

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

WP (C) No. 2578/2024

Reserved on: 31.10.2025

Pronounced on: 07.11.2025

Uploaded on: 07.11.2025

Whether the operative part or full
judgment is pronounced: Full

1. **Adnan Wani**
Aged about 36 years
S/o Ali Mohammad Wani
R/o Mammer, Tehsil Kangan,
District Ganderbal.
2. **Mushtaq Ahmad Hajam**
Aged about 43 years
S/o Fidah Ahmad Hajam
R/o Wadoora, Sopore,
District Baramulla.
3. **Javid Ahmad Mir**
Aged about 45 years
S/o Abdul Rashid Mir
R/o Baghi-e-Mehtab, Chadura,
District Budgam.
4. **Showkat Ahmad Bhat**
Aged about 45 years
S/o Mohammad Ramzan Bhat
R/o Kanispora, Baramulla.
5. **Jawahar Ahmad Lattoo**
Aged about 42 years
S/o Mohammad Ramzan Lattoo
R/o Sher-i-Kashmir Colony,
District Anantnag.
6. **Tahir Sidiq Gujri**
Aged about 38 years
S/o Mohammad Sidiq Gujri
R/o Noorbagh, Dana Mazar,
District Srinagar.
7. **Fayaz Ahmad Mir**
Aged about 44 years
S/o Abdul Hamid Mir,
R/o Bemina, Srinagar.

8. Yog Raj
Aged about 35 years
S/o Dev Raj
R/o Barta, Udhampur.

...Petitioner(s)/Appellant(s)

Through: Ms. Syed Ainain Qadiri, Adv.

Vs.

High Court of J&K & Ladakh,
Through Registrar General,
Srinagar/Jammu.

...Respondent(s)

Through: Mr. Aatir Javed Kawoosa, Adv.

CORAM:

HON'BLE MR. JUSTICE SANJEEV KUMAR, JUDGE
HON'BLE MR. JUSTICE SANJAY PARIHAR, JUDGE

J U D G M E N T

सत्यमेव जयते

Per Sanjeev Kumar, J

1. The petitioners eight in number seek to invoke the extraordinary writ jurisdiction of this Court to throw challenge to a Communication of the respondent issued vide No. 23107 of 2024/RG/NG-438(1) dated 12.06.2024, whereby the representation moved by the petitioners for treating their adhoc services as qualifying service has been rejected. The petitioners are also seeking a direction to the respondent to treat their adhoc services towards qualifying service for pension and grant them the benefit of Old Pension Rules/Scheme.

2. Before we advert to the grounds of challenge urged by the petitioners in support of their petition, we deem it appropriate to narrate few facts as are relevant to the disposal of this petition.

3. The petitioners were working as Orderlies on adhoc basis in the establishment of this Court and on completion of seven years continuous service, as such, became eligible for regularization under J&K Civil Services (Special Provisions) Act, 2010 ["the Act of 2010"]. The benefit of the Act of 2010 which was perceived to be issued in respect of Government employees was not extended to the adhoc employees of the High Court establishment.

4. Feeling aggrieved, the petitioners approached this Court by way of SWP No. 2524/2018 which was disposed of by a Division Bench of

this Court vide its order and judgment dated 25.02.2020. Consequent upon the aforesaid judgment delivered by this court in the case of petitioners, the Registrar General of this Court vide its order No. 1444 dated 25.02.2020 directed the regularization of the services of the petitioners with effect from the date each one of them had completed his seven years continuous services. The petitioners as is indicated in the order dated 25.02.2020 were given the regularization with effect from the year 2014 and 2015. Since all the petitioners were substantively appointed and became members of High Court establishment after 31.12.2009, as such, were governed by the New Defined Contributory Pension Scheme, 2009 issued by Government vide SRO 400 dated 27.02.2009 (NPS).

5. Confronted with the aforesaid position and being well aware that they having been appointed after 31.12.2009 would be governed by the NPS, the petitioners moved a representation before the Registrar General of this Court seeking their services rendered on adhoc basis from the year 2007-2008 as a qualifying service, and, accordingly accord them the benefit of pension regulations as were in vogue prior to promulgation of NPS. The Registrar General considered the representation and vide communication impugned dated 12.06.2024 rejected the claim of the petitioners on the ground that they having been appointed after 31.12.2009 would be governed by NPS and that the period of adhoc appointment is of no consequence. It is this communication which the petitioners have assailed in this petition.

6. Having heard learned counsel for the parties and perused the material available on record, it is seen that the claim put forth by the petitioners to get out of the NPS is essentially premised on the argument that since their adhoc service has been followed by their regularization in the service of the High Court, as such, they shall be deemed to have been appointed not on the date with effect from which they were regularized on completion of seven years, but from the date they were initially engaged on adhoc basis.

7. With a view to appreciate this contention, it is necessary to set-out the NPS issued vide SRO-400 of 2009 here-in-below: -

**Government of Jammu and Kashmir
Civil Secretariat, Finance Department**

Notification

Jammu, the 24th December, 2009.

8. SRO-400. In exercise of the powers conferred by proviso to section 124 of the Constitution of Jammu and Kashmir, the Governor is pleased to direct that the following amendments be made in Jammu and Kashmir Civil Service Regulation, namely:-

i) In Article 167 dealing with Pension Rules under the caption 'SECTION 1- EXTENT OF APPLICATION' after exception 5, the following shall be added as exception (6):-

"(6) The State Government Employees appointed on or after 01.01.2010 shall be governed by "New Pension Scheme" as per Article 249-M(B) added after 249-M(A) and accordingly, the existing Pension Rules shall not be applicable to Government Employees appointed or brought on regular establishment on, or after, 01.01.2010".

ii) The following shall be added as Article 240-GG below Article 240-G:

***"Art. 240-GG:** The provisions regulating grant of gratuity and Death-Cum-Retirement Gratuity contained in Art. 240-B to Art. 240-G shall not be applicable to Government Employees appointed to the service/posts of the State or brought on regular establishment on or after, 01.01.2010".*

iii) The following shall be added as Note below Art. 249-A:

***"Note:** The provisions of chapter XIX-A shall not be applicable to the State Government Employees appointed to the service/ posts of the State or brought on regular establishment on, or after, 01.01.2010".*

iv) The following shall be added after the above 'Note' as 'Chapter-XIX-AA' under the caption "Defined Contributory Pension Scheme"

**"Chapter XIX-AA
Defined Contributory Pension Scheme**

249-M(B): *Entrants to State Government service joining Government service on or after 01.01.2010 shall be governed by the Defined Contributory Pension Scheme as contained in Schedule XXIII of these regulations".*

- v) (a) *In Schedule XV, the following shall be inserted as Rule 3-A:*

"3A. These Rules shall not be applicable to Family members of Government Employees appointed to the service/posts of the State or brought on regular establishment on, or after, 01.01.2010. Hence, with effect from the date of commencement of Defined Contributory Pension Scheme as per Art. 249-M (B), no family pension/Death Cum Retirement Gratuity Service gratuity shall be admissible in favour of family members of such Government Employees as have been appointed on, or after, 01.01.2010 and thereafter may die in harness or after retirement.

(b) The existing Rule 3A shall be renumbered as Rule 3AA.

- (vi) *A new Schedule shall be inserted as Schedule XXIII after Schedule XXII as per Annexure-A of this notification:-*

- vii) *In the rules regulating General Provident Fund forming Appendix XVI-A, the following shall be inserted as Rule 3 A below Rule 3:*

"3-A The provisions of Rule I above shall not be applicable in respect of Government servants appointed on any post/service of the State or brought on regular establishment on, or after, 01.01.2010. All such employees shall be governed by Tier-II Account of Defined Contributory Pension Scheme as per Article 249-M (B)".

Sd/-

*Commissioner/Secretary to Government
Finance Department*

9. From plain reading of SRO reproduced above, it clearly transpires that all State Government employees appointed on or after 01.01.2010 shall be governed by the New Pension Scheme. The rule further provides unequivocally that the existing Pension Rules i.e., the

rules which were in operation prior to issuance of SRO 400 of 2009 shall not be applicable to Government employees appointed or brought on regular establishment on or after 01.01.2010.

10. Indisputably, the petitioners were working as Orderlies on adhoc basis and acquired their right to be brought on regular establishment only on completion of seven years continuous adhoc service. This service they completed in the year 2014 and 2015 and, accordingly, vide Order No. 1444 dated 25.02.2020, they were brought on regular establishment with effect from the date they had completed seven years continuous adhoc service. Some of the petitioners completed their seven years continuous service in the year 2014 and some in the year 2015. It, therefore, cannot be said by any stretch of reasoning or imagination that the petitioners were regularly appointed or stood brought on regular establishment prior to 01.01.2010 so as to extend them the benefit of Pension Rules as were in operation on the issuance of SRO 400 of 2009.

11. The petitioners have not sought their regularization from retrospective date i.e., from any date prior to 01.01.2010. The only issue that has been raised by learned counsel appearing for the petitioners is that since they were in the adhoc service of the respondent prior to 01.01.2010, and therefore, they shall be treated to have been appointed prior to 01.01.2010. The argument is utterly misconceived and frivolous and, therefore, cannot be accepted. As a matter of fact, the petitioners had been continuing as Orderlies on adhoc basis without there being even the post available for the purpose. They were accommodated by this Court by getting eight supernumerary posts created by the Government vide Order No. 236-JK(LD) of 2019 dated 16.12.2019. It is interesting to note that though the supernumerary posts were created by the Government, but the effect to regularization of the petitioners was given from the year 2014 and 2015 i.e., immediately on completion of seven years adhoc service. The petitioners were thus not entitled to regularization any time prior to 01.01.2010 and, therefore, their claim to be governed by the Pension Rules as were in vogue on the date of issuance of SRO 400 of 2009 is grossly misconceived.

12. The question of treating the services rendered on adhoc basis as qualifying service for pension is totally irrelevant in the context of controversy raised in this petition. It is only in the case of a Government employee who is governed by the Pension Rules which were in operation prior to issuance of NPS, the part of services rendered on temporary or adhoc basis can be treated as a qualifying service so as to enable an employee falling short of qualifying service to the benefit of pension.

13. In the instant case, the petitioners having been appointed after 01.01.2010 are not entitled to any pension and, therefore, reckoning of their adhoc services as qualifying service is inconsequential and totally meaningless.

14. For the foregoing reasons, we find no merit in the petition and the same is accordingly dismissed.

(SANJAY PARIHAR)
JUDGE

(SANJEEV KUMAR)
JUDGE

SRINAGAR:

07.11.2025

Altaf

Whether approved for reporting? Yes