

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

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**WP (Crl.) No. 95/2026  
CM No. 6515/2026**

Farhat Ali Khanday

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

Through: - Mr. M. Nadeem Bhat, Advocate

Vs.

UT of J&K and ors.

**...Respondent(s)**

Through: - Ms. Malvika Gupta, Advocate vice  
Mrs. Monika Kohli, Sr. AAG

**CORAM: HON'BLE MR. JUSTICE SANJAY DHAR, JUDGE**

**ORDER  
07.10.2026**

1. The petitioner, through the medium of the present petition, has challenged status report dated 22.07.2026 furnished by the SHO, Police Station, Banihal, before the Court of learned Judicial Magistrate 1st Class, Banihal, to the extent his name has been shown in the list of Over Ground Workers (OGW).
2. It has been submitted that the petitioner was serving as a Government employee prior to the adverse action taken against him on the basis of his alleged association with militants and his description as an OGW of militants. According to the petitioner, a status report was filed by the SHO, Police Station, Banihal, on 22.07.2026, wherein it was submitted that the name of the petitioner was removed from the list of OGWs in

the year 2021, but subsequently, his name was again entered in the list in the year 2022.

3. The petitioner has submitted that FIR No. 65/2011 under Sections 13, 18, 20, 40, 7, 19 and 21 of the Unlawful Activities (Prevention) Act, 1967 (UAPA), came to be registered against him at Police Station, Banihal, and he was arrested in connection with the said FIR. It has been submitted that, after investigation of the said FIR, a challan has been presented against the petitioner before the competent court at Jammu, which is still pending.
4. According to the petitioner, vide Government Order dated 08.04.2026, his services were terminated in terms of sub-clause (c) of proviso to clause (2) of Article 311 of the Constitution of India, on the ground that the petitioner is an OGW of militants. It has been contended that the petitioner has challenged his dismissal order before the Central Administrative Tribunal at Jammu, and the said petition is still pending.
5. According to the petitioner, merely because a challan for offences under the UAPA is pending against him, he cannot be treated as an OGW of militants. It has been submitted that such description of the petitioner has serious civil and service consequences for him. It has been further submitted that once the name of the petitioner was removed from the list of OGWs, there was no occasion for the respondents to include his name again in the said list. It has also been contended that the continuation of the petitioner in the said list is stigmatic in nature and, as such, his name is liable to be removed from the said list.

6. I have heard learned counsel for the parties and perused record of the case.
7. It is an admitted case of the petitioner that he has been booked in an FIR relating to offences under the UAPA. It is also admitted by the petitioner that he is facing trial for offences under the UAPA before a Court at Jammu. The petitioner has also averred in the petition that he was removed from service by the Government by invoking sub-clause (c) of proviso to clause (2) of Article 311 of the Constitution of India, which vests the power in the President or the Governor to dismiss a Government employee without holding an inquiry, if the same is in the interest of the security of the State. The petitioner is stated to have challenged the said order before the Central Administrative Tribunal at Jammu.
8. The question as to whether the petitioner is an OGW of militants and whether he is involved, directly or indirectly, in aiding/assisting the militants is a matter pending determination before the criminal court where the petitioner is facing trial for offences under the UAPA. The issue as to whether the petitioner is a security risk, being an associate of OGWs, which prompted the Governor to dismiss him from service without holding an inquiry, is pending adjudication before the CAT, Jammu. These issues cannot be determined by this Court in these proceedings at this stage.
9. As long as the petitioner is facing trial in a case alleging his involvement in offences relating to terrorist activities, and as long as his dismissal from service on the ground of national security is not set aside

by the competent court of law, the petitioner cannot seek removal of his name from the list of OGWs that may have been maintained by the police authorities. If and when the petitioner succeeds in aforesaid pending proceedings, he would be at liberty to challenge inclusion of his name in the list of OGWs.

10. For the foregoing reasons, I do not find merit in this petition. The same is, accordingly, dismissed.

(SANJAY DHAR)  
JUDGE

**Jammu:**  
07.10.2026  
Karam Chand

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|----------------------------------|--------|
| Whether the order is speaking:   | Yes/No |
| Whether the order is reportable: | Yes/No |

