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Regular

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

WP(C) 1894/2026 CM(5082/2026)
HEMO HAMID WANI Petitioner(s)

Through: Mr. Shabir Ahmad Dar, Adv.
V/s
UNION TERRITORY OF J AND K AND OTHERS
..... Respondent(s)

Through:
Coram:
Hon'ble Mr. Justice Sanjay Dhar, Judge

ORDER (Oral)
10.08.2026

1. The petitioner has challenged Order No. 275 of 2026 dated 24.01.2026 whereby the representation of the petitioner against his disengagement as Special Police Officer has been rejected by the Director General of Police, J&K.
2. Heard learned counsel for the petitioner and perused the record of the case.
3. It appears that the petitioner was appointed as Special Police Officer by the respondents in terms of Order No. 278 of 2012 dated 12.04.2012. It has been pleaded that in the year 2015, while the petitioner was performing his

- duties at IRP 18th Battalion at Reshipora, Shopian, a turmoil happened and the petitioner was at home on medical leave. It is further pleaded that the petitioner received life threats from militants, as such, he could not report back to his duties. When the petitioner went back to his place of posting at IRP 18th Battalion at Reshipora, Shopian, he was not allowed to join, as a result whereof, the petitioner made representation before the respondents.
4. When no action was taken by the respondents, the petitioner approached this Court by way of writ petition bearing WP(C) No. 629/2024. This Court, vide its order dated 30.08.2025, directed respondent No. 2 to consider and decide the representation of the petitioner by passing a speaking order. Pursuant to the aforesaid direction of this Court, respondent No. 2/Director General of Police, J&K has passed the impugned order whereby representation of the petitioner has been rejected.
5. The ground urged for challenging the impugned order passed by respondent No. 2 is that the disengagement of the petitioner has been made without holding any enquiry

and without framing any formal charge and also without providing an opportunity of hearing to the petitioner. It is further contended that the action of the respondent is violative of Article 16, 21 and 311 of the Constitution of India and Rule 359 of the Jammu and Kashmir Police Rules. It has also been contended that the action of the respondents is arbitrary and unreasonable.

6. So far as the status of the petitioner is concerned, it is not in dispute that he was engaged as an SPO temporarily on consolidated wages. The petitioner, it seems, was engaged in terms of Section 18 of the Police Act which deals with engagement of SPOs. The contention of the petitioner that an SPO is entitled to same powers, privileges and protections as are available to ordinary officers of police in view of the provisions contained in Section 19 of the Police Act, appears to be without any merit for the reasons that SPOs do not hold any civil posts regulated by any Statutory rules.
7. The question whether SPOs engaged in terms of Section 18 of the Police Act are entitled to same powers, privileges

and protections as are available to ordinary officers of police came up for consideration before this Court in the case of Bilal Ahmad Sheikh v. State of J&K & others (SWP No.2548/2017 decided on 17.09.2021). This Court, while relying upon the ratio laid down by the Division Bench of this Court in State of J&K v. Mohammad Iqal Mallah (LPA No.153 of 2012 decided on 05.06.2014), after noticing the provisions contained in Sections 18 and 19 of the Police Act, observed as under:

“From a perusal of the provisions contained in Section 18 of the Police Act, it is revealed that SPOs are appointed by Police Officers above a particular rank for specific purposes when the police force ordinarily employed for preserving the peace is not sufficient for its preservation and for the protection of the inhabitants. The provision makes it clear that residents of neighbourhood can be appointed as SPOs for dealing with specific contingencies. Thus, engagement of SPOs is not of a permanent nature but it is only to take care of a particular contingency. It is in this context that the provisions contained in Section 19 of the Act are required to be interpreted. By doing so, it becomes axiomatic that SPOs enjoy same powers, privileges and protections as do the ordinary officers in the matter of crowd control, prevention of

unlawful assemblies or contingencies of like nature. The said provision cannot be interpreted in a manner so as to extend even the powers, privileges and protections relating to service conditions of an ordinary police officer to the SPOs, who, admittedly, do not hold any civil posts regulated by any Statutory rules. Therefore, they are not entitled to any protection as afforded to ordinary police officers under Police Rules or Civil Service Regulations. I am supported in my aforesaid view by the judgment of a Division Bench of this Court in State of J&K v. Mohammad Iqal Mallah (LPA No.153 of 2012 decided on 05.06.2014).”

8. In view of aforesaid analysis of the law, it is clear that he petitioner, who was engaged as an SPO, was not entitled to any right of hearing or enquiry keeping in view the nature of his engagement. Therefore, it was not obligatory upon the respondents to hold an enquiry or give an opportunity of hearing to the petitioner before disengaging his services as an SPO.
9. Apart from the above, even if it is assumed that the petitioner had a right of hearing before disengagement of his service still then having regard to the admitted position that the petitioner did not attend his duties under the threat of militants is good enough reason to dispense with

his services. A police official of whatever rank, if he gets frightened and threatened by the militants and refuses to attend his duties then only God can save this Country. The justification provided by the petitioner for not attending his duties is unacceptable to say the least. Thus granting an opportunity to the petitioner to present his case prior to his disengagement from service, in the facts of the instant case, would have been an empty formality.

10. For the foregoing reasons, respondent No. 2/Director General of Police, J&K has rightly rejected the representation of the petitioner. The said order does not call for any interference. The writ petition as such is without any merit and is accordingly *dismissed*.

(Sanjay Dhar)
Judge

SRINAGAR

10.08.2026

Aasif

Whether the order is speaking Yes/No

Whether the order is reportable Yes/No