Sr. No. 9

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH**
**AT JAMMU**

**CJ Court**

Case: **WP(C) No. 3392/2026**
**CM No. 7539/2026**
**CAV No. 2908/2026**

***Date of pronouncement: 02.11.2026***
***Date of uploading : .11.2026***

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

Through :- Mr. Meharban Singh, AAG

**v/s**

**Rekha Devi** .....Respondent(s)

Through :- Ms. Shivani Jalali, Sr. Advocate with
Ms. Anajana Rana, Advocate

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

**ORDER**
**02.11.2026**

**1.** The undisputed facts of the case are that the respondent was appointed as Conductress on ad hoc basis vide Government Order dated 18.06.1996 against a clear vacancy at the Training Centre in weaving at Buggan (Bani), Tehsil Basohli. The respondent continued in the service and was repeatedly paid her due salary. She was asked to open a G.P. Fund account, which was opened in the year 2001 and thereafter, an amount towards GP Fund was continuously deducted. The respondent sought regularization, which was directed by this Court in SWP No. 2455/2002 to be considered by the petitioners and also ordered status-quo for rendering of service.

**2.** Mr. Meharban Singh, learned AAG, appearing for the petitioner, submits that the basic appointment of the respondent was not in accordance with law. He also submits that time and again, her consideration was made, as she was not found qualified for regularization, detailed orders have been passed while making considerations. The same have been supported by speaking orders. However, learned counsel for the petitioners submitted that the consideration made was in accordance with the Act of 2010, and also the continuity of the respondent remained from 1996 until now but under court orders, as such, she has no case for consideration.

**3.** Learned counsel for the petitioners further submits that a detailed order was passed on the directions of this Court vide order dated 25.10.2016 in SWP No. 2455/2002, thereby rejecting her regularization vide order dated 14.07.2017.

**4.** Learned counsel for the respondent, however, relies upon a full Bench judgment of this Court in ***"UT of J & K Vs. Neeru Pandita",*** operative portion whereof is reproduced as under:

> *"**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 senior counsel for the respondent submits that Section 5 of the Act of 2010 permits regularization of adhoc, consolidated and contractual appointees. She 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.

**6.** It is further submitted by learned senior counsel for the respondent that the CAT has rightly observed that the respondent continued to work from the year 1996 till date and the first interim order was passed in fact on 27.09.2002. Thus, her continued service was independent of the order passed by this Court. She has shown this Court the orders of recommendation which have been repeatedly passed after her initial appointment including the letter dated 24.11.2006 issued by District Social Welfare Officer, Kathua

recommending her case for regularization. The salary and emoluments drawn and also the directions to open G.P. Fund account and the deductions so made clearly point out that she has a good case for the consideration of her regularization.

**7.** This Court, looking into the fact that the petitioner was initially appointed as Conductress in the year 1996 and, thereafter, continued without intervention of this Court, and thereafter, by intervention of this Court and various recommendations made, GPF account has been forced upon her, wherein deductions were also made, she was also being paid her salary. When read with Section 5 (v) of the Act of 2010 along with the judgment of ***Neeru Pandita*** (supra), there is nothing which could impress upon this Court to grant indulgence in the CAT order.

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

HIGH COURT OF JAMMU & KASHMIR AND LADAKH

**(Rajnesh Oswal)** **(Dr. Pushpendra Singh Bhati)**
**Judge** **Chief Justice**

JAMMU
02.11.2026
Manan

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