

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

WP(C) No. 881/2026

Reserved on: 12.05.2026
Pronounced on: 30.05.2026
Uploaded on: 30.05.2026
Whether the operative part or full judgment is pronounced:

1. **UT of Jammu & Kashmir through Commissioner-Cum-Secretary, Forest Department, Civil Sectt. UT of J&K Jammu-180001** Petitioner/Appellant(s)
2. **Principal Chief Conservator of Forest, J&K Government, Jammu 180001**
3. **Chief Conservator of Forests, Dogra Hall, Jammu.**
4. **Conservator of Forests, Chenab Circle, Doda**
5. **Divisional Forest Officer, Forest Division, Doda.**

Through:- Mr. Vishal Bharti, Dy. A.G

Vs.

Ghulam Mohi-Ud-Din Malik S/o Sh. Nasrullah Malik R/o Bharat Now Tehsil Bharat (Old Doda) District Doda. Respondent(s)

Through:- Mr. R.K.S Thakur, Advocate.

CORAM: HON'BLE MRS. JUSTICE SINDHU SHARMA, JUDGE
HON'BLE MR. JUSTICE SHAHZAD AZEEM, JUDGE

JUDGMENT

SHAHZAD AZEEM-J

1. With the consensus of learned counsels for the parties, the petition is taken on board for hearing.

2. The petitioners have thrown challenge to the order dated 31 December 2024 passed by the learned Central Administrative Tribunal, Jammu Bench, Jammu ("the Tribunal") in TA No. 7757/2021 titled Ghulam Mohi-Ud-Din Malik & Anr. Vs. UT of J&K & Ors, whereby the petitioners herein (respondents before the Tribunal) were directed to regularize the services of the respondent herein (applicant before the Tribunal) against the post of Mali w.e.f. 01 January 2002 with all consequential benefits, including promotion, etc.

3. The petitioners have challenged the order passed by the Tribunal mainly on the ground that the respondent was allowed to perform his duties as Mali w.e.f 25 February 1997 in pursuance of the direction issued by this Court in SWP No. 607/1995, therefore, he did not complete his 07 years of service as such, till 01 January 2002 i.e. the date from which he was ordered to be regularized.

4. Further contention of the petitioners is that SRO 64 of 1994 dealing with the regularization of services already stood repealed by S.O. 514 dated 06 October 2023. Therefore, the respondent has no legal right to the regularization of his services. The petitioners have also relied upon the judgment of Hon'ble Supreme Court passed in

Secretary State of Karnataka and Ors. Vs. Uma Devi and Ors; (2006) 4 SCC 1 so as to buttress the point that regularization of services must comply strictly with the constitutional mandate ensuring equality, merit and transparency.

5. While reverting to the order under challenge, it is seen that the Tribunal has taken note of the nature of engagement of the respondent and on satisfying itself that the respondent was appointed as Mali against clear vacancy and joined in the year 1994, it has directed the petitioners to regularize his services w.e.f 01 January 2002 i.e. the date when he has completed 07 years of his services and further to grant all consequential benefits.

6. On the other hand, Mr. R.K.S Thakur, learned counsel for the respondent has also drawn our attention to the orders passed by the petitioners from time to time so as to show that the respondent is continuously performing his duties for about 30 years and went unto submit that after extracting work from the respondent for such a long time, now cannot be allowed to take U-turn by stating that services of the respondent were of temporary or ad-hoc in nature. Learned counsel has further made submissions in line with the reasoning prevailed with the Tribunal while

passing the impugned order, therefore, same shall be taken note of hereinafter at appropriate stage.

7. Heard and considered.

8. Though the Tribunal has taken note of the nature of appointment of the respondent and also as to how the respondent was made to knock at the door of the Court time and again, including the numerous intra-departmental communications exchanged between the authorities regarding regularization of services of the respondent, however, for the sake of brevity, we do not deem it necessary to go into that gamut of the factual narrations, rather will be referring to two communications that are relevant and in our opinion are sufficient to settle the present controversy.

9. Conservator of Forest, Chenab Circle, Jammu, addressed a communication bearing No. 1257/Estt dated 18 October 1994 to the Chief Conservator of Forest, Jammu to the effect that the respondent has worked in Kuntwara Range for fencing, sowing and planting voluntarily without taking any wages during last 2-3 years. As a immediate fallout of this communication, the respondent came to be engaged temporarily against available post of Mali vide Order No. 37 of 1994 dated 07 December 1994 and accordingly, joined as such on 29 December 1994. Therefore, this

communication is revelation of the fact that though voluntarily but respondent had been performing the duties of fencing, sowing and planting since 1991-92.

10. The other communication which assumes relevance is dated 18 March 2011 issued by the Divisional Forest Officer, Doda, Forest Division Doda, addressed to the Chief Conservator of Forest, Jammu, wherein after giving entire factual details of the respondent's service track record, it was concluded that the respondent had been working as Mali purely on ad-hoc basis w.e.f 29 December 1994. It is further specifically observed that he has been battling for last 15 years and over the period of time, he has become ineligible and over aged for appointment in any other government service. Finally, the competent officer has recommended the case of the respondent for regularization retrospectively w.e.f 29 December 2024 i.e. the date of joining in pursuance of his engagement order No. 37 of 1994 dated 07 December 1994.

11. These two above referred official communications would unerringly show that the respondent is all along clamoring for regularization of his services, and the petitioners on one pretext or other pretext after extracting work continuously for over 30 years now came up with a

petition purely on hyper-technical ground that he is not entitled to the regularization of his services.

12. The State being the welfare State is expected to lead by example, and cannot resort to the policy of hire and fire, as same would amount to exploitative engagement, particularly when it is continuous and uninterrupted work over a long period. In “***Shripal and another vs. Nagar Nigam, Ghaziabad***” reported as 2025 SCC Online SC 221 Hon’ble Supreme Court held thus:

“14. The Respondent Employer places reliance on Umadevi (supra) to contend that daily-wage or temporary employees cannot claim permanent absorption in the absence of statutory rules providing such absorption. However, as frequently reiterated, Uma Devi itself distinguishes between appointments that are “illegal” and those that are “irregular,” the latter being eligible for regularization if they meet certain conditions. More importantly, Uma Devi cannot serve as a shield to justify exploitative engagements persisting for years without the Employer undertaking legitimate recruitment. Given the record which shows no true contractor based arrangement and a consistent need for permanent horticultural staff the alleged asserted ban on fresh recruitment, though real, cannot justify indefinite daily-wage status or continued unfair practices”.

13. Hon’ble Supreme Court authoritatively further held in the aforesaid judgment that Indian labour law

strongly disfavors perpetual daily-wage or contractual engagements in circumstances where the work is permanent in nature.

14. Again in ***Jaggo Vs. Union of India; AIR 2025 SC 296***, strongly deprecated the practice of brushing aside long and uninterrupted service, for periods extending well beyond ten years, merely by labeling their initial appointments as part-time or contractual. Hon'ble Supreme Court rejected the contention of the respondent that there were no regular post by holding that the nature of the work performed by the appellants was perennial and fundamental to the functioning of the offices. It was further held that the appellants' performance over their long tenures further solidifies their claim for regularization. In this regard, what has been held in para No. 22 assumes importance and same reads thus:-

22. The pervasive misuse of temporary employment contracts, as exemplified in this case, reflects a broader systemic issue that adversely affects workers' rights and job security. In the private sector, the rise of the gig economy has led to an increase in precarious employment arrangements, often characterized by lack of benefits, job security, and fair treatment. Such practices have been criticized for exploiting workers and undermining labour standards. Government institutions, entrusted with upholding the principles of fairness and justice, bear an even greater responsibility to avoid such exploitative employment practices.

When public sector entities engage in misuse of temporary contracts, it not only mirrors the detrimental trends observed in the gig economy but also sets a concerning precedent that can erode public trust in governmental operations.

15. It is worth noting that Hon'ble Supreme Court in ***Dharam Singh & Ors. Vs. State of U.P & Anr.; AIR 2025 SC 3897*** unequivocally while referring to Uma Devi (supra) held that same draws distinction between illegal appointment and irregular engagements and does not endorse perpetuation of precarious employment where the work itself is permanent and the State has failed, for years, to put its house in order. Hon'ble Supreme Court, while noting the long and perennial nature of duties of appellants, ordered for regularization of their services.

16. In a recent judgment passed by Hon'ble Supreme Court in ***Bhola Nath Vs. The State of Jharkhand & Ors; 2026 SCC OnLine SC 129*** after taking note of the law laid down in Jaggo (supra), Shripal (supra), Dharam Singh (supra) and often quoted Uma Devi (supra) held that the respondent-state was not justified in continuing the appellants for over a decade under the nomenclature of contractual engagement and thereafter denying them consideration for regularization. Hon'ble Supreme Court has further observed that the State, as a model employer, cannot rely on contractual labels or mechanical application

of Uma Devi (supra) to justify prolonged ad-hocism or to discard long-serving employees in a manner inconsistent with fairness, dignity and constitutional governance and finally, directed the State to forthwith regularize the services of the appellants.

17. Be that as it may, after extracting work from the respondent continuously for over 30 years, it does not lie in the mouth of the State to assert that status of the respondent was that of an ad-hoc employee or he was engaged on need basis, rather the continuity of the respondent in the department in whatever capacity, goes to show the permanency of the work, he was made to perform till he attained the age of retirement, thus, State being model employer is not expected to resort to the policy of hire and fire.

18. Insofar as the contention of the petitioner regarding repeal of SRO 64 of 1994 is concerned, same is not only self defeating but also is not sustainable in view of the settled legal position that a right accrued under the statute cannot be taken away retrospectively. The repeal of the Act or Rule cannot be applied to defeat a right that had crystallized under repealed Act, more so, when it amounts to violation of Article 14 and 16 of the Constitution of India.

19. Therefore, the contention of the petitioners that the engagement of the respondent was on ad-hoc basis is also refuted by the admitted fact that the respondent had been performing continuous and uninterrupted duties for more than three decades, therefore, such work cannot be termed as temporary, rather same with the passage of time had acquired the status of permanence.

20. From the above made discussion, it is seen that the Tribunal has taken a pragmatic view, therefore, we do not find any error of fact or law committed by the Tribunal while passing the impugned order dated 31 December 2024. Accordingly, the present writ petition being devoid of merit is dismissed.

(Shahzaad Azeem)
Judge

(Sindhu Sharma)
Judge

Jammu:
30.05.2026
Tarun/PS

Whether approved for reporting:	:	Yes/ No
Whether the order is speaking	:	Yes/ No