Serial No. 16

HIGH COURT OF JAMMU & KASHMIR AND LADAKH AT JAMMU

WP(C) No. 3156/2026
CAV No. 2259/2026
CAV No. 2045/2026

Date of pronouncement: 05.10.2026
Date of uploading: 06.10.2026

UT of J&K & Ors. …..Appellant(s)/Petitioner(s)

Through: Ms. Monika Kohli, Sr. AAG

vs

Harmeet Singh & Ors. ….. Respondent(s)

Through: Mr. Gagan Basotra, Sr. Advocate with
Ms. Purvehi Khajuria & Ms. Navdeep Kour, Advocates.
Mr. Mohd. Latif Malik, Advocate

CORAM: HON'BLE MR. JUSTICE SANJEEV KUMAR, JUDGE
HON'BLE MR. JUSTICE M A CHOWDHARY, JUDGE

ORDER (ORAL)
05.10.2026

Sanjeev Kumar 'J'

CAV No. 2259/2026 & CAV No. 2045/2026

1. Heard learned counsel for the caveators.

2. With the appearance of learned counsel for the caveators, the caveats stand discharged.

WP(C) No. 3156/2026

1. Order dated 03.02.2026, passed by the Central Administrative Tribunal, Jammu Bench, Jammu **["the Tribunal"**] in T. A. No. 3755/2020, is subject matter of challenge in this writ petition filed by the Union Territory of Jammu and Kashmir and three others under Article 226 of the Constitution of India.

2. Briefly stated, the facts leading to the filing of this writ petition are that the respondents came to be engaged as casual labour in the year 2014 in the Department of Irrigation and Flood Control *in lieu* of the land donated by them for construction of tube wells in different villages. The respondents, as is claimed by them, also executed gift deeds in favour of the petitioners, which, *inter alia*, contained a stipulation that *in lieu* of the land donated by them, the respondents shall be provided Government Job. However, the respondents were engaged in the department as casual workers. It seems that after rendering almost five years of service, the respondents approached this Court by way of SWP No. 620/2019 seeking, *inter alia*, a direction to the petitioners herein to regularise their services in the Department of Irrigation and Flood Control. The writ petition was later transferred to the Tribunal on coming into force of the J&K Reorganisation Act, 2019 and constitution of the Tribunal for the UT of J&K. The writ petition was registered as TA No. 3755/2020.

3. The petition was contested by the petitioners by filing the written statement. The factum of the respondents, having donated their land and their continuation as casual worker since 2014, was not disputed. As a matter of fact, the petitioners, in their reply affidavit, stated that the engagement of the respondents was governed by the Jammu and Kashmir Casual and Other Workers - Regular Engagement Rules, 2017 **[“the Rules of 2017”]** issued vide SRO 520 dated 21.12.2017

and therefore, their cases for regular engagement shall be considered as and when they would acquire eligibility under the said Rules.

4. Having considered the rival contentions of the parties, the Tribunal was of the view that the respondents, having served for more than 10 years as on the date the petition was taken up for consideration, had acquired right of regularisation, more particularly, when their initial engagement was *in lieu* of the land donated by them, free of cost, to the petitioners. Vide judgment impugned, the Tribunal allowed the petition of the respondents and directed their regularisation against the available posts in accordance with applicable service conditions on the ground that the respondents had completed 10 years of continuous casual service. It is this order and judgement of the Tribunal, which is called in question before us in these proceedings.

5. Having heard learned counsel for the parties and perused material available on record, we find that the facts are not in dispute. Respondents have donated their land to the petitioners for construction of tube wells and have also executed gift deeds. There is also no dispute with regard to the fact that in the gift deed, there is a stipulation that respondents would be provided Government job. As a matter of fact, the respondents have been given the job as 'casual labour' only *in lieu* of 01 Kanal the land, donated by each one of them for the public purpose i.e. construction of tube wells by the Department of Public Health Engineering (PHE). It is true that when the writ petition was filed before this Court, the respondents had

barely five years of service to their credit, but during the pendency of the writ petition/TA, the respondents came to complete ten years of service in the year 2024. The relief claimed by the respondents, in their petition before the Tribunal, was primarily based on the assurance extended to them in the gift deeds that they would be given Government Job.

6. Mr. Gagan Basotra, learned Senior counsel for the respondents would argue that the stipulation with regard to providing of Government job was with respect to providing of a permanent Government job and not the job of a casual labour. Whereas, the stand of the petitioners is that the Government job promised *in lieu* of 01 Kanal of land donated by each of respondents was not to be of permanent nature and therefore, they were engaged on casual basis. He submitted that the regularisation, if any, could only be on the basis of some statutory rules or executive orders issued by Government from time to time.

7. We have given our thoughtful consideration to this aspect of the matter and are of the considered opinion that the Government does not have any authority to promise or to give permanent Government job to any person *in lieu* of the land donated by such person for public purpose. The permanent job in the Government department would be in accordance with the recruitment rules in vogue and pursuant to a selection process, which is in consonance with Article 14 and 16 of the Constitution of India. Making such promises would be tantamount to putting the Government jobs on sale, which is not in

conformity with the rule of law, which is essence of our political democracy governed by the Constitution of India. As a matter of fact, the Government is not competent to engage daily wagers, casual workers, *ad hoc* or consolidated workers without advertisement notification and without having a selection process, which is just, fair and transparent and in conformity with Article 14 and 16 of the Constitution of India. The Government or its officers are not empowered to pick up the people of its own choice from the open market, engage them by giving the nomenclature of 'daily wagers', 'casual workers', '*ad hoc'* appointees or consolidated workers and then come up with the policy of regularisation to confer the benefit of permanent employment on them. Such practice followed by the Government is nothing but a fraud on Constitution of India.

8. Be that as it may, reverting to the facts of this case, the respondents having been engaged as casual workers, have continued in service for more than 10 years and have, therefore, become entitled to the benefit of regular engagement as envisaged under Rule 4 of the Rules of 2017, provided they fulfil the requirements, as prescribed under the Rules. The Tribunal has, though, adverted to the SRO 520 of 2017 i.e. the Rules of 2017, but has, in the operative portion, erred in directing the petitioners to give regular appointment to the respondents.

9. For the foregoing reasons, we dispose of this petition and modify the judgment of the Tribunal in the following manner:

(i) That the respondents, who have completed 10 years continuous services as casual worker/daily rated worker, shall be entitled to regular engagement as envisaged under the Rules of 2017

(ii) That their cases shall be taken up for consideration immediately and forthwith so as to provide them the benefit of regular engagement as envisaged under the Rules of 2017 with effect from the date, they have completed 10 years continuous service as casual labour.

(iii) They shall be entitled to all the consequential benefits.

10. ***Disposed of.***

(M A Chowdhary)
Judge

(Sanjeev Kumar)
Judge

Jammu
05.10.2026
Vishal Sharma

Whether the order is reportable?: Yes

Whether the order is speaking?: Yes