

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

WP (C) No. 672/2026

CAV No. 206/2026

Date of pronouncement: 25.03.2026

Date of uploading: 01.04.2026

1. **UT of J&K (Earlier State of J&K)
Acting through Chief Secretary, J&K
Govt. Civil Secretariat Jammu.**
2. **Commissioner Secretary to the Govt.,
Agriculture Production & Farmers
Welfare Department, Civil Secretariat,
Jammu.**
3. **Commissioner Secretary GAD, J&K
Govt. Civil Secretariat, Jammu.**
4. **Director Agriculture, Talab Tillo,
Jammu.** Applicant(s)/Petitioner(s)

Through :- Mr. Suneel Malhotra, GA

v/s

**Vijay Kumar Sharma S/o Sh. Satpal
Sharma R/o Village Manda, Opposite 170
MH Akhnoor, Tehsil Akhnoo, District
Jammu.**

.....Respondent(s)

Through :- Mr. Abhinav Sharma, Sr. Advocate with
Mr. Abhirash Sharma, Advocate & Mr.
Muddassir Maqbool, Advocate

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

ORDER (ORAL)

Sanjeev Kumar J

CAV No. 206/2026

1. Heard learned counsel for the caveator.
2. Caveat stands discharged.

WP (C) No. 672/2026

1. Impugned in this petition, filed by the UT of Jammu & Kashmir and its functionaries, is an order and judgment dated 09.09.2025 passed by the Central Administrative Tribunal Jammu Bench, Jammu [**“the Tribunal”**] in TA No. 6360/2021 (SWP No. 1373/2011) titled *“Vijay Kumar Sharma vs. State of J&K and Others”*, whereby the petition filed by the respondent herein has been allowed and the petitioners herein have been directed to treat the respondent as having been appointed as Junior Agriculture Assistant (JAA) with effect from the year 2007 notionally without pecuniary benefits.
2. Briefly stated, the facts leading to the filing of this petition, as can be culled out from the impugned judgment, are that the respondent being a graduate in Agriculture (B.Sc. Agriculture) staked his candidature for appointment against the post meant for outstanding sports persons under **J&K (Appointment of Outstanding Sports Persons) Rules, 1998** [**“the Rules”**].
3. The Committee constituted under sub-rule (2) of Rule 3 of the Rules recommended the candidature of the respondent for appointment against the post of Field Assistant Grade-I which post, in any case, was a promotional post and could not have been filled up by appointments under the Rules. The respondent did not accept the lower post of Field Assistant Grade-I and represented before the higher authorities including the General Administration Department for offering him the appointment as Junior Agriculture Assistant for which he had the requisite qualification. He also cited the examples of similarly situated persons, who, with the qualification of B.Sc.

Agriculture, had been adjusted by appointment as Junior Agriculture Assistants under the Rules.

4. The representation made by the respondent remained under consideration of the petitioners for couple of years and it was only in the year 2010 when the petitioners realized that the persons similarly situated with the respondent already stood appointed as Junior Agriculture Assistant and also that the post of Field Assistant Grade-I, which was offered to the respondent was a promotional post, the petitioners conceded to the request of the respondent and vide Order No 112-GAD of 2010 dated 21.01.2010 appointed him as Junior Agriculture Assistant with immediate effect.
5. The respondent was happy to receive the appointment as Junior Agriculture Assistant, but wanted his appointment as Junior Agriculture Assistant to be given effect from the date his case was recommended by the Committee against the post of Field Assistant Grade-I, i.e., the year 2007. With this grievance, the respondent approached this Court by way of SWP No. 1373/2011, which on transfer to the Tribunal, was registered as TA No. 6360/2021.
6. The petition was contested by the petitioners herein on the ground that it took them some time to find out a post in the non-gazetted cadre suitable for appointment of the respondent and that it took them some time to take a decision that having regard to the qualification possessed by the respondent, he ought to be offered the post of Junior Agriculture Assistant.
7. The Tribunal considered the rival contentions and material on record and came to the conclusion that there was inordinate delay in

offering the appointment of Junior Agriculture Assistant to the respondent and, therefore, the respondent was entitled to the relief prayed for in the petition. This is how the OA was allowed in terms of the judgment impugned in this petition.

8. Having heard learned counsel for the parties and perused the material on record, we find that the facts are not in dispute.
9. The respondent obtained the eligibility/entitlement to be appointed against a vacancy in the non-gazetted service of the State in the year 2005. Since the respondent was possessing qualification of graduation, as such, he was entitled to be considered for appointment against a higher post in the non-gazetted cadre in terms of Rule 3 of the Rules.
10. The Committee constituted under sub-rule 2 of Rule 3 of the Rules did recommend the respondent for appointment against the post of Field Assistant Grade-I, which was admittedly a higher post in the non-gazetted service, but the same was prescribed to be filled up by promotion under the relevant recruitment rules.
11. Rule 5 of the Rules clearly prescribes that appointment of an outstanding sports person under the Rules can only be made against the direct recruitment vacancies subject, of course, to the availability.
12. The petitioners knew that the post which they had offered to the respondent, was not a direct recruitment vacancy and, therefore, they made an effort to identify the higher post in the non-gazetted service suitable to the respondent and commensurate for his qualification.
13. The inter-departmental communications, which ensued upon the representation made by the respondent, took almost three years to

culminate into issuance of order of appointment of the respondent as Junior Agriculture Assistant. The respondent may have accepted his appointment prospectively with effect from the date of his appointment in the year 2010, but such course had the effect of depriving him the benefit of Old Pension Scheme which was available only to the persons appointed in service up to 31.12.2009. This became a trigger point of filing the writ petition.

14. Be that as it may, the fact remains that the respondent became entitled to be considered for appointment as an outstanding person under the Rules against the vacancies in the non-gazetted service in the year 2005. The processing of case at different levels, which ultimately, resulted into making the recommendations by the Committee, took two years and it was in the year 2007, the respondent was recommended to be appointed as Field Assistant Grade-I.
15. Ordinarily, the respondent ought to have been appointed in the year 2007. However, due to erroneous decision of the Committee recommending the candidature of the respondent against the promotional post and also having regard to the representation of the respondent that similarly situated persons with the qualification of B.Sc. Agriculture were appointed as Junior Agriculture Assistant in the year 2005, the petitioners reconsidered the matter and ultimately conceded in favour of the respondent. This, however, happened in the year 2010.
16. The period of three years taken by the petitioners to find out a suitable post of Junior Agriculture Assistant and offer it to the

respondent cannot be, by any stretch of reasoning, said to be a justifiable delay and, such delay, thus, cannot work adverse to the interest of the respondent.

17. The Tribunal has rightly found the respondent entitled to notional appointment as Junior Agriculture Assistant w.e.f. the year 2007 when he was first recommended by the Committee for appointment against a promotional post of Field Assistant Grade-I in the Department of Agriculture.
18. For all these reasons, we are not inclined to interfere with the judgment passed by the Tribunal except to provide that the appointment of the respondent as Junior Agriculture Assistant w.e.f. 2007 notionally shall only be for the purposes of entitling him to the benefit of Old Pension Scheme, whereas for all other purposes he shall be deemed to have been appointed w.e.f. 21.01.2010.
19. With the aforesaid modification, this petition is disposed of.

(Sanjay Parihar)
Judge

(Sanjeev Kumar)
Judge

JAMMU
25.03.2026
Manik

Whether this order is speaking: Yes/No

Whether this order is reportable: Yes/No