

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

WP(C) No. 3157/2026

Date of pronouncement: 05.10.2026

Date of uploading: 06.10.2026

- 1. UT of Jammu and Kashmir** Appellant(s)/Petitioner(s)
through Commissioner-Cum-Secretary, Home Department, Civil Secretariat, Jammu.
- 2. Director General of Police (Prisons),**
Jammu and Kashmir, Govt. Jammu.
- 3. Senior Superintendent of Police,**
District Jail, Jammu.
- 4. Commissioner-cum-Secy., General**
Administration Deptt. Civil Secretariat, Jammu.

Through: Ms. Monika Kohli, Sr. AAG

vs

Susheel Kumar S/o Sh. Parkash Chand
R/o Hakkal, Jammu

..... Respondent(s)

Through:

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

ORDER (ORAL)

05.10.2026

Sanjeev Kumar 'J'

1. An order and judgment dated 09.02.2026, passed by the Central Administrative Tribunal, Jammu Bench, Jammu [**“the Tribunal”**] in TA No. 194/2020 (SWP No. 379/2019) titled “*Susheel Kumar Vs. State of Jammu and Kashmir & Ors.*”, is subject matter of challenge in this petition, filed by the Union Territory of Jammu and Kashmir and three others by invoking Article 226 of the Constitution of India.
2. In terms of judgment impugned, the Tribunal, has, while allowing the petition of the respondent, directed the petitioners herein to regularise

his services as Junior Assistant on analogy of similarly situated *ad hoc* Junior Assistants of the Prisons Department with effect from the date, they were regularised with all consequential service benefits, including fixation of pay and seniority.

3. The impugned judgment is challenged by the petitioners, primarily, on the ground that the Tribunal has failed to appreciate that the *ad hoc* services of the respondent were not regularised as Junior assistant for the reason that he did not fulfil the requisite eligibility qualification as on the date of his initial appointment. It is submitted that the respondent had failed to produce the certificate, indicating that he possessed typing speed of 35 words per minute at the time of his initial appointment.
4. Before we advert to the grounds of challenge, urged by Ms. Monika Kohli, learned Senior AAG to assail the judgment impugned, we deem it appropriate to set out few facts, as are germane to the disposal of the controversy raised in this writ petition.
5. The respondent, having acquired the qualification of 10+2 from the J&K State Board of School Education, was engaged/appointed as Junior Assistant in the Prisons Department against the clear vacancy on *ad hoc* basis vide order No. 109-A of 2001 dated 05.09.2001 by the then Director General of Prisons. He continued to discharge his duties of Junior Assistant and was even issued commendation certificates by the senior officers for rendering exemplary services. Despite rendering services for more than seven years in *ad hoc*

capacity, the services of the respondent were not regularised by the petitioners. Feeling aggrieved, the respondent approached this Court by way of SWP No. 379/2019, in which the respondent, *inter alia*, sought a writ of mandamus to the petitioners to regularise his services as Junior Assistant on permanent basis w.e.f. 04.09.2008 with all consequential benefits in terms of Government Order No. 1285-GAD of 201 dated 06.11.2001 or in the alternative, regularise his services on permanent basis in terms of the Jammu and Kashmir Civil Services (Special Provisions) Act, 2010 [**“the Act of 2010”**] w.e.f. 04.09.2001 when he completed seven years of *ad hoc* services. This petition was later transferred to the Tribunal on coming into force the J&K Reorganisation Act, 2019 and constitution of Tribunal for the UT of Jammu and Kashmir and the same was registered before the Tribunal as TA No. 194/2020.

6. The petition was contested by the petitioners by filing their reply affidavit. The claim of the respondent for regularisation was sought to be repudiated on the ground that the respondent did not hold the eligibility qualification prescribed for the post of Junior Assistant in the Prisons Department at the time of initial engagement i.e. on 05.09.2001, in that, the respondent was not possessing a certificate, indicating that he had acquired type speed of 35 words per minute. It was submitted that his case was considered under the Act of 2010 and was placed before the Empowered Committee along with three other similarly situated Junior Assistants.

7. The case of other three Junior Assistants, working on *ad hoc* basis in Prisons Department was cleared and they were regularised on permanent basis as Junior Assistants in the Prisons Department, but in the case of the respondent, the recommendation for regularisation of the services was made subject to relaxation of submission of certificate of requisite type speed at the time of initial engagement. It is the further stand of the petitioners that, though, the matter was taken up by the Department of Prisons with the Government for relaxation, but the same was not acceded to citing Clause (iii) of Section 5 of the Act of 2010.
8. The Tribunal, having considered the rival contention of the parties and perused the material on record, came into conclusion that the respondent, being similarly placed with three Junior Assistants working in the Prisons Department in similar capacity, but were later regularised, could not have been discriminated by the petitioners. Accordingly, the respondent was also held entitled to regularisation on a par with aforesaid three Junior Assistants. This is how the petition, filed by the respondent came to be allowed in terms of the judgment impugned.
9. Having heard learned counsel for the parties and perused material on record, we are of the considered opinion that the respondent has been discriminated vis-a-vis Rajesh Kumar, Harvinder Singh and Subath Wani, who were similarly situated with the respondent, but were regularised as Junior Assistants vide order dated 21.05.2016. It is not

in dispute that when the respondent was appointed as Junior Assistant in Prisons Department, he possessed the requisite educational qualification. It is also not in dispute that right from the date of his initial engagement, i.e. 05.09.2001, he has been continuously performing the duties of Junior Assistant. The only question that needs determination in this petition is whether the respondent was obliged to produce a certificate, indicating that he possessed the typing speed of 35 words per minute at the time of his initial engagement. The answer to this question can be found from relevant recruitment rules.

10. The J&K Jails (Sub-ordinate) Recruitment Rules were revised in the year 1979 and were issued vide SRO 149 dated 15.03.1979. As per the Schedule appended to the Rules, the minimum qualification prescribed for the Junior Assistant was as under:

Matric or its equivalent of any recognised University/Board.

The candidate should have knowledge of type writing of not less than 30 words per minute.

It seems that these rules were later amended and the qualification, which was prescribed by amendment, was in the following manner:

10+2 or its equivalent or any recognised University or Board.

The candidate should have knowledge of type writing of not less than 35 words per minute.

11. Needless to say that the rules have undergone further amendments and these rules have now been repealed and replaced by the J&K

Jails (Sub-ordinate) Service Recruitment Rules, 1985 as amended up to date and even in the latest rules, which are in vogue, the production of a certificate from a typing institute, indicating that the candidate possesses a typing speed of 35 words per minute is not the essential requirement or condition of eligibility. The requirement of the Rules is that a person should have a knowledge of type writing of not less than 35 words per minute.

12. In the given facts and circumstances, when it is not in dispute that the respondent, right from the date of his initial engagement, has been successfully rendering the services of Junior Assistant, it cannot be said that the respondent did not have the knowledge of knowing the type with the speed of 35 words per minute. There is thus inherent falsity in understanding the eligibility requirement prescribed under the rules and it is because of this erroneous understanding of the rules, the respondent has been ousted from the zone of consideration for regularisation on the ground that he failed to produce the requisite certificate.
13. It also needs to be taken note of that even the certificate, dating back to the time when he was initially engaged was later produced by the respondent and the said certificate was with the petitioners when the case of all the junior assistants, working on *ad hoc* basis, was taken up for regularisation. That apart, we fail to understand as to why the relaxation, as recommended by the Empowered Committee, was not considered by the Competent Authority.

14. Viewed from any angle, we do not find that the respondent was not eligible to hold the post of Junior Assistant at the time he was initially engaged as such on *ad hoc* basis. His case has, therefore, not been considered in right perspective and he has been clearly discriminated vis-a-vis the persons similarly situated.
15. For all these reasons, this petition is found devoid of any merit and the same is, accordingly, dismissed.
16. The respondent is held entitled to the benefit of regularisation with effect from the date Rajesh Kumar, Harvinder Singh and Subath Wani were regularised as Junior Assistants with all consequential benefits as is held by the Tribunal in terms of the judgment impugned.
17. ***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