Sr. No. 21

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

Case: SWP No. 3143/2015

Date of pronouncement: 05.11.2026
Date of uploading: 06.11.2026

Mohd. Suleman ..... Petitioner(s)/Appellant(s)
S/o Sh. Ghulam Hussain,
R/o Village Panjnara,
Tehsil Koteranaka District Rajouri

Through :- Mr. Sourabh Gupta, Advocate vice
Mr. Ankur Sharma, Advocate

Vs

1. The State of Jammu and Kashmir .....Respondent(s)
Through its Commissioner/Secretary,
Public Health Engineering
Department, Civil Secretariat,
Srinagar/Jammu.

2. The Chief Engineer,
Public Health Engineering
Department, Jammu.

3. The Superintending Engineer,
Public Health Engineer Department,
Hydraulic Circle, Rajouri.

4. The Executive Engineer,
PHE Division, Rajouri.

Through :- Ms. Priyanka Bhat, Advocate vice
Mrs. Monika Kohli, Sr. AAG

CORAM:
HON'BLE MR. JUSTICE WASIM SADIQ NARGAL, JUDGE

ORDER(ORAL)
05.11.2026

1. Through the medium of the instant petition, the petitioner seeks the following reliefs:-

> **"Certiorari: Quashing order No. PHER/2424-26 dated 19.09.2014 issued by respondent No. 4, whereby the claim of the petitioner for engagement in lieu of 1 Kanal of land comprised in Khasra No. 175, situated at Village Panjnara, Tehsil Koteranka, District Rajouri, donated by the petitioner to the PHE Department, has been rejected illegally, arbitrarily and without application of mind.**
>
> **Mandamus:(i) Commanding the respondents to appoint/absorb the petitioner in the Public Health Engineering Department in lieu of 1 Kanal of land comprised in Khasra No. 175, situated at Village Panjnara, Tehsil Koteranka, District Rajouri, donated by him to the PHE Department for construction of a reservoir/water tank.**
>
> **(ii) Commanding the respondents to accord similar treatment to the petitioner as has been extended to other similarly situated persons by respondent No. 3 vide communication No. SEHR/PHE/GE-20/52-54 dated 09.04.2015, by engaging the petitioner in lieu of the land donated by him to the PHE Department."**

2. The specific case set up by the petitioner is that, way back in the year 1995, he donated 1 Kanal of land comprised in Khasra No. 175, situated at Village Panjnara, Tehsil Koteranka, District Rajouri, to the PHE Department for construction of a reservoir/water tank, on the assurance extended by the Department that he would be provided Government employment in lieu of the said land.

3. It is further contended that, pursuant to the aforesaid assurance, the PHE Department initially engaged the petitioner on a need basis in the year 1996 and conveyed to him that his absorption in the Department would be subject to approval by the Administrative Department. In this regard, the case of the petitioner was also forwarded to the Administrative Department and, pending a decision thereon, he was permitted to continue on a need basis.

4. The further case of the petitioner is that he continued under the bona fide belief that he would eventually be regularized/absorbed in the Department. However, despite having continued on a need basis for a

considerable period, no steps were taken by the Department in this regard, compelling him to submit repeated representations before the concerned authorities, but without any tangible result.

5. The petitioner, in order to substantiate his claim, has placed on record communication dated 22.05.2007, whereby the Executive Engineer, PHE, Rajouri, forwarded his case to the Superintending Engineer, Hydraulic Circle, Rajouri, pursuant to the recommendation made by the then concerned Minister. However, despite the aforesaid recommendation, no further action was taken in the matter, leaving the petitioner to suffer.

6. Aggrieved of the inaction on the part of the respondents, the petitioner was constrained to approach this Court by way of a writ petition, registered as SWP No. 1421/2013, which came to be disposed of vide order dated 02.07.2013 in the following terms:-

> **"This petition is disposed of by providing that respondents shall consider the case of the petitioner for his engagement in the PHE Department in the light of recommendations made by the Chief Engineer. Let this be done within a period of three months from the date a copy of this order is served upon the respondents by the petitioner."**

7. Pursuant thereto, respondent No. 4 issued another communication dated 11.09.2013 to respondent No. 3, wherein it was categorically mentioned that the petitioner had donated land measuring 1 Kanal, falling under Khasra No. 175, and approval was accordingly sought for his engagement on a casual basis in lieu of the land donated by him to the PHE Department. The petitioner was thereafter directed to produce

the requisite land documents, complete in all respects, for the purpose of consideration of his engagement.

8. The petitioner claims to have submitted all the requisite documents pertaining to the land before respondent No. 4. However, despite submission of the said documents, no action was taken in his favour, compelling him to issue a legal notice dated 07.11.2013 to respondents Nos. 2 to 4, seeking implementation of the order passed by this Court in the first round of litigation.

9. Since the aforesaid order passed by this Court was not complied with, the petitioner was also constrained to initiate contempt proceedings. Upon issuance of notice in the contempt petition, the respondents filed a detailed compliance report and, along with the same, placed on record order dated 19.09.2014, whereby the claim of the petitioner came to be rejected after consideration. The aforesaid order is the subject matter of challenge in the instant petition.

10. The petitioner has called in question the aforesaid order of consideration primarily on the ground that, once the respondents had directed him to furnish the requisite documents and he had already donated the land for construction of the water tank, which was raised in the year 1996, the respondents were under a legal obligation to provide him employment in lieu of the land so donated.

11. *Per contra*, the respondents have filed their response, wherein a specific stand has been taken that, insofar as the claim of the petitioner regarding his engagement as a casual labourer is concerned, there is no record available with the Department to substantiate the factum of such

engagement, as alleged in the instant petition. The respondents have further contended that the structure in question has been raised over land comprised in Khasra No. 175, which, in fact, belongs to the Custodian Department, and the petitioner is not the owner thereof. Therefore, he cannot claim any right to employment in lieu of the said land, which does not belong to him.

12. It is further contended by the respondents that the land documents furnished by the petitioner were not genuine, as the land utilized by the Department actually belongs to the Custodian Department. It is also their specific stand that, as on date, there is no scheme or policy in vogue which confers upon the petitioner any enforceable right to claim employment in lieu of the land in question. Though the respondents have admitted that the case of the petitioner for engagement in lieu of the land was forwarded to the higher authorities, they have submitted that, upon scrutiny of the requisite documents, the claim of the petitioner was found to be unsustainable, as the land over which the Department had raised the construction/structure belonged to the Custodian Department and not to the petitioner. Accordingly, his claim was rejected by virtue of the impugned consideration order.

13. The respondents have also placed reliance upon the report furnished by the concerned Tehsildar, who has categorically communicated that the land utilized by the Department actually belongs to the Custodian Department and, as such, neither the petitioner nor Mohd. Sadiq has any proprietary rights over the said land.

14. Heard learned counsel for the petitioner as well as learned counsel for the respondents and perused the record.

15. Learned counsel for the petitioner has fairly submitted that the issue raised in the instant petition is covered by the judgment passed by this Court in WP(C) No. 1663/2024, titled *Zareena Akhter and Anr. vs. Union of India and Ors*.

16. Learned counsel for the petitioner further fairly submits that, as on date, there is no policy of the Government under which the petitioner can claim an enforceable right to employment in lieu of the land allegedly donated by him. He, therefore, submits that the instant petition may be disposed of in the light of the principles laid down by this Court in the aforesaid judgment.

17. Learned counsel for the respondents, in addition, submits that there is no policy of the Government in vogue which confers any enforceable right upon the petitioner to claim employment in lieu of the land in question. He further submits that the documents furnished by the petitioner were found to be not genuine and that the very foundation of the claim raised in the instant petition stands demolished in view of the report submitted by the concerned Tehsildar, who has categorically reported that the land utilized by the Department belongs to the Custodian Department. It is, therefore, contended that the petitioner has no locus standi to maintain the instant petition, which is misconceived and liable to be dismissed, particularly as he has not approached this Court with clean hands and has suppressed material facts.

18. Learned counsel for the respondents further submits that the water tank has been constructed over land belonging to the Custodian Department, therefore, the petitioner cannot claim ownership or proprietary rights over the said land. Consequently, he has no legal right whatsoever to seek employment in lieu of land which, in fact, belongs to the Custodian Department.

19. It is further submitted that all the aforesaid aspects have been duly considered by the respondents after examining the entire contemporaneous official record, whereafter a detailed consideration order, which is impugned in the instant petition, came to be passed. It is, accordingly, contended that the challenge thrown to the said order is devoid of any merit and the writ petition, being misconceived, deserves to be dismissed.

20. Learned counsel for the respondents further submits that the order passed by the respondents is perfectly legal, justified and in consonance with the contemporaneous official record. The writ petition challenging the said order is, therefore, stated to be wholly misconceived and liable to be dismissed at the threshold.

21. I am in agreement with the arguments advanced by learned counsel for the respondents. The petitioner has failed to establish any legal right over the land in question, particularly when the official report furnished by the concerned Tehsildar categorically indicates that the land utilized by the Department belongs to the Custodian Department. The petitioner cannot, therefore, claim any right to seek employment in lieu of land over which he has failed to establish any proprietary interest. The claim

raised in the instant petition, to the extent it proceeds on the premise that the petitioner is the owner of the land in question, is not borne out from the contemporaneous official record.

22. The petitioner has, therefore, failed to make out any case warranting interference with the order of consideration passed by the respondents, particularly when the said order has been passed after taking into account the relevant contemporaneous official record.

23. It is also pertinent to note that, when learned counsel for the petitioner was confronted with the aforesaid position, he fairly conceded that the issue raised in the instant petition is covered by the recent judgment passed by this Court and expressed no objection to the disposal of the instant petition in the light of the principles laid down therein.

24. Accordingly, having heard learned counsel for the parties and upon consideration of the contemporaneous official record, this Court finds no merit in the instant petition. The same is, therefore, ***dismissed*** along with all connected applications, in the light of the judgment passed by this Court in *WP(C) No. 1663/2024, titled Zareena Akhter and Anr. vs. Union of India and Ors.*

(WASIM SADIQ NARGAL)
JUDGE

JAMMU
05.11.2026
Mihul

Whether the order is speaking: Yes/No

Whether the order is reportable: Yes/No