

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

WP(C) 2384/2026 CM(6477/2026)

UNION TERRITORY OF J AND K AND ...Petitioner(s)/appellant(s)
OTHERS

Through: Mr. Ilyas Nazir Laway, GA

Vs.

AVTAR KRISHAN

...Respondent(s)

Through: Mr. Sheikh Mushtaq, Advocate for Caveator/Respondent

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE YASH PAUL BOURNEY, JUDGE

ORDER

22.09.2026

1. The facts as noted by this Court are that the respondent was engaged as a daily wager in Government College, Pulwama on 05.06.1995. The whole case is about the daily wager/respondent having been considered for regularization with effect from 05.04.2018. The grievance of the employee respondent was that while he has been regularized from 05.04.2018, he was entitled to be regularized as per the State law which is SRO 64 of 1994 after 7 years of having appointed as a daily wager. The appellants rejected his claim for such regularization vide order dated 15.03.2022.

Learned counsel for the appellants submits that the benefit of SRO 64 of 1994 was not the prayer or pleadings of the respondent employee and thus the learned CAT has gone beyond the pleadings and prayer by granting benefit to the employee of SRO 64 of 1994 which requires for regularization after seven years of service as a daily wager.

2. Learned counsel for UT tried to persuade this Court that the impugned order is apparently bad in the eyes of law because the point of consideration in the final relief is only SRO 64 of 1994. The pedestal of the pleadings was completely different and did not have SRO 64 of 1994 as a baseline for granting the relief. Since it was not claimed for in that manner, the learned CAT ought to have restricted the relief in accordance with the pleadings and submissions made by the appellants. Learned counsel for the UT also submitted that since the opportunity to respond on SRO 64 of 1994 was not given to the State, therefore, any order on the basis of SRO 64 of

1994 is contrary to law and thus the matter deserves to be remanded back on the same point.

3. At this juncture, this Court asked counsel for the UT that what were the reasons why SRO 64 of 1994 was not applicable in the present circumstances. This Court also asked as to why employee-respondent was not entitled for the relief of regularization which was prescribed in their own law which is SRO 64 of 1994. To these two questions, the counsel for the UT did not have any reply so much so, that he agreed that SRO 64 of 1994 was a law which require regularization after 7 years of service for daily wagers and also that there is no reason why SRO 64 of 1994 could not have been applied in the present factual matrix where the daily wager was engaged on 05.06.1995, and thus as per the completion of 7 years service, he was eligible for regularization on 04.06.2002.

4. Since the State appellant was given full opportunity by this Court to address on the applicability of SRO 64 of 1994 and also to show there was any kind of disentitlement respondent daily wager as per the SRO 64 of 1994 and there is no reason to interfere with the order passed by the CAT. Moreover, the CAT has completely relied upon the law of the State it is admittedly SRO 64 of 1994 which gives a right to the daily wagers for consideration of regularization on completion of 7 years of service.

5. Admittedly, in the given circumstances, the petitioner was found entitled for regularization for his past service in 2018 and it was not a case that he did not fulfill the requirement for regularization. The appellants in their own wisdom have regularized him in 2018 taking into consideration his past services but at the same time have failed to adhere to their own law prescribed by the SRO 64 of 1994 which require them to do it after 7 years. No reason has been provided in the pleading or in any of the submissions made by the Government counsel which could disentitle the respondent from benefit of SRO 64 of 1994.

6. For the aforesaid reasons, no indulgence in the petition is called for. Petition is, accordingly, dismissed.

(YASH PAUL BOURNEY)
JUDGE

(DR. PUSHPENDRA SINGH BHATI)
CHIEF JUSTICE

SRINAGAR
22.09.2026

Amir