Sr. No.11

IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH AT SRINGAR

WP(C) 2654/2026 CM(7264/2026)
Caveat 1849/2026

UNION TERRITORY OF J AND K AND OTHERS (PUBLIC HEALTH ENGINEERING) …Petitioner(s)/appellant(s)

Through: Mr. Jahangeer Ahmad Dar, GA

Vs.

GHULAM MUSTAFA SHEIKH (KHALASI) ...Respondent(s)

Through: Mr. M. A. Beigh, Advocate

CORAM:

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE YASH PAUL BOURNEY, JUDGE

O R D E R
27.10.2026

1. The petition has been preferred with the following prayers:

> *In the premises, it is therefore respectfully prayed that this Hon'ble Court be pleased to:*
> *a) Allow the present petition and set aside the impugned order dated 09.08.2021 passed by the learned Central Administrative Tribunal, Jammu Bench Jammu, in TA No.52/1148/202L titled Ghulam Mustafa Sheikh Versus State of Jammu and Kashmir and Others.*
> *b) Pass any other order(s) as deemed fit in the interest of justice.*

2. Learned counsel for the appellants submits that there is an order dated 09.08.2021, passed by the learned Central Administrative Tribunal Jammu, whereby a direction was issued to release all service benefits, including salary arrears, to the respondent with effect from 2001, and also to forward the original service book within two weeks, and to grant promotion within three weeks.

3. Learned counsel for the appellants further submits that there was always a belief and apprehension that the appointment of the respondent was fake and fabricated. However, when asked by this Court, learned counsel could not show a single line which could establish that such fake and fabricated documents and allegation has been concluded against the respondent by the appellants.

4. He further contended that the contempt petition, bearing CP No. 54/2021, was dismissed on the ground that no deliberate or wilful disobedience had been established, and thus the currency of the order dated 09.08.2021 had substantially come to an end.

5. Learned counsel for the appellants has further referred to the reports of the Departmental Vigilance Officer which is Annexure XIX suggesting some apprehension of the department of fake order and fraudulent appointment, but without concluding the same.

6. He also drew attention of this Court to Annexure XX, which was finding of the Superintending Engineer, Hydraulic Circle, Srinagar wherein it was reported that the documents lacked genuineness and were not well supported and, the matter required further consideration. However, the report at Annexure XX also has not concluded anything against the present respondent.

7. Learned counsel for the appellants thereafter referred to the Crime Branch investigation, which culminated in a communication dated 22.12.2025, whereby the inquiry was closed as not proved. Learned counsel also relied upon the non-availability of official records on account of the floods of 2014. It was further submitted that subsequent efforts were made to make an enquiry but nothing conclusive could be shown by him. Learned counsel for the appellants has also failed to explain the delay in filing the present appeal against the order dated 09.08.2021.

8. Learned counsel for the respondent, however, has drawn the attention of this Court to the order passed in MA No. 1665 of 2025, filed in OA No. 417 of 2024, wherein compliance with the order dated 09.08.2021 was reiterated. The relevant portion of the order reads as follows:

> *In this view of the matter, M.A. is allowed. The respondents are directed to implement the judgment of the Division Bench dated 09.08.2021 in its letter and spirit and report compliance to Registrar of this Court within a period of three weeks positively.*

9. Learned counsel for the respondent has also referred to the information furnished under the Right to Information Act, wherein the final report of Crime Branch Kashmir was provided to the respondent, indicating that nothing had been proved against him. he conclusion recorded in paragraph 12 of the report dated 21.05.2025 is reproduced as under:

> ***12. <u>Conclusion and Final Recommendation</u>***
>
> *In view of non availability of the records required for the purpose of enquiry, death of the then Chief Engineer PHE and Xen, PHE Water Works Division Srinagar, keeping in view*

of original order copy in hand as well as photocopy of service book provided by the alleged suspect and its authentication by the concerned Incharge Establishment, the allegations leveled against the alleged suspect namely Gh. Mustafa Sheikh designation as Khalas S/o Mohammad Sultan Sheikh R/o Kanihama Chadoora could not be substantiated, hence the probe of instant enquiry is concluded as "Not Proved".

10. Learned counsel for the appellants has not been able to show any document on record, despite the passage of considerable time, in which the appellants had arrived at a conclusion that the respondent's appointment was fraudulent or under any kind of cloud. Even today, learned counsel for the appellants sought further time to arrive at such a conclusion, even when there was a conclusive report which is on record and which has been reproduced above made by the Enquiry Officer EOW, CBK, Srinagar.

11. This Court finds that the respondent, who was working as a Khalasi, has been contesting the matter for a long time without any relief and that there is no conclusive outcome of the appellants' claim that his appointment was under a cloud.

12. In view of the aforesaid circumstances, this Court is not inclined to entertain the present appeal at this belated stage, particularly when no conclusion has been arrived at by the appellants against the present respondent.

13. For the foregoing reasons, the appeal is dismissed.

(YASH PAUL BOURNEY)
JUDGE

(DR. PUSHPENDRA SINGH BHATI)
CHIEF JUSTICE

SRINAGAR
27.10.2026
Aadil