

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

WP(C) No. 429/2026

Date of Pronouncement: 23.02.2026.

Date of Uploading: 25.02.2026.

UT of J&K & others

.....Applicant(s)/Petitioner(s)

Through :- Mr. Raman Sharma, Sr. Advocate (AAG) with
Ms. Jagmeet Kour, Advocate

v/s

Om Prakash

.....Respondent(s)

Through :- Mr. J.A. Hamal, Advocate

**CORAM: HON'BLE MR. JUSTICE SANJEEV KUMAR, JUDGE
HON'BLE MR. JUSTICE SANJAY PARIHAR, JUDGE**

ORDER(ORAL)

SANJEEV KUMAR J

1. Impugned in this petition, filed by the UT of J&K under Article 226 of the Constitution of India, is an order and judgment dated 09.09.2025 passed by the Central Administrative Tribunal, Jammu Bench, Jammu ["the Tribunal"] in OA No. 61/1404/2024 titled "*Om Prakash Vs. UT of J&K and others*", whereby the OA filed by the respondent has been allowed and the Government Order No. 82-JK (DMRRR) of 2024 dated 06.11.2024 has been quashed and a direction has been issued to the petitioners to regularize his services, as recommended by Relief & Rehabilitation Commissioner (M), Jammu, in terms of the provisions of J&K Civil Services (Special Provisions) Act, 2010, from the date he became eligible for the same with all consequential benefits.
2. Impugned order has been assailed by the petitioners, primarily, on the ground, that in view of the repeal of the J&K Civil Services (Special Provisions) Act, 2010 [*the Act of 2010*] by the J&K Reorganisation Act, 2019, there is no statutory or non-statutory order of the Government under which the services of the respondent can be

regularized. It is contended on behalf of the petitioners that the only Act that provided for regularization of services of ad hoc/ contractual and consolidated employees was the Act of 2010 that came to be repealed on the passing of the J&K Reorganisation Act, 2019.

3. Having heard learned counsel for the parties and perused the material on record, it is necessary to first take note of few admitted facts, as are germane to the disposal of this petition.
4. The respondent came to be appointed as Class IV on contractual basis for a period of six months in ending February 2010 by the Relief and Rehabilitation Commissioner (M) vide order No. 176/2009 dated 09.09.2009. He continued to perform the duties of Class IV, though, on contractual basis in terms of general extension given to the all contractual appointments made under SRO 255/2003, in terms of Government order No. 1328-GAD of 2009 dated 24.09.2009. The respondent completed 7 years continuous services as a contractual employee on 09.09.2016 and, therefore, acquired a right to be considered for regularization under the Act of 2010.
5. The case of the respondent was recommended by the Relief and Rehabilitation Commissioner (M) Jammu from time to time, but the same did not find favour with the Competent Authority, though, the cases of the contractual employees, similarly situated with the respondent, were cleared by the Competent Authority and appropriate orders of regularization were made.
6. Feeling aggrieved by the hostile treatment meted out to him, the respondent approached the Tribunal by way of OA No. 524/2022, which came to be disposed of vide order dated 27.05.2022, wherein a direction

was issued to the petitioners herein to consider the case of the respondent for regularization and issue a reasoned/speaking order.

7. In compliance with the directions issued by the Tribunal, the matter with regard to the regularization of the respondent was considered by the Government and the same was rejected vide Government Order No. 82-JK (DMRRR) of 2024 dated 06.11.2024 on the ground that after the repeal of Act of 2010, the petitioners were left with no statutory or non-statutory instrument providing for regularization of services on contractual/ *ad hoc* engagements.
8. The order of rejection of claim of the respondent for regularization dated 06.11.2024 (supra) was assailed by the respondent in OA No. 61/1404/2024 which has been allowed by the Tribunal in terms of the order and judgment impugned in this petition. The Tribunal has come to the conclusion that a right was vested in the respondent to seek regularization on fulfillment of prescribed requisites in terms of Section 5 of the Act of 2010 in the year 2016, and the subsequent repeal of the Act of 2010 could not take away such vested right, more particular when repeal of the Act has not been given any retrospective operation.
9. Be that as it may, the Tribunal, having turned down the stand of the petitioners, has issued a direction which we have taken note of hereinabove. We have gone through the Provisions of the Act of 2010. Indisputably, in terms of Section 5 thereof, a right of regularization accrued to a person who had been in *ad hoc*/ contractual or consolidated service of the Government for a continuous period of seven years provided his engagement had been against a clear vacancy and he was found in a position as on the date of promulgation of the Act of 2010.

10. There are, of course, some other prerequisites which such candidate must meet to claim regularization under the Act of 2010. There is no dispute with regard to the fact that the respondent fulfilled all those conditions and because of that his case was recommended twice by the Relief and Rehabilitation Commissioner (M) Jammu for regularization.
11. The case of the respondent has not been turned down by the petitioners for the reason that he does not fulfill the conditions required under Section 5 of the Act of 2010 or that he is otherwise disentitled to claim the benefit of regularization.
12. The only reason that has weighed heavily with the petitioners to reject the claim of the respondent for regularization is that in the year 2022, when his case was taken up for consideration in terms of the Judgment passed by the Tribunal, the Act of 2010 stood repealed. Needless to say that in terms of Clause 6 of the J&K Reorganisation (Adaptation of State Laws) Orders, 2020 issued vide SO No. 1229 E of 2020, dated 31.03.2020, ["order of 2020"] the repeal or amendment of any law specified in the Schedule of the Order would not affect, apart from others, any right, privilege, obligation or liability acquired, accrued or incurred under any law so repealed. For facility of reference Clause 6 of the Order of 2020 is set out below.

“6. The repeal or amendment of any law specified in the Schedule to this Order shall not affect-

- (a) *the previous operation of any law so repealed or anything duly done or suffered thereunder;*
- (b) *any right, privilege, obligation or liability acquired, accrued or incurred under any law so repealed;*
- (c) *any penalty, forfeiture or punishment incurred in respect of any offence committed against any law so repealed; or*

(d) *any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid,*

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed, as if the Jammu and Kashmir Reorganisation Act, 2019 (34 of 2019) or this Order had not been passed.

13. In view of the clear stipulation made in Clause 6 of the Order of 2020, the issue raised by Raman Sharma, learned AAG, is no longer *res integra*. In the instant case, right to seek regularization accrued to the respondent in terms of the Act of 2010 on completion of 7 years of continuous service as contractual employee i.e., 09.09.2016 and such right cannot be taken away by subsequent repeal of the Act in the year 2020.

14. For the foregoing reasons, we do not find any merit in this petition, and the same is, accordingly, *dismissed*.

(Sanjay Parihar)
Judge

(Sanjeev Kumar)
Judge

JAMMU
23.02.2026
Rahul Sharma

Whether the order is speaking: Yes/No

Whether the order is reportable: Yes/No