



HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

WP(C) No. 978/2026
CM No.2153/2026

Reserved on: 15.04.2026

Pronounced on: 24.04.2026

Uploaded on: 24.04.2026

Whether the operative part or
full judgment is pronounced

1. State (Now UT) of Jammu & Kashmir through Commissioner/Secretary, Finance Department, Civil Secretariat, Jammu/Srinagar.
2. State (Now UT) of Jammu & Kashmir through Commissioner/Secretary to Government, Health & Medical Education Department, Civil Secretariat, Jammu/Srinagar-180001.
3. Director, Health Services, Jammu-180001.
4. Chief Medical Officer, Doda-182202.
5. Block Medical Officer, CHC Gandoh, Doda-182203.

.... Petitioner(s)

Through:- Mr. Raman Sharma, AAG with
Ms. Saliqa Sheikh, Advocate.

V/s

Sara Begum, Age 51 years
W/O late Mohd. Rafi Khan
R/O Village Kilhotran Tehsil Gandoh (Bhallesa)
District Doda-182203.

.....Respondent(s)

Through:- Mr. S.S Ahmed, Advocate; with
Ms. Supriya Chouhan; and,
Mr. Rahul Raina, Advocates.

CORAM: HON'BLE MRS. JUSTICE SINDHU SHARMA, JUDGE
HON'BLE MR. JUSTICE SHAHZAD AZEEM, JUDGE

JUDGMENT

Per:- Shahzad Azeem, J

1. Petitioners have thrown challenge to the order and judgment dated 30 September 2025 passed by the Central Administrative Tribunal, Jammu



Bench, Jammu (*‘the Tribunal’*) in TA No.61/8572/2021 titled “*Sara Begum vs. The State of Jammu and Kashmir and others*”. By the said order, the Tribunal allowed the Transfer Application and directed the petitioners herein (respondents before the Tribunal) to regularize the services of deceased, Mohd. Rafi Khan, the husband of the respondent herein [applicant before the Tribunal] and to release all the consequential benefits.

2. Briefly stated respondent-Sara Begum is the widow of late Mohd. Rafi Khan, who was engaged on 26 November 1993 as Junior Assistant on stop gap/adhoc basis and continued in service until his death on 14 December 2014. His case was specifically considered and recommended for regularization by the Empowered Committee constituted under Jammu and Kashmir Civil Services (Special Provisions) Act, 2010, (the Act of 2010). However, when final regularization order No.20-HME of 2013 dated 11 January 2013 was issued, his name was left out, even though his juniors, including one Farooq Ahmed Zargar, were regularized.

3. Despite the recommendation by the Empowered Committee and more than 21 years of continuous service, the deceased’s services were not regularized. He died in harness on 14 December 2014. Aggrieved of this, the respondent filed SWP No.880/2016 “*Sara Begum vs. The State of Jammu and Kashmir and others*”, which was later transferred to the Tribunal. The Tribunal directed regularization of the deceased’s services with effect from 11 January 2013, when his juniors were regularized and also to grant all consequential benefits, including arrears of pay, allowances, Sixth Pay Commission benefits, family pension, retiral benefits and other statutory dues.



4. Now the petitioners being aggrieved of the order and judgment of the Tribunal have assailed the order of the Tribunal mainly on the ground that the deceased was engaged without undergoing any regular selection process, and the Act of 2010 already stands repealed vide S.O dated 31 March 2020.

5. The petitioners have also referred to the Jammu and Kashmir Casual and Other Workers Regular Engagement Rules, 2017, made vide SRO No. 520 dated 21 December 2017 and went unto submit that, same also stands repealed after the Re-organization Act, 2019. According to petitioners, in absence of any statutory rule or policy, the direction of the Tribunal for regularization is unsustainable in law.

6. Having heard learned counsels for the parties and perused the record, we find that the deceased rendered almost 21 years of uninterrupted service. It is not disputed that his case was duly recommended for regularization by the Statutory Empowered Committee, under the Act of 2010. Yet, while his juniors were regularized, he was arbitrarily left out. The petitioners have not been able to show any justification for this discriminatory treatment.

7. After extracting work from the deceased employee for more than two decades, State cannot now claim that he was merely an adhoc worker or was engaged on stop gap arrangement, rather his continuity in the department in whatever capacity, goes to show the permanency of the work, he was made to perform during his lifetime, thus, State being a model employer is expected to act fairly and cannot follow a, “**hire and fire**” policy. The fact a junior’s case was recommended by the Empowered Committee along with the deceased and was regularized further establishes hostile discrimination.



8. Once the Empowered Committee has recommended the deceased's name and similarly situated juniors were regularized, the petitioners cannot be heard to say his service could not be regularized merely because he was initially engaged on adhoc or temporary basis. Such an action violates the principle of equality enshrined under Article 14 of the Constitution of India.

9. The contention that the Act of 2010 stands repealed is of no help to the petitioners. A right accrued to the deceased cannot be taken away retrospectively. The repeal of the Act or Rule cannot be applied to defeat a right that had crystalized under repealed Act, more so, when it amounts to violation of Article 14 and 16 of the Constitution of India.

10. The State being the welfare State is expected to lead by example, and cannot resort to the policy of hire and fire, as same would amount to exploitative engagement, particularly when it is continuous and uninterrupted work over a long period.

11. The deceased admittedly had performed continuous and uninterrupted duties for more than 21 years. Work of such a long duration cannot be deemed adhoc or temporary; it had acquired the character of permanency with the passage of time.

12. Before concluding, we must record that the respondent is a widow seeking posthumous regularization so that she and her children can live with dignity and receive family and other benefits. In such cases, the State is expected to act with compassion and not prolong litigation on technicalities.

13. Indisputably, a junior to the deceased employee has already been regularized. The petitioners have failed to disclose any rational basis for



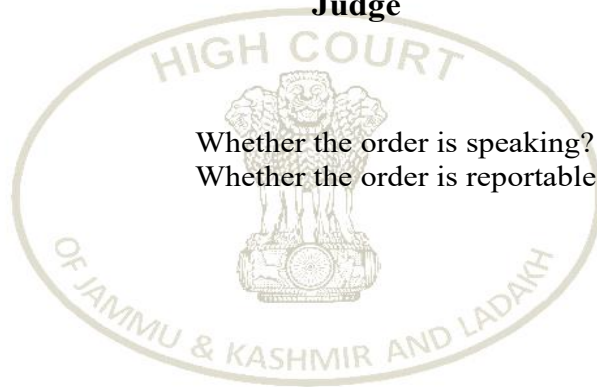
excluding the deceased. This action therefore, is clearly arbitrary and violative of Article 14 of the Constitution. Therefore, the deceased employee is entitled for regularization from the date services of his junior were regularized, along with all consequential benefits.

14. For what has been observed above, we are of the opinion that the Tribunal has taken a pragmatic view, therefore, we do not find any error of fact or law committed by the Tribunal while passing the impugned order dated 30 September 2025. Accordingly, the present writ petition being devoid of merit is hereby **dismissed**.

**(Shahzad Azeem)
Judge**

**(Sindhu Sharma)
Judge**

JAMMU
24.04.2026
Surinder



Whether the order is speaking? :
Whether the order is reportable?:

Yes/No
Yes/No