

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

Reserved on 29.08.2026
Pronounced on 08.09.2026
Uploaded on: 08.09.2026
Whether the operative part or full
Judgment is pronounced: **Full**

WP(C) No. 222/2025

Shamshad Ahmad Lone

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

Through: Mr. Rizwan Ul Zaman, Advocate
Ms. Humera Majid, Advocate

Vs

U. T. of J&K and others

..... Respondent(s)

Through: Mr. Mohsin Ul Showkat Qadiri, Sr. AAG with
Ms. Maha Majeed, Advocate

Coram: HON'BLE MR. JUSTICE SANJAY DHAR, JUDGE

JUDGMENT

1. The petitioner, through the medium of present petition, has challenged order No. 01 of DTK-2025 dated 03.02.2025 issued by respondent No. 4, whereby he has been transferred from the Pahalgam Development Authority to Lolab Bangus Development Authority. A further direction has been sought for commanding the respondents to maintain status *quo* with regard to the present position of the petitioner.
2. As per the case set up by the petitioner, he came to be engaged as a Daily Wager in the Pahalgam Development Authority in the year 1993. His services were regularized as a Helper in terms of order No. CEO/PDA/19 of 2005 dated 01.05.2005 with effect from 01.04.2001. The petitioner was subsequently placed as Incharge Junior Assistant, and in terms of Order No.

261/PDA of 2017 dated 22.11.2017, charge allowance was sanctioned in his favour.

3. It has been submitted that, vide Order No. 1050 of DTK dated 02.02.2017, the respondents issued the final seniority list of Works Supervisors, Junior Scale Works Supervisors, Plumbers, Assistant Tourist Officers, Senior Receptionists (Executive), Receptionists (Executive), Electricians, Incharge Electricians, Senior Grade Khansamans, Junior Grade Khansamans, Rent Collector, Skill Lift Operators and Junior Skill Patrollers, but the name of the petitioner was not included in the said seniority list, which prompted him to file a writ petition bearing WP(C) No. 2755/2021 before this Court, seeking a direction upon the respondents to include his name in the final seniority list. It has been submitted that, on 30.12.2021, this Court passed an interim order directing the respondents to maintain status *quo* with regard to the present position of the petitioner.
4. It is contended that, despite the passing of the aforesaid interim order, the respondents have issued the impugned order, transferring the petitioner to a far-off place. According to the petitioner, the said order is not only illegal but it is also contrary to the provisions of law. It has further been contended that the respondents have assured the petitioner that he would be promoted, but instead of promoting him, they have issued the impugned order, which has the potential to adversely affect his avenues of promotion. It has been contended that the impugned action of the respondents is unreasonable, unfair and unjustified.
5. The respondents have filed their reply to the writ petition, wherein it has been contended that the impugned order dated 03.02.2025 has been issued by

the competent authority in the interest of administration, as such, the same does not suffer from any illegality, arbitrariness or *mala fides*. It has been contended that the transfer is an exigency of service and that a Government servant holding a transferable post has no fundamental right to remain posted at a particular place. It has further been submitted that the earlier writ petition filed by the petitioner along with other persons pertains to seniority, promotion and inclusion in the final seniority list, and that by filing the present petition, the petitioner is indirectly agitating the same issues. It has been contended that the petitioner cannot pursue parallel proceedings on the same cause of action. It has also been contended that mere sanction of charge allowance in terms of Article 77B of the J&K Civil Services Regulations does not confer upon the petitioner any right to promotion to a higher post.

6. I have heard learned counsel for the parties and perused record of the case.
7. The issue that falls for determination in the present petition is whether the challenge to the impugned order issued by the respondents, whereby the petitioner has been transferred from Pahalgam Development Authority to Lolab Bangus Development Authority is sustainable in law. It is a settled proposition of law that a challenge to a transfer order before a Court can be sustained on limited grounds, such as proven *mala fides*, violation of mandatory statutory rules, or where the order has been issued by an incompetent authority. It is also well settled that an employee has no fundamental right to be posted at a specific place of his choice. Courts generally defer to administrative decisions and rarely interfere with an order of transfer unless a strong, well recognized ground of legal infirmity or violation is made out.

8. With the aforesaid legal position in mind, let us now turn to the facts of the case. In the present case, the petitioner is employed as a Helper with Pahalgam Development Authority and he was working as Incharge Junior Assistant at the time of issuance of the impugned order of transfer. During the course of arguments, learned counsel for the petitioner submitted that because the petitioner is holding a Class-IV post, which qualifies to be a District Cadre Post, as such, it was not open to the respondents to transfer him to a place outside the District, in which he was working. Reliance in this regard has been placed on Rule 23 of J&K Civil Services Decentralization and Recruitment Rules, 2010 (for short, “the Rules of 2010”). As per the said Rules, a member of State, Divisional or District Cadre is transferable only within his own Cadre and such member cannot be transferred from one Divisional Cadre to another Divisional Cadre or one District Cadre to another District Cadre. The issue as to whether Rule 23 of the Rules of 2010, would be attracted to the facts of the present case needs to be determined for the purpose of adjudicating the validity of the impugned order of transfer.
9. It is the admitted case of the parties that the petitioner is an employee of Pahalgam Development Authority, which is a creature of J&K Development Act, 1970. So far as Rules of 2010 are concerned, Rule 2 thereof provides that the said Rules are applicable only to the posts under the Government. Rule 4 of the said Rules provides for constitution of the District, Division and State Cadres. As per this Rule, District, Division or State Cadres of the services in each department of the Government are to be constituted. It further provides that all posts borne on the establishment by a District level office of a department, which carry a pay scale of, or equivalent to the post

of Senior Assistant but not included in a Divisional or State Cadre, shall constitute District Cadre post. Thus Rule 4 of the Rules of 2010 provides for constitution of District, Division or State Cadres in each department of the Government.

10. In the present case, as already stated, a Development Authority being a creature of statute, has a distinct identity from that of the Government. Even if it is assumed that Rules of 2010 are applicable to a Development Authority, still then unless District, Division or State Cadres are constituted by such Development Authority, the post borne on its establishment cannot be bifurcated into these three categories. In the present case, there is nothing on record to show that the post of Helper borne on the establishment of the Development Authority has been earmarked as District Cadre post. The petitioner has not even incorporated the pleadings in this regard in his writ petition. Therefore, the contention of the petitioner that Rule 23 of the Rules of 2010 is attracted to his case and he could not have been transferred outside District Anantnag, is without any basis.

11. That takes us to the other grounds that have been raised by the petitioner for impugning the order of transfer. It has been contended that in the earlier writ petition bearing WP(C) No. 2755/2021, this Court had passed an interim order directing the parties to maintain status *quo* with regard to the status of the petitioner. It is to be noted that in the said writ petition, the subject matter of determination related to seniority and promotion of the petitioner and other employees. It was pleaded by the petitioner in the said writ petition that he was holding the charge of Junior Assistant though he had not been

substantively promoted to the said post. It is in that backdrop that this Court protected the status of the petitioners including the petitioner herein.

12. The order dated 30.12.2021 has to be construed in the aforesaid context and cannot be interpreted in a manner so as to divest the respondents of their power to transfer the petitioner from his place of posting. The said order only protected the status of the petitioner as In-charge Junior Assistant. Therefore, it was open to the respondents to transfer the petitioner from one place to another.

13. The petitioner has neither pleaded any *mala fides* nor has he alleged that the impugned order has been issued by an incompetent authority. Therefore, no ground is made out for interference with the impugned order passed by the respondents on this count as well.

14. For the foregoing reasons, I do not find any merit in the instant petition. Accordingly, the same is dismissed. The interim order dated 06.02.2025 is vacated.

(SANJAY DHAR)
JUDGE

Jammu
08.09.2026
Rakesh PS

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