

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

.....

WP(C) no.283/2026

Habeeb ullah Sheergojri

..... Appellant(s)

Through: Ms Arifa Jan, Advocate

Versus

UT of J&K and others

.....Respondent(s)

Through: Mr Mohsin Qadri, Sr. AAG

CORAM:

**HON'BLE MS JUSTICE SINDHU SHARMA, JUDGE
HON'BLE MR JUSTICE SHAHZAD AZEEM, JUDGE**

**O R D E R
18.02.2026**

1. This writ petition has been preferred against the order of Central Administrative Tribunal, Srinagar Bench, dated 1st January 2026, passed in TA no.1606/2021 titled as *Habib ullah Sheergojri v. State of J&K and others*, vide which the TA has been disposed of giving liberty to petitioner to file an appeal before respondents with a further direction to respondents to decide the same on merits.
2. The case set up by petitioner is that he was initially appointed as Follower by Senior Superintendent of Police, Baramulla vide Order dated 2nd December 1997 in District Police Office, Baramulla in compliance of PHQ J&K Order dated 7th October 1997. Thereafter his services were converted into as

Constable from Follower vide Order dated 6th September 2001. Petitioner was placed under suspension by Senior Superintendent of Police, Bandipora, vide Order dated 21st May 2010 on the ground that he was found drunk on duty in police uniform which amounted to gross misconduct and violation of service norms. Departmental enquiry was also conducted by Additional Superintendent of Police, Bandipora and upon its conclusion, the Enquiry Officer recommended that a Censure be awarded upon petitioner as a corrective measure for future conduct and the period of suspension be treated as on duty.

3. Senior Superintendent of Police, Bandipora, however, vide Order no.241 of 2010 dated 29th June 2010, partly accepted the recommendations made by Additional Superintendent of Police and imposed penalty of forfeiture of annual increment. This order has been challenged by petitioner through a writ petition on the ground that respondents have imposed major punishment without affording him an opportunity of hearing and have failed to take into consideration the outstanding service record and prior awards, before imposing a major punishment of forfeiture of one-year annual increment.
4. Respondents have refuted the contentions of petitioner on the ground that petitioner was given sufficient opportunity of being heard in terms of mandate of Rule 359 of J&K Police Rules. This apart, it is submitted that petitioner has failed to

avail efficacious alternative remedy of appeal under J&K Police Rules. Respondents have also insisted that the writ petition suffers from inordinate delay and laches as petitioner has filed the same seven years after passing of the order.

5. Learned Tribunal, after considering the rival contentions of the parties and case set up by petitioner, disposed of the petition by holding that the same is not maintainable in terms of Section 20 of the Administrative Tribunals Act, 1985. While holding so, the Tribunal granted liberty to petitioner to avail the remedy of filing an appeal before respondents within two weeks with a direction to respondents to entertain the appeal and pass appropriate order as per law and on merits of the case.
6. Aggrieved of the order of the Tribunal, the petitioner has filed the instant petition stating that the Tribunal has simply disposed of the writ petition on the ground that alternative remedy of appeal is available. This however is not a ground to preclude the jurisdiction of the Tribunal. It is also submitted that the rule of exclusion of writ jurisdiction by availability of an alternative remedy under Section 20 of the Administrative Tribunals Act, is a rule of discretion and not one of compulsion. The petitioner further submits that directing petitioner to file an appeal after a period of 15 years, is unjust.
7. We have heard learned counsel for the parties and perused the record.

8. The services of petitioner are regulated by J&K Police Act, Samvat 1983 (1927 AD) and J&K Police Rules, 1960. Rule 359 of J&K Police Rules lays down procedure for departmental enquiries. Inflicting of punishments is enumerated in Rule 334, which, amongst others, include dismissal from service, removal, withholding of increments, reduction to a lower rank, censure, forfeiture of increment. Rule 364 gives a right to the police officer to file an appeal against an order by which any of the penalties specified in clauses (a), (b), (c), (d), (f), (g), (j), and (k) of sub-rule (2) of Rule 334 is imposed upon him.
9. Petitioner has been awarded the punishment of forfeiture of increment in terms of Rule 334 and, as such, he has a right of appeal against the same. This apart, Section 20 of the Administrative Tribunals Act provides that the Tribunal shall not ordinarily admit an application unless the applicant avails of all the remedies as are available to him under the relevant service rules for redressal of his grievances. Petitioner has failed to exhaust the statutory remedy of appeal available to him under J&K Police Rules, before filing the petition and there is also unexplained delay of seven years from the date of passing of the order. Thus, the petition is also hit by provisions of Section 21 of the Administrative Tribunals Act.

10. Having regard to the above discussion, we are of the view that the observations made and the finding returned by the Tribunal do not call for any interference. However, the petitioner is well advised to file an appeal before respondents and the fact that whether he has been given an opportunity of being heard or not can be considered by appellate authority. The appellate authority will condone the delay and entertain the appeal and decide the same on merits.

11. **Disposed of.**

(Shahzad Azeem)
Judge

(Sindhu Sharma)
Judge

Srinagar
18.02.2026
Ajaz Ahmad, Secy

