2012, with the direction to the respondents to consider the case of the petitioner and take a decision within a period of eight weeks.

In compliance with the directions issued by the learned Single Judge, the case of the petitioner was considered by the respondents and vide Government Order No. 324 of 2013 dated 22.10.2013 the respondents rejected the claim of the petitioner on the ground that he was not similarly situated with Shri Anil Kumar Pandita and Zahid Ahmad Wani. However, in the order of consideration which was challenged by the petitioner before the writ court, it was clearly indicated that the Department of Forest has submitted a proposal for adjustment of the petitioner on a regular post of Class-IV borne on the cadre of Forest Service to the Administrative Department vide office order No.PCCF/NG/Estt./93/1055 dated 22.04.2013. It is this consideration order, which was called in question by the petitioner in T.A. No.4336/2021. The T.A has been dismissed by the Tribunal on the ground that the decision of the respondents to the extent that the

petitioner is not similarly situated with the aforesaid two candidates cannot be found faulted with. It is this order of the Tribunal which is called in question before us in these proceedings.

Before us, Mr. Qureshi, Sr. Advocate, appearing counsel for the petitioner fairly submitted that he has instructions from the petitioner to press only the relief of seeking a direction to the respondents to treat the petitioner as having been appointed in the Forest Subordinate Service as Class-IV employee, so that, he could avail the promotion avenues provided to other Class-IV employees under the Forest Subordinate Service Recruitment Rules.

3. Having heard the learned counsel for the parties and perused the record, a few facts which are not disputed need to be noticed. Admittedly, the petitioner on completion of seven years services as Daily Wager was regularized as “Helper” w.e.f. 01.04.2001. It is not in dispute that Class-IV post with the nomenclature “Helper” is not borne on the Forest Subordinate Service and therefore, the petitioner who was appointed as Helper in the Forest Department has no promotional avenues.
4. It has also been brought to our notice that in as many as 70 similarly situated cases, the post of Helper has already been re-designated as Class-IV post like Watcher, Mali, Orderly and Chowkidar etc in terms of Government Order No.321-JK(FST) of 2024 dated 31.12.2024. This has paved the way for the aforesaid 70 Helpers to seek promotions in the existing hierarchies of the Department. The petitioner who is similarly situated with the aforesaid 70 persons cannot, therefore, be treated differently. An error appears to have been committed at the time of regularization. The Empowered Committee ought to have cleared the

case of the petitioner for regularization against the Class-IV post with the nomenclature existing in the Department of Forest. By not acceding to the request of the petitioner for merging him in the regular Class-IV cadre in the Forest Department, the respondents have deprived him of all the avenues of promotion.

5. For the foregoing reasons, we find merit in this petition to the extent aforementioned and dispose it of with the direction to the respondents to treat the petitioner as having been re-designated as Orderly or Watcher or Mali, or Chowkidar or any other Class-IV post existing in the Forest Department. The re-designation of the petitioner shall date back to the date of his regularization as Helper. The respondents shall also consider him for further promotion in the existing hierarchy in the Department subject to his eligibility and qualification. Let a formal order with regard to deemed re-designation be passed within a period of eight weeks from the date a copy of this judgement is served upon the respondents. The case of the petitioner for further promotion in accordance with Rules shall be considered, by convening special DPC within a period of two months thereafter.
6. The judgment of the Tribunal to the aforesaid extent shall stand modified.
7. Disposed of.

(SANJAY PARIHAR)
JUDGE

(SANJEEV KUMAR)
JUDGE

SRINAGAR

15.07.2025

Ishaq

Whether the judgement is speaking ?

Yes/No

Whether the judgement is reportable ?

Yes/No