

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

Reserved on: 28.09.2026

Pronounced on: 30.09.2026

Uploaded on: 30.09.2026

*Whether the operative part
or full judgment is
pronounced: **Full***

WP(C) No.2869/2022

MUSHTAQ AHMAD WAGAY & ORS.

...PETITIONER(S)/ APPELLANT(S)

Through: - Ms. Asiya Nazir, Advocate.

Vs.

UT OF J&K & ORS.

...RESPONDENT(S)

Through: - Mr. Ilyas Laway, GA.

CORAM: HON'BLE MR. JUSTICE RAJNESH OSWAL, JUDGE

JUDGMENT

1) The petitioners were initially engaged as casual labourers, but were discontinued in the year 2002, as stated in para 03 of the petition.

2) The petitioners earlier approached this Court through the medium of SWP No.601/2009 titled "Mohammad Akbar Rather and others vs. State of J&K and others", which came to be disposed of in terms of order dated 08.04.2010.

3) When the order dated 08.04.2010 was not complied with by the respondents, the petitioners filed contempt

petition bearing No. 227/2013, wherein the statement of facts was filed and in para 02 of the statement of facts, it was stated that there was no work available with the division concerned, for which the labourers could be engaged from amongst the petitioners, and accordingly, taking note of the stand taken by the respondents as mentioned above, the contempt proceedings were closed in terms of order dated 12.03.2015.

4) Yet another petition came to be filed by the petitioners bearing SWP No. 1709/2015, wherein interim order dated 11.08.2015, was passed directing the respondents therein to consider the claim of the petitioners for their re-engagement. Yet another contempt petition bearing No. 930/2017 was filed for non-implementation of order dated 11.08.2015 passed in SWP No.1709/2015, and in para 02 of the statement of facts filed by the respondents, it was stated that if any need arises in future in the division, preference will be given to the petitioners. Pursuant to the directions of the Court, order dated 25.07.2022 came to be passed by respondent No. 4.

5) The petitioners have filed this petition for commanding the respondent No. 4 to pass necessary orders with respect to their re-engagement because in the order dated

25.07.2022 passed by respondent No. 4, it is mentioned that the petitioners have merit for their re-engagement at this stage. Precisely, it is the contention of the petitioners that in light of the directions issued by this Court from time to time and order dated 25.07.2022, they deserve to be re-engaged.

6) The respondents, in turn, have filed the response, duly signed by respondent No. 4 only, stating therein that the petitioners are seeking re-engagement as casual labourers despite the fact that no legal or statutory right exists in their favour for such re-engagement. It is further stated that the department had utilized services of locals as casual/seasonal labourers as per requirement of projects/schemes for a period of 89 days in one spell. The Government, vide order dated 02.02.2001 issued by the General Administration Department, discontinued the casual labourers after completion of these projects, and this discontinuation was a policy decision. It is further stated that vacancies having arisen from time to time have been filled through regular recruitments, and the petitioners can neither claim nor have any preferential right over the said posts. The petitioners seek re-engagement solely on the basis of an alleged past casual engagement, which was purely temporary and need based. Granting such relief would

amount to bypassing the constitutional requirement of equal opportunity in public employment and result in depriving the other eligible candidates of the opportunity to compete for the public employment.

7) Heard learned counsel for the parties and perused the record.

8) The writ petition preferred by the petitioners bearing SWP No. 601/2009 was disposed of in terms of order dated 08.04.2010, with the following direction:

This petition is, accordingly, disposed of with the direction to respondents to consider the claim of the petitioners along with all eligible casual labourers for re-engagement. It is further made clear that, only in that case the claim of petitioners or other persons be considered when there is work available with the respondents and there is need to hire the services of persons from outside the department.

9) Thereafter, another writ petition was filed, wherein in terms of interim order dated 11.08.2015, the respondents therein were directed to consider the claim of the petitioners for re-engagement with reference to the claim projected in the representations. In the statement of facts filed in contempt petition bearing No. 930/2017 arising out of SWP No. 1709/2015, the stand was taken by the respondents that if in future any need for engaging the casual workers

arises, preference will be given to the petitioners. Thereafter, order dated 25.07.2022 was passed by respondent No. 4. The relevant extract of the order dated 25.07.2022 is extracted as under:

A large number of complaints have been received regarding non-payment of wages to the CSLWS engaged by various departments. While the Govt fully appreciates the need to rendered yet experience shows that large number of such CSLWs have been engaged without any defined requirement/criteria and with avoidable cost to the state exchequer apart from resulting in claims of these worker for regularization in Govt. services, since such engagements are continued for years together.

In the circumstances, a need has been felt to impose complete ban on engagement of casual /seasonal and need bases workers in all Govt. Department including state owned PDUs and necessary orders for withdrawing existing delegation of powers are being issued separately.

Accordingly. All the administrative secretaries and the Managing Directors of all state-owned PSUs are advised to ensure that not a single casual/seasonal /need based worker is engaged under any circumstances henceforth without the prior specific approval of the department to assess the need/ justification for the same

Any deviation from the aforesaid directions shall be attributed to the defaulting Administrative Secretaries/Managing Directors/Heads of Department and shall attract severe consequences.

Whereas, Govt. of J&K through Finance department vide Govt. order No. 43-F of 2015 dt. 17-03-2015, imposed complete ban on engagement of casual/seasonal labours (CSLWs) in Government Departments/States owned PSUs and ordered that authority to engagement casual/seasonal labours to various departments as delegated vide Government orders mentioned

below or any other order is withdrawn with immediate effect.

1. Govt. order No.239-F of 2005 Dt. 29-01-2005.
2. Govt. order No.138-F of 2013 Dt. 23-05-2013
3. Govt. order No. 105-PD of 2010 Dt. 25-10-2010

Whereas the Hon'ble High Court on the case SWP No 1709/2015 MP "Issuance notice to respondents returnable within four weeks Requisite steps for services within one week MP NO.01/2015.

Notice as above in MP as well In the meanwhile, respondents shall consider the claim of the petitioners for their re-engagement with reference to the claim projected in the representation."

Whereas, the Finance Department vide circular instructions issued under No. A/Misc/2015/364, D1 17-03-2015 Instructed as under;

A large number of complaints have been received regarding nonpayment of wages to the CSLWs engaged by various departments. While the Govt. fully appreciates the need, to rendered, yet experience shows that large number of such CSLWs have been engaged without any defined requirement/criteria and with avoidable cost to the state exchequer apart from resulting in claims of these worker for regularization in Govt, services, since such engagements are continued for years together.

In the circumstances, a need has been felt to impose complete ban on engagement of casual/seasonal and need bases workers in all Govt. Department including state owned PDUs and necessary orders for withdrawing existing delegation of powers are being issued separately.

Accordingly. All the administrative secretaries and the Managing Directors of ail state-owned PSUs are advised to ensure that not a single casual/seasonal /need based worker is engaged under any circumstances henceforth without the prior specific approval of the department to assess the need/ justification for the same.

Any deviation from the aforesaid directions shall be attributed to the defaulting Administrative

Secretaries/ Managing Directors/Heads of Department and shall attract severe consequences.

Whereas, Govt. of J&K through Finance department vide Govt. order No. 43-f of 2015 dt. 17-03-2015, imposed complete ban on engagement of casual/seasonal labours (CSLWs) in Government Departments/States owned PSUs and ordered that authority to engagement casual/seasonal labours to various departments as delegated vide Government orders mentioned below or any other order is withdrawn with immediate effect.

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Whereas, in view of position as elaborated above, the claim of petitioners has been re-examined and considered in light of the directions passed by Hon'ble High Court, found the petitioners merit for their re-engagement at this stage. Pertinent to mention here that the judgement passed by the Hon'ble High Court Dated 08th April 2010 as and when need arises and work is available the petitioners shall be given preference. However the petitioners are at liberty to apply for direct recruitments against the posts advertised by the Govt. as well.

10) The textural composition of the order as extracted above in part would reveal that complete ban was imposed on 17.03.2015 on engagement of casual/seasonal labourers (CSLWs) in the Government Departments/State owned PSUs, and all the orders providing for engagement of casual/seasonal labourers were withdrawn.

11) The petitioners, in fact, are taking advantage of the typographical error crept in the last para of the order dated

25.07.2022, wherein it is mentioned that **petitioners merit**
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for their re-engagement at this stage. The core reasoning of the order is inconsistent with the conclusion reached by respondent No. 4. This Court has no hesitation to hold that this is a clerical error, which is duly substantiated by the stand of the respondents, wherein they have categorically denied the entitlement of the petitioners to re-engagement as casual labourers.

12) In view of above, the writ petition lacks merit and is **dismissed** accordingly.

Srinagar,
30.09.2026

"Bhat Altaf-Secretary"

Whether the **judgment** is reportable: **NO**

(Rajnish Oswal)
Judge