

IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

WP(C) No. 751/2026
CM Nos. 1918/2026, 2987/2026 & 3246/2026

SHOWKAT AHMAD WAR AND ORS Petitioner(s)

Through: Mr. Bhat Fayaz, Adv.
with Ms. Nighat Amin, Adv.

V/s

UNION TERRITORY OF J AND K AND ORS.

. Respondent(s)

Through: Mr. Mohsin Qadiri, Sr. AAG
with Ms. Maha Majeed, AC

Coram:

Hon'ble Mr. Justice Sanjay Dhar, Judge

ORDER

05.06.2026

1. The petitioners, through the medium of present petition, have challenged order bearing No. 08-JK (Rev) of 2026 dated 30.03.2026 to the extent it directs their disengagement as also consequential disengagement order dated 31.03.2026 issued by the respondent No. 6.
2. Briefly stated case of the petitioner is that they came to be appointed in terms of order dated 01.11.1997 on consolidated salary for the purpose of facilitating land acquisition work of Qazigund-Baramulla Railway project. They were directed to

- report to the Collector Land Acquisition of the said project. According to the petitioners, they have been continuously working since their initial engagement and that they have been granted annual increments from time to time by the respondents. It has been submitted that even their service books have been duly prepared and their engagement has been extended from time to time.
3. It seems that the petitioners made representations to the respondents for regularization of their services against the available posts in the Department but the same did not yield any result. This prompted them to file a writ petition before this Court bearing SWP No. 1797/2018. The said writ petition was transferred to Central Administrative Tribunal and registered as TA No. 6029/2020. Vide order dated 01.04.2022, the Central Administrative Tribunal directed the respondents to complete the due formalities and convey the decision of the State Administrative Council thereby regularizing the services of the petitioners herein.
4. It seems that the aforesaid order passed by the Tribunal on 01.04.2022 came to be challenged by the respondents by way of writ petition bearing WP(C)No. 1812/2022. The said writ

petition was disposed of by the Division bench of this Court on 22.10.2024 with the following directions:

- i) “That the memorandum prepared by the Revenue Department, with the approval of the then Advisor (G) to the then Governor of the State of Jammu and Kashmir, shall be submitted to the Chief Minister-in-Coordination (Cabinet) for taking appropriate decision thereupon;
- ii) That the Revenue Department will put up the memorandum before the Commissioner/ Secretary to the Government, General Administration Department, within two weeks from the date of receipt of this Judgment and, thereafter, the General Administration Department will place the memorandum, as it is, before the Chief Minister-in-Coordination (Cabinet) for taking a final decision in this regard;
- iii) That the Chief Minister-in-Coordination (Cabinet) shall take note of the fact that the Respondents herein have been performing their duties on temporary basis for the last more than two decades and have already been placed in the regular pay scale of the posts held by them, with the benefit of increments, as also the fact that the service books of the Respondents herein, too, have been prepared; and
- iv) We hope and trust that the Cabinet will meet soon and take a final decision on the recommendations of the Revenue Department at the earliest, and in any case, within a period LTE 2 2,0AC-SGR:124 Page 7 of 7 WP (C) No. 1812/2022 2023:JKLHC-SGR:124 of two months from the date it receives the complete proposal.

15. Ordered accordingly.

16. In so far as the unpaid salary of the respondents herein is concerned, we make it clear that the responsibility to pay the salary to the respondents herein lies on the Government in the Revenue Department. It is, however, for the Revenue Department to take up the matter with the Northern Railways for the requisite funds. It has been brought to our notice that the Collectorate has already taken up the matter with the

Northern Railways, but no good response has been received.

17. Be that as it may, with a view to settle this issue, we direct the Divisional Commissioner, Kashmir to convene a meeting of the Collector, Land Acquisition, Railways and the Railway Officer, Incharge, Jammu and Kashmir and sort out the matter. The Divisional commissioner shall ensure that the pending wages/salary of the respondents herein is disbursed to them within one month.”

3. Pursuant to the aforesaid directions of the Division Bench, the matter was examined by the respondents at various levels whereafter vide impugned Government Order dated 30.03.2026, the claim of the petitioners for their regularization in service has been found without any merit and the same has been rejected. It appears that while forwarding the copy of the Government Order (supra) to the Divisional Commissioner, Kashmir, Under Secretary to the Government made an endorsement requesting the Divisional Commissioner to disengage the petitioners. It is pursuant to the aforesaid Government Order that the respondent Divisional Commissioner has, vide impugned order dated 31.03.2026, disengaged the petitioners.
4. The main ground that has been urged by the petitioners for challenging the impugned orders is that the same have been passed only because the petitioners had approached this Court seeking

regularization of their services. It has been further contended that the orders are non-speaking as the same do not disclose any reason whatsoever for their disengagement. It has been further contended that in terms of Government Order dated 30.03.2026 (supra) no direction was issued for disengagement of services of the petitioners.

5. The claim of the respondents on the other hand is that the disengagement of the petitioners is based upon Cabinet approval supported by opinion of the Finance and General Administrative Department. It has also been contended that even otherwise respondent No. 6/Divisional Commissioner is the competent authority to disengage the services of the petitioners. According to the respondents, the services of the petitioners were purely contractual/temporary in nature and the respondents do not require their services, therefore it was open to the respondents to do away with their services. It has been further contended that the services of the petitioners were engaged for a particular project which has come to an end, therefore, they cannot claim either regularization of their services or continuation of their services.
6. I have heard learned counsel for the parties and perused record of the case.

7. With a view to determine the controversy at hand, it is necessary to have a look at the impugned order passed by the respondent Divisional Commissioner. It reads as under:

UNION TERRITORY OF JAMMU AND KASHMIR
DIVISIONAL COMMISSIONER, KASHMIR
Amar Niwas Complex, Tankipora, Srinagar.
Phone/ Fax: (0194) -2487777, 2477775, 2452558, 2455357
Website: www.divcomkashmir.jk.gov.in

ORDER No: 600 of DIVCOMK

Dated 31-03-2026

In pursuance to the Government Order No: 08-JK(Rev) of 2026 dated 30-03-2026 issued under endorsement No: REV-LIT/14 /2022 115405) dated 30-03-2026, the following engagees (respondents) in WP(C) No: 1812/2022 titled UT of J&K and ors Vs Showkat Ahmad War and ors are hereby disengaged with immediate effect i.e., 31-03-2026.

S/No.	Name of Engagee (Respondent)
1	Showkat Ahmad War
2.	Shuban Ji Labroo
3.	Syed Parvaiz Hussain
4.	Sheikh Mohammad Aslam
5.	Gulzar Ahmad Malik
6.	Javeid Ahmad Wani
7.	Javaid Ahmad Baba
8.	Mushtaq Ahmad Bhat
9.	Feroz Ahmad Khan

Sd/

Divisional Commissioner, Kashmir.

No. DIVCom/199-Gex/Mstl/Estt/2601-05

Dated: 31-03-2026

8. From a perusal of the aforesaid order, it can safely be stated that the said order owes its origin to the Government Order dated 30.03.2026. A look at the Government order dated 30.03.2026 would reveal that the same relates to claim of the petitioners with regard to regularization of their services. The subject matter of the said order is not continuance or disengagement of the petitioners. The contention of the respondents that disengagement of the petitioners is based upon the decision of the Cabinet is not supported by the contents of the Government Order dated 30.03.2026. It is clearly discernible from the said order that the Council of the Ministers has only considered order of High Court passed on 22nd December, 2022, and the opinion of the Finance Department dated 22.12.2025, whereafter it has been observed that there is no policy for absorbing or regularizing the service of the petitioners against the posts in the Department. Even the Finance Department in its opinion has not touched the aspect regarding continuation/disengagement of the petitioners.
9. Therefore, the contention of the respondents that disengagement of the petitioners has the sanction of the Cabinet or the Finance Department appears to be an attempt to justify the action of disengagement of the petitioners on the strength of Government

Order dated 30.03.2026. In the body of the order, there is no whisper about the disengagement of the petitioners but the Under Secretary, while forwarding a copy of the order to the Divisional Commissioner, has made an endorsement with a request to disengage the petitioners. The said portion of the endorsement is clearly beyond the mandate of the Government Order dated 30.03.2026 and as such, the same has no significance in the eyes of law.

10. The contention of the respondents that Divisional Commissioner, being competent authority, has the power to disengage the services of the petitioners because their services are no longer required by the respondents, may be well founded, but while issuing the impugned order dated 31.03.2026, the Divisional Commissioner has not assigned non-requirement of the petitioners as the reason for their disengagement. In the order of disengagement dated 31.03.2026 it has been mentioned that the same has been passed in pursuance to the Government order dated 30.03.2026. As already stated the said Government order nowhere provides for disengagement of the petitioners. Thus the very basis of the impugned order dated 31.03.2026 is misplaced. The respondents cannot be allowed to improve their case by projecting a ground for

disengagement of the petitioners, which does not find mention in the order of disengagement. It is settled law that when an authority makes an order on certain grounds, its validity must be judged by the reason so mentioned and cannot be supplemented by fresh reasons in the shape of affidavit or otherwise. Otherwise, an order bad in the beginning may, by the time it comes to Court on account of a challenge, get validated by additional grounds later brought out (Refer *M.S. Gill Vs. The Chief Election Commissioner 1978(1) SCC 405*)

11. If at all respondent No. 6/ Divisional Commissioner intended to dispense with the services of the petitioners on the ground that the project for which they were engaged has come to an end or that their services are no longer needed by the respondents, the said reason should have been specified in the order of disengagement. Instead, the Divisional Commissioner has issued impugned order of disengagement against the petitioner on the wrong premise inasmuch as the said order traces its source to Government Order dated 30.03.2026, which in fact does not contain any direction or observation regarding the aspect of disengagement of the petitioners.

12. For the forgoing reasons, the impugned order dated 31.03.2026 issued by respondent No. 6/ the Divisional Commissioner whereby the services of the petitioners have been disengaged, being unsustainable in law, is set aside. The writ petition is accordingly allowed. Notwithstanding the success of petitioners in the present writ petition, the respondents are at liberty to disengage the petitioners on any other grounds available under law.

(Sanjay Dhar)
Judge

SRINAGAR

05.06.2026

Aasif

Whether the order is speaking Yes/No

Whether the order is reportable Yes/No