Sr. No. 50

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

CJ Court

Case: **WP (C) No. 2778/2025**

Date of pronouncement: 02.11.2026
Date of uploading : .11.2026

UT of J&K & Ors. .....Applicant(s)/Petitioner(s)

Through :- Ms. Monika Kohli, Sr. AAG with
Ms. Malvika Gupta, Advocate

v/s

Jagdish Kumar .....Respondent(s)

Through :- Mr. RKS Thakur, Advocate

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

ORDER
02.11.2026

1. The controversy arose out of the fact that the respondent, who was daily wager in the Plumbing Section of District Jail, Jammu, completed his seven years and was entitled for regularization on the same place. He is staking his claim for regularization w.e.f. 28.03.2008. The petitioners did not regularize his service and, therefore, he kept on contesting the same from the time his right accrued. Admittedly, his first litigation was of the year 2011 to agitate the issue.

2. Learned Sr. AAG for the petitioners, Mrs. Kohli, submits that there are four components in the impugned judgment; firstly, the respondent has to be regularized w.e.f. 28.03.2008 since he completed his seven years in terms of Government Order No. 432-Home of 2019 dated 22.04.2019; secondly, he has to be given the

benefits like arrears, salary, seniority, increment and all other service benefits; thirdly, he has to be treated in the old pension scheme and lastly, all the issues have to be decided within a period of two months.

3. Learned Sr. AAG, fairly submits that as far as all four components are concerned, she is aware that the law would not support her contention of justifying prospective regularization. She, thus, makes a submission that the parity being drawn with one Shabir Ahmed renders her petition meaningful because Shabir Ahmed vide order dated 22.04.2019 has been regularized w.e.f. 30.10.2007 giving him all notional benefits from that date.

4. Mrs. Kohli submits that although Section 5 (v) of the J & K Civil Services (Special Provisions) Act, 2010 talks of prospective regularization but also accepts the applicability of the full Bench judgment rendered by this Court in ***"UT of J & K Vs. Neeru Pandita",*** whereby the following directions have been passed:

> *"**23**….. In view of the above discussion, we answer the questions referred to this Full Bench as under:*
>
> ***(i)** The first proviso to Section 5 of the Act of 2010 does not give the Government an unfettered power to decide the date of regularization of an eligible ad hoc, contractual or consolidated appointee. It has to be read together with the main provision of Section 5 and cannot be interpreted to mean that the Government is free to choose any date of regularization at its own discretion.*
>
> ***(ii)** Section 10 is only procedural in nature. It lays down the procedure and the time-frame for processing cases of regularization. However, the period of 150 days cannot be read into Section 5 for deciding the effective date of regularization. The right to regularization arises as soon as an employee fulfils all the conditions prescribed under Section 5 and cannot not be postponed till the expiry of 150 days.*

> ***(iii)*** *Accordingly, neither Abdul Majid Magray nor Rabia Shah states the correct legal position in its entirety. Judgment in Abdul Majid Magray's case is overruled to the extent it holds that regularization takes effect only from the date on which the formal order of regularization is issued. Judgment in Rabia Shah is approved insofar as it holds that the Government cannot postpone regularization at its own will and that the right to regularization accrues on fulfillment of the statutory conditions. However, it is overruled to the extent it holds that regularization becomes effective only after the expiry of 150 days by reading Section 10 into Section 5.*
>
> ***24…..*** *The reference is answered accordingly. The matter be placed before the appropriate Division Bench for disposal in accordance with the law laid down in this judgment. The Judgment shall have prospective effect and shall apply to pending and future cases. The cases already settled or finally disposed of shall not be reopened."*

5. Learned counsel for the respondent submits that Section 5 of the Act of 2010 permits regularization of adhoc, consolidated and contractual appointees. He also submits that the same is supported by the judgment of full Bench and, thus, by strength of this, the counsel for the respondent submits that whenever seven years are completed, all the necessary benefits have to be accrued to the respondent.

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6. After hearing learned counsel for the parties, this Court is of the view that the law promulgates that the Act of 2010 under Section 5 (v) clearly contemplates regularization after seven years of initial service from the appointed date. Moreover, the law has been further considered at length in the full Bench judgment, in the case of Neeru Pandita (supra) in which the full Bench has clearly set up that the completion of seven years is the stipulated time period in the legislation and, thus, any delay caused by the appellants cannot

come to their own rescue, which needs to be followed strictly and in tandem with the completion of seven years.

7. This Court finds that the full Bench judgment is rendering all necessary strength to the case of the respondent and also justifying the impugned order under which all the benefits have been given as soon as seven years of the service is complete i.e. on 28.03.2008. Therefore, the learned CAT was right in applying the principle of full Bench judgment for the purpose of declaring the benefit. Apart from this, the Old Pension Scheme has been now adopted with a cutoff date by the UT itself in its own policy. Thus, there is no reason to show indulgence.

8. ***The writ is, accordingly, dismissed.***

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(Rajnesh Oswal)
Judge

(Dr. Pushpendra Singh Bhati)
Chief Justice

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02.11.2026
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Whether the order is speaking : Yes/No
Whether the order is reportable : Yes/No