Sr. No. 86

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

CJ Court

Case: WP(C) No. 3527/2026
CM No. 7859/2026
CAV No. 2929/2026

Date of Pronouncement : 04.11.2026
Uploaded on : 05.11.2026

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

Through :- Ms. Monika Kohli, Sr.AAG

v/s

Ram Krishan .....Respondent(s)

Through :- Mr. M.I. Sherkhan, Advocate

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

ORDER (ORAL)

CAV No. 2929/2026

With the appearance of learned counsel for the caveator, the caveat stands discharged.

WP(C) No. 3527/2026

1. The undisputed facts are that the respondent was recruited as a Constable on 21.01.1979 and completed 32 years of unblemished dedicated services while getting promoted as Head Constable in Jammu & Kashmir Police. The respondent suffered severe medical conditions, i.e., STI LBA, which is a Disc problem and consequently he applied for leave on 26.03.2010 and due to his deteriorating health, he could not attend his office. The respondent continued to take his treatment at Government Medical College, Jammu, the details of which are on record. The petitioners conducted an enquiry and dismissed him from service on 13.10.2010. The respondent took up the issue and sought intervention of the Courts

alleging violation of Rule 359 of J&K Police Rules, Article 311 of the Constitution of India and Section 126 of the Constitution of J&K.

2. Ms. Monika Kohli, learned Sr.AAG for the petitioners while accepting the aforesaid factual matrix submits that the absence of the respondent was recorded in the daily dairy report on 28.03.2010, following which a notice was given on 08.05.2010 directing him to report back on duty. Ms. Kohli also submits that thereafter repeatedly notices were sent to the respondent and also pasted at his residence, so that he could report back. Ms. Kohli further submits that the departmental enquiry was initiated and thereon the communications during the enquiry were also sent to him and served upon him through the DPO Doda and other authorities. Ms. Kohli submits that all necessary steps were taken including publication of the notice in local newspaper "Kashmir Times" on 26.07.2010. Ms. Kohli submits that since every parameter required in law was adhered to and when he did not respond, an ex parte enquiry was proceeded with strictly in accordance with Rule 359 of J&K Police manual and other prevailing laws. Ms. Kohli does not deny the medical condition which is a record of the Government Hospital.

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3. The counsel for the respondent, however, submits that even if the enquiry was in accordance with law, then also the authorities ought to have taken the lenient view and looking into his medical conditions should have either sanctioned him a proper leave or allowed him to retire with consequential benefits. Learned counsel for the respondent, fairly, submits that he does not wants to press his case on count of violation of Article 311 of the Constitution of India or Rule 359 of J&K Police Rules and does not wish to press the procedural errors, but makes a limited

submission that looking into the undisputedly long unblemished service of 33 years as well as the Government record of medical ailment, the case be considered only on the point of principle of proportionality, as the punishment of termination does not commensurate with the gravity of misconduct of the employee.

4. On such limited submissions made, this Court, while making a limited interference in the CAT's judgment and while holding that the counsel for the petitioners does not wish to pursue the procedural errors in the enquiry, his limited prayer is considered and this Court while quashing the impugned order passed by the CAT substitutes the order only on the ground of quantum of punishment, as the punishment is disproportionate in the peculiar factual matrix where serious ailment is there in Government Medical record, which is un-refuted, more particularly when the respondent has rendered unblemished and continued service of 32 years since 1979. Thus, the punishment of termination is substituted by compulsory retirement. The respondent shall stand compulsorily retired from the day of his non reporting to the office which is 26.03.2010. The respondent shall be entitled to all the retiral benefits, which shall be paid to him, within a period of three months from today.

5. **Disposed of** as above.

(RAJNESH OSWAL)
JUDGE

(DR. PUSHPENDRA SINGH BHATI)
CHIEF JUSTICE

JAMMU
04.11.2026
Pawan Angotra

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

Pawan Angotra
2026.11.05 17:18
I attest to the accuracy and
integrity of this document