

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

Reserved on: 01.06.2026

Pronounced on: 05.06.2026

Uploaded on: 05.06.2026

Whether the operative part or full

*judgment is pronounced: **Full***

WP(C) No.2842/2022

SHAHID MEHRAJ

...PETITIONER(S)/APPELLANT

Through: - Mr. J. H. Reshi, Advocate

Vs.

UT OF J&K AND OTHERS

...RESPONDENT(S)

Through: - Mr. Jahingeer Dar, GA.

CORAM: HON'BLE MR. JUSTICE SANJAY DHAR, JUDGE

JUDGMENT

1) The petitioner, through the medium of present petition, has sought a direction upon the respondents to release service benefits in his favour at par with similarly situated persons appointed on compassionate grounds. A further direction commanding the respondents to regularize services of the petitioner and to deploy him to any other government department or organization at par with similarly situated persons, has also been sought. Besides this, the petitioner has sought a direction upon the respondents to clear all outstanding wages due to him and to make payment thereof till he is deployed to some other government department or organization.

2) As per case of the petitioner, his father was working as Machinery Attendant with the Jammu and Kashmir Cement Limited (JKCL), at its factory situated at Khrew for about 26 years. He is stated to have retired on 31.03.2014 and soon thereafter, he was diagnosed with Stage-IV lung cancer on 04.04.2014, as a result whereof, he died on 10.05.2014.

3) It has been submitted that the petitioner came to be engaged on compassionate basis initially for a period of 89 days on consolidated remuneration of Rs.4500/ in terms of order No.JKCL:P&A:PF/2014-620 dated 15.07.2014. Vide order No. JKCL:P&A:Consolidated 16-417 dated 22.04.2016, the term of engagement of the petitioner and some other persons was deemed to have been extended periodically after giving a statutory break of one day. Vide orders dated 28.05.2016 and 28.02.2019, the remuneration of certain other employees working on consolidated basis was enhanced to the minimum of the pay band plus grade (Rs.5200-20200, GP-1800). In terms of various orders issued in February-March, 2019, the remuneration of certain other persons engaged on consolidated basis was enhanced only to Rs.12,000/. Vide order No. JKCL:P&A:PF: 2020-1247 dated 28.05.2020,

remuneration of the petitioner and certain other persons was also enhanced to Rs.12,000.

4) It has been submitted that the respondent JKCL eventually became a sick unit and it started incurring heavy losses, as a result of this, the government decided to wind up JKCL, whereafter a decision was taken by the government that out of 333 employees and workers of JKCL, 303 would be deployed to different government departments in terms of Government Order No.48-IND of 2021 dated 09.03.2021. Regarding remaining 30 workers, the issue was taken up by JKCL with the Government vide communication dated 13.03.2021, but no action was taken in the matter by the Government. The petitioners and similarly situated persons who were not deputed to any government department or organization, made a representation to JKCL as well as to the government, but no response was received from them.

5) It has been submitted that the respondents are proposing to shut down JKCL without deciding fate of the petitioner and other similarly situated persons. It has been further submitted that the petitioner has not been paid monthly consolidated remuneration with effect from 01.05.2019 nor has he been deployed to another

government department like similarly situated employees of JKCL.

6) The respondents have filed their reply to the writ petition in which they have submitted that due to discontinuation of operations at JKCL since 2018-19, the Government took the initiative to assign the company's employees to various government departments and organizations for the purpose of meaningful utilization of services and drawl of salary. It has been submitted that the petitioner was not engaged on compassionate grounds as his father had attained superannuation from service prior to his death. The respondents have further submitted that the government considered only such employees who were working in regular pay scales leaving behind 29 employees, including the petitioner, who were engaged on consolidated basis for their deployment to other organizations. It has been submitted that the government has taken a decision to shut down the JKCL and auction its assets.

7) Regarding payment of pending salaries, the respondents have submitted that the same can be considered in respect of eligible employees for the period they have actually worked with the JKCL.

8) I have heard learned counsel for the parties and perused record of the case.

9) From the pleading of the parties, certain facts have emerged which are not in dispute. The petitioner was, admittedly, engaged by the respondent JKCL, initially on a consolidated remuneration of Rs.4500/, which was later on enhanced to Rs.12000/, in terms of order dated 28.05.2020. It is also not in dispute that the services of the petitioner were never regularized by the respondent JKCL. Another admitted fact is that the respondent JKCL has been wound up and out of its 333 employees, 29 employees including the petitioner have not been deputed to any other government department or organization after winding up of the JKCL.

10) The petitioner is claiming that he should have been appointed on regular basis in a graded scale of pay, as his father had died on account of ailments which he contracted because of hazardous nature of duties that he was performing while in service of the respondent JKCL. In this regard, the stand of the respondents is that the petitioner was not eligible to be appointed on compassionate basis because death of his father had taken place after his retirement.

11) It is a settled legal position that it is only if an employee dies while in service that his legal heirs are eligible to be considered for compassionate appointment.

Thus, even if SRO 43 of 1994 is made applicable to the respondent JKCL, still then the petitioner was not qualified to be appointed on compassionate basis on account of death of his father who had, admittedly, died after his retirement. The respondents may have shown compassion on account of the fact that father of the petitioner has died due to cancer immediately after his retirement and engaged him on consolidated basis but the same does not give him any right to be appointed on regular basis on the pattern of compassionate appointment provided under SRO 43 of 1994.

12) The contention of the petitioner that after winding up of the JKCL, he should have been deployed to any other government department or organization as was done in the case of other employees of JKCL, is also without any substance because from a perusal of Government Order No.48-IND of 2021 dated 09.03.2021, a copy whereof has been placed on record by both the parties, it appears that only those employees of the JKCL who were appointed on substantive basis in graded scales, were deployed to other government departments, corporations and organizations. The other workers, whether engaged on daily rated basis or on consolidated basis, are not covered by the said Government Order.

13) A similar issue came to be decided by the Division Bench of this Court in the case of **Ghulam Nabi Bhat and Ors. vs. State of J&K & Ors.** (LPA No.13/2022 decided on 25.03.2026). The Division Bench rejected the claim of the employees engaged on daily wage basis with regard to their deployment to other government departments by holding that they cannot claim parity with those employees who were serving on regular or permanent basis with the respondent JKCL. In view of the ratio laid down in the said judgment, the contention of the petitioner herein cannot be accepted.

14) It is to be noted that an employee working on consolidated basis or a casual employee has no right to continue in service and his engagement does not confer upon him any claim for regularization or for continuity in service. Once the respondent JKCL has been wound up, its daily rated workers and workers engaged on consolidated basis have no right to seek a mandamus against the respondent JKCL or against the government to continue their services.

15) That takes us to the claim of the petitioner relating to unpaid wages. In the reply the respondents have submitted that they are ready to release the unpaid wages of all eligible

employees upto the date they have performed their functions with the respondent JKCL.

16) For the foregoing reasons, the writ petition is disposed of in the following manner:

- (I) The prayer of the petitioner for his regularization in service and grant of regular pay scale as also his prayer for his deployment to any other government department or organization, is declined.
- (II) The respondents are, however, directed to clear all outstanding wages, if any, of the petitioner up to the date he has actually performed his duties with respondent JKCL, within a period of three months from the date of this order, failing which the amount shall carry interest @6% per annum from the date of filing of this petition till its realization.

(Sanjay Dhar)
Judge

SRINAGAR

05.06.2026

"Bhat Altaf-Secy"

Whether the **judgment** is reportable: **YES/NO**