

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

**LPA No. 133/2026 in
WP(C) No. 440/2021**

*Reserved on: 06.07.2026
Date of pronouncement:21.07.2026
Date of uploading: 21.07.2026*

*Whether the operative part or full judgment
is pronounced* **FULL**

Kirpal Singh, aged 60 years
S/o Sh. Jamit Ram
R/o Damunda, Bhaderwah,
District Doda.

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

Through: Mr. Abrar Ahmed Khan, Advocate.

vs

**01.The Union Territory of Jammu and
Kashmir** through
Commissoner/Secretary
Home Department, Civil Secretariat
Srinagar/Jammu.

..... Respondent(s)

02.The Director General of Police,
Jammu and Kashmir PHQ, Jammu.

**03.The Deputy Inspector General of
Police,**Ramban-Doda Range,
Batote, Ramban.

**04.The Senior Superintendent of
Police,** Doda.

05.Station House Officer,
Police Station Bhaderwah District Doda.

Through: Mrs. Monika Kohli, Sr. AAG with
Ms. Chetna Manhas, Advocate.

**CORAM: HON’BLE MRS. JUSTICE SINDHU SHARMA, JUDGE
HON’BLE MR. JUSTICE RAJESH SEKHRI, JUDGE**

JUDGMENT

Rajesh Sekhri-J

01. Appellant has invoked Letters Patent of this Court against judgment dated 12.03.2026, passed by learned Single Judge of this Court in “*Kirpal Singh vs. UT of J&K and Ors.*” ; WP(C) No. 440/2021.
02. Background facts of the case are that appellant came to be engaged as VDC SPO, pursuant to a scheme launched by the Government. His services came to be disengaged by virtue of order dated 23.06.2015, passed by Senior Superintendent of Police, Doda, on the basis of a written complaint of public of his native village that he would often remain under the influence of liquor, annoy the co-villagers, speak ill about others and would even threaten to kill them with his service weapon. It was also alleged that appellant even refused to share the honorarium with other members of the Village Defence Committee (VDC).
03. The appellant impugned the order of his dis-engagement in this Court through the medium of writ petition; SWP No. 2060/2015, primarily on the ground that he was not afforded a reasonable opportunity of being heard. Refuting allegations that he would often remain under the influence of liquor and threatened to kill co-villagers with his service weapon the appellant contended that he was coerced by the respondents to share his honorarium with members of VDC. This writ petition came to be disposed of by this Court in terms of order dated 27.11.2017, whereby appellant was given liberty to prefer appeal/representation against his dis-engagement and DIG, Doda-Bhaderwah range or the competent authority, in turn was directed to accord consideration to his appeal/representation within four to six weeks.

- 04.** Pursuant to the aforesaid order appellant preferred a representation before DIG, Ramban-Doda range and since it was not decided within the stipulated period, he preferred a contempt petition in this Court. During the currency of the contempt petition, however the DIG concerned, vide order dated 27.03.2018, rejected his representation.
- 05.** The appellant assailed the consideration order, whereby his appeal/representation came to be rejected, on the predominant premise that neither he was given an opportunity of being heard before his dis-engagement nor before rejection of his representation.
- 06.** It was contended by the appellant that punishment of his dis-engagement was harsh, particularly when his role as VDC SPO had been appreciated by his superiors. It was further contended that respondents while dis-engaging his services had failed to adhere to Rule 337 of Police Rules, as neither any charge sheet was served upon him nor regular inquiry into the charges was held by the respondents. The appellant also contended before the writ Court that since he was engaged as VDC SPO by the Government, it was not open to SSP, Doda to dis-engage his services.
- 07.** Countervailing the stand of the appellant, it was contended by the respondents before the writ Court that appellant came to be appointed as VDC SPO, pursuant to a government scheme to ensure the security and safety of his co-villagers. In the past, VDC SPOs used to share their honorarium with other members of VDC out of their free will. The respondents denied that they ever exerted any pressure upon the appellant to share his monthly honorarium with the VDC members and emphatically stated that his service came to be dis-engaged only on the basis of complaint made by his co-villagers that he would often

remain inebriated and threatened to kill them with his service weapon. The villagers got fed up with his mis-deeds and sought his dis-engagement/dis-armament.

08. It was also contended by the respondents before the writ Court that despite his dis-engagement, appellant refused to deposit the arms and ammunition issued in his favour. As a result FIR No. 109/2019 for offences under Sections 7/25 Arms Act, for possessing illegal arms/ammunition, came to be registered against him with Police Station, Bhaderwah. The investigation culminated in a charge sheet against him in the competent Court and it was only after hectic efforts of the police that appellant was disarmed and arms and ammunition could be deposited in Police Station, Bhaderwah in 2019.
09. According to the respondents, an inquiry was conducted by Additional SP, Bhaderwah concerning the aforesaid allegation against the appellant and all the allegations came to be established.
10. Appellant assailed findings of the enquiry before learned writ Court on the ground that neither formal charge was framed against him nor he was afforded any opportunity to cross-examine the witnesses.
11. Learned writ Court having regard to the facts and circumstances attending the case, allegations against the appellant and the statutory rule position has observed that allegations against him were duly established during a detailed inquiry conducted by SHO Police Station, Bhaderwah and since he did not hold a civil post so as to entitle him to the protection of Article 311 of the Constitution of India and provisions contained in Police rules, those are available to a regular member of police force holding a civil post, he cannot claim a

right to be subjected to a regular departmental enquiry before dis-engagement of his services.

12. Having heard learned counsels for the parties at length and perused the impugned judgment as well as the material on record, we find that learned Single Judge has passed a well reasoned and detailed order, appreciating all relevant facts and applying the correct principles of law.
13. The Government, vide order No. Home-293 of 1995 dated 30.09.1995 came up with a scheme called “Village Defence Group Scheme” for the creation of Village Defence Groups, comprising of 10 to 15 armed civilians of certain categories of volunteers in each village, to be headed by a retired officer of the Army/CRPF/State Police, who was to be issued a higher category of weapon and was also to be appointed and given powers of Special Police Officer (SPO) with initial honorarium of Rs. 1500/- per month. Said SPOs were to function under the overall supervision of respective Tehsildars and SHOs on the instructions of respective District Magistrates and Superintendents of Police. As per the scheme, the volunteers and the number of weapons to be allotted in a particular village are to be determined by the District Magistrate/Senior Superintendent of Police concerned.
14. Appellant came to be appointed as VDC SPO pursuant to the aforesaid scheme but he came to be dis-engaged *inter alia* on the allegations that he would often remain inebriated and threatened the members of VDC and Panchayat. It was also alleged that he refused to co-operate with the members of VDC and share his honorarium with them.

15. A perusal of the record reveals that SHO, Police Station, Bhaderwah conducted a detailed enquiry into the allegations against the appellant. Statements of VDC members of village Dhumunda and statements of Lambardar and Sarpanch came to be recorded and all of them corroborated the allegations that appellant would often remain under the influence of liquor and refused to co-operate with the members of VDC. They also stated in one voice that appellant refused to share the honorarium with other members of VDC and threatened the general public under the cover of his service weapon.
16. Learned Single Judge is of the view that requirement of giving an opportunity of being heard to the appellant was duly complied by the respondents by holding an enquiry and permitting him to file representation against the order of his dis-engagement, where he raised all the pleas available to him and since these have been correctly dealt with by the respondents, they were justified in passing the impugned orders.
17. Appellant has taken an exception to the verdict of learned Single Judge on the same grounds those were urged in the writ petition that neither formal charge was framed against him nor he was afforded an opportunity to cross-examine the witnesses during enquiry nor afforded an opportunity of being heard.
18. Principles of natural justice are founded on public policy and rooted in the concept of fairness and equity to ensure that similarly circumstanced persons are treated equally and justly. However, rules of natural justice are not strait-jacket formulae to be applied uniformly in all cases. Its application varies from case to case depending upon the facts and circumstances of a particular case. In

other words, what shall be the extent of requirement of the rules of natural justice would depend upon the facts of a particular case. While in a particular case, a full-fledged enquiry may have to be held depending upon the rules, if any, in another case mere opportunity of hearing may satisfy the requirement of the rules. Primarily, it depends amongst other things on the response of the delinquent, the nature of his defence and the nature of action proposed. No hard and fast rule can be laid down. What is the essence is that he should be given a reasonable opportunity to offer the defence. The requirements of rule of natural justice are; (i) that employee is aware about the nature of charge or accusation against him, (ii) that opportunity is given to him to state his case; and (iii) that employer should act in good faith i.e., to say the action of the employer should be fair and reasonable.

19. The issue with respect to the appointment made under a scheme vis-a-vis a post created under a statute arose for discussion before Hon'ble Supreme Court in **State of Karnataka vs. Ameerbi, (2007) 11 SCC 681**, whereby it was held that a distinction is to be made about a post created in exercise of the power under the Constitution of India or under a statute vis-a-vis appointments made under a scheme. It was clearly ruled that appointments made under a scheme or carried out through a committee, would not render the incumbents as holders of a civil post.

Relevant excerpt of the judgment for the ease of reference is extracted below:-

“Appointments made under a scheme and recruitment process being carried out through a committee, in our opinion, would not render the incumbents thereof holders of civil post. Our attention has not been drawn to any rule or regulation governing the mode of their recruitment. Some statements in this behalf have been made by the interveners

but for the reasons stated hereinbefore, we cannot enter thereinto. A distinction must be made about a post created by the Central Government or the State Governments in exercise of their power under Articles 77 or 162 of the Constitution of India or under a statute vis-à-vis cases of this nature who are sui generis. Terms and conditions of services of an employee may be referable to acts of appropriate legislature. The matter may also come within the purview of Article 309 of the Constitution of India as proviso appended thereto confers power upon the President or the Governor of a State or other authority, who may be delegated with such power, to make rules during the interregnum.”

20. Following the aforesaid verdict, a division Bench of this Court in **State of J&K and Ors. vs. Mohammad Iqbal Mallah [LPA No. 153/2012 dated 05.06.2014]** has held that there was no requirement of law to hold an enquiry for complying with the rules of principles of natural justice in the case of an employee who was not holding any post much less a civil post.

Relevant abstract of the judgment is as follows:

“In the present case the petitioner- respondent was working as SPO at an honorarium of Rs. 3000/- per month. He decided to absent himself from duty and his services were disengaged vide order dated 01.07.2011 when he had rendered less than three years service. He has no right to any post. There was no requirement of law to hold an enquiry for complying with the rules of principles of natural justice as he was not a holder of a post, much less a civil post. Therefore, the appeal deserves to be accepted and the judgment of the learned Single Judge is liable to be set aside.”

21. If the present case is approached with the aforesaid principles of law enunciated by Hon’ble Supreme Court and a co-ordinate Division Bench of this Court, we concur with the observation of learned Single Judge that since appellant was not holding a civil post so as to entitle him to the protection of Article 311 of the Constitution of India and the provisions contained in the police rules, available to a regular member of police force holding a civil post, he cannot claim a regular

departmental enquiry before his dis-engagement. Allegations against the appellant are very serious in nature that he not only refused to share the honorarium with fellow VDC members but also threatened to kill them with his service weapon under the influence of liquor. Pertinently, his co-villagers got fed up with his mis-deeds and filed written complaint against him for his dis-engagement/dis-armament. Appellant was made aware about the nature of charge/accusations against him in the notice of his dis-engagement. An opportunity was given to him to state his case through the medium of representation, where he raised all the pleas available to him and allegations against him were duly established in the enquiry.

22. Appellant has failed to show any illegality, jurisdictional error or perversity in the impugned judgment propounded by learned Single Judge. Hence, present appeal is **dismissed** and impugned judgment is upheld.

(Rajesh Sekhri)
Judge

(Sindhu Sharma)
Judge

Jammu
21.07.2026
Sushant

Whether the judgment is speaking?	Yes
Whether the judgment is reportable?	Yes