

IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR
WP(C) 2617/2023

SOHAIL AHMAD MIR AND ANR

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

Through: Mr. Tawheed Ahmad, Advocate

Vs.

UT of JK and Others

...Respondent(s)

Through: Mr. Mohsin Qadiri, Sr. AAG

CORAM:

HON'BLE MR. JUSTICE JUSUF ALI KOUL-JUDGE



Petitioners are aggrieved of order dated 25.05.2023, whereby their disengagement has been terminated. Disengagement of petitioners is mainly on the ground that they had paid Rs. 200/- each from the civilian by threatening them. The order impugned is being challenged in this writ petition precisely on the ground that before their disengagement, no enquiry, on the charge of corruption as contemplated under rules, was conducted.

Heard. **Admit.**

Notice. Notice is waived by Mr. Mohsin Qadiri, Sr. AAG, counsel for the respondents.

It is submitted by learned counsel for the parties that on the basis of the pleadings in petition and the objections filed by the respondents, no further pleadings are required to be filed and matter may be disposed of on the basis of the pleadings and record on file.

The main ground taken by the petitioners in this petition is that petitioners' services have been terminated and they have been disengaged solely on the allegation of corruption without holding any enquiry and without affording them an opportunity of being heard. Since there are specific allegations on which petitioners have been disengaged, the respondents were therefore, required to afford an opportunity of being heard to them before passing order impugned.

Counsel for the petitioners has relied up the judgment passed by this Court in WP(C) no. 2619/2023 titled Ali Mohammad Mir and Anr. Vs. UT of J&K and

Ors decided on 10.03.2025, and WP(C) no.1457/2022 titled Shahren Shah vs. Union Territory of J&K and others decided on 07.06.2024.

The question that arises from the pleadings is as to whether petitioners were entitled to be given opportunity of being heard before passing the order impugned. The answer to the query is “Yes”, as has been observed and held by this Court in the cases referred to above.

In ***Gh. Haider v. State of J&K and Ors. Reported in 2014(3) JKJ 461***, this Court while dealing with the case of SPO, whose service had been terminated without conducting enquiry, observed that the writ petitioner was required to be afforded an opportunity of hearing before terminating his services.

It is clear from the Judgments referred to above that as the writ petitioners had been disengaged on the allegation of corruption, they were required to be given an opportunity of being heard before passing order of disengagement. The record produced also supports the contentions of petitioners that no enquiry was conducted and no show-cause notice was given to the petitioners before disengaging them.

Since order impugned, in the present case, is in violation of constitutional rights of the petitioners as they have been condemned unheard, therefore, writ petition deserves to be allowed.

For the foregoing reasons, this petition is allowed. Impugned Order No. 245 of 2023 dated 25.05.2023, is quashed. Petitioners are restored to the posts of SPOs in J&K Police Department with consequential benefits from the date of their disengagement up to their restoration of services as SPOs. However, respondents shall be at liberty to conduct an enquiry regarding allegations made against the petitioners and pass fresh orders after following and complying with *audi alteram parterm*.

Disposed of.

(VINOD CHATTERJI KOUL)
JUDGE

SRINAGAR
19.05.2025
“Imtiyaz”