

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

WP (C) No. 3538/2025

UT of J&K and others

.... Petitioner/Appellant(s)

Through:- Mr. Raman Sharma, AAG with
Ms. Jagmeet Kour, Advocate

V/s

Bansi Lal and others

.....Respondent(s)

Through:- Mr. Anuj Dewan Raina, Advocate

CORAM: HON'BLE MR. JUSTICE SANJEEV KUMAR, JUDGE
HON'BLE MR. JUSTICE SANJAY PARIHAR, JUDGE

ORDER

11.03.2026

1. Impugned in this petition filed by the UT of J&K and three others is an order and judgment dated 09.08.2024, passed by the Central Administrative Tribunal, Jammu Bench, Jammu, ["the Tribunal"], in TA No. 3665/2020 titled "Bansi Lal and others Vs. Union Territory of J&K and others", whereby the petition of the respondents has been allowed and Government Order No. 95-RD&PR of 2019 dated 07.03.2019 has been set aside. A direction has also been issued to the petitioners to consider the case of respondents for release of pensionary benefit in the light of Government Order No. 95-RD&PR of 2018 dated 17.04.2018.
2. Briefly stated, the facts leading to the filing of this petition are that the respondents came to be appointed as Orderly, Cleaner, and Driver in Drought Prone Area Programme (DPAP), Doda, vide Government Order

No. 358-Agri of 1988 dated 27.05.1988 and retired on superannuation w.e.f., 31.05.2013, 31.01.2008 and 29.02.2012 respectively. At the time of their retirement, the respondents were not held entitled to pension, and therefore, they filed SWP No. 1509/2015 before this Court seeking, inter-alia, a writ of mandamus commanding upon the petitioners herein to confer pensionary benefits upon the petitioners being employees of the State Government working under DPAP, Doda. This writ petition was disposed of by a Bench of this Court on 21.05.2015 with a direction to the petitioners herein to consider and take a decision with regard to the claim of the respondents for grant of pension having regard to the averments made in the writ petition and in accordance with the applicable rules.

3. In compliance with the directions dated 21.05.2015 passed by this Court, the matter was considered by the Government and the same came to be rejected vide Government Order No. 95-RD&PR of 2019 dated 07.03.2019 on the ground that the respondents did not qualify for pensions as they did not fulfill the following three conditions:

- (i) The service was must be under the state.
- (ii) The employment must be substantive and permanent.
- (iii) The service must be paid by the government.

4. Feeling aggrieved by the consideration order dated 07.03.2019, the respondents filed WP (C) No. 4359/2019 before this Court which, on coming into force of the J&K Reorganization Act, 2019 and constitution of the Central Administrative Tribunal, came to be transferred to the Tribunal and registered there as TA No. 3665/2020.

5. It seems that during the course of arguments, it was brought to the notice of the Tribunal that some candidates, allegedly similarly situated with the respondents working in District Rural Development Agency (DRDA), were given the benefit of pensionary benefits by absorbing them in the Department of Rural Development in terms of Government Order No. 233-RD&PR of 2015 dated 01.09.2015.
6. Having regard to the aforesaid submissions made by learned counsel appearing for the respondents, the Tribunal did not go into the merits of the controversy and instead disposed of the petition with a direction to the petitioners to consider the case of the respondents for release of pensionary benefits in the light of Government Order No. 95-RD&PR of 2018 dated 17.04.2018, whereby the benefit of pension had been granted to the persons working in DRDA. This was done by the Tribunal in terms of the judgment which is impugned before us. Impugned judgment is assailed by the petitioners primarily on the ground that the Tribunal could not have directed consideration of the case of the respondents on the analogy of their counterparts working in DRDA without first returning a finding that the two set of employees were similarly situated and were entitled to the benefit of pension.
7. Mr. Raman Sharma, learned AAG would argue that unless the respondents are absorbed in the Government and they meet the three requirements as pointed out by the Office of the Accountant General and reproduced in the Government Order dated 07.03.2019, which was impugned before the Tribunal, the benefit of pension cannot be extended to the respondents. He would argue that the respondents, being employees of an agency, cannot

by any stretch of reasoning be treated as Government employees and conferred the benefit of pension which benefit was available only to the Government employees at the relevant point of time.

8. Having heard learned counsel for the parties and perused the material on record, we are of the considered opinion that the judgment impugned passed by the Tribunal does not determine the rights of the parties. The judgment impugned only directs the petitioners to consider the grievance of the respondents projected by them in their petition/TA filed before the Tribunal in the light of Government Order No. 95-RD&PR of 2018 dated 17.04.2018 and nothing more.
9. This leaves the petitioners free to consider the case of the respondents and take an informed decision as to whether they are similarly situated with the employees of DRDA who were later absorbed in the Government service and given the benefit of pension. They are also free to examine as to whether under CSR and other applicable rules the respondents would be entitled to pensionary benefits.
10. We would appreciate if the consideration accorded to the respondents is based upon the comparison of the two set of employees, i.e., those working in DPAP, Doda and DRDA, and a reasoned order was passed as to how the respondents, who were employees of DPAP, are different from those who were working in DRDA and were later absorbed in Government service.
11. Let the wholesome consideration be accorded to the grievance of respondents within a period of six weeks from the date copy of the judgment is submitted.

12. The judgment impugned passed by Tribunal is modified to the aforesaid extent and the writ petition is disposed of accordingly.

13. In view of the modification of the order of the Tribunal aforesaid, the contempt petition, if any, pending disposal before the Tribunal as rendered infructuous, same is accordingly disposed of.

(SANJAY PARIHAR)
JUDGE

(SANJEEV KUMAR)
JUDGE

Jammu:

11.03.2026

Shafqat

