

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

CCP(S) No.351/2022
in[SWP No. 264/2007]

MOHAMMAD SHAFI MALIK

...PETITIONER/APPELLANT(S)

Through:-Mr. S.A.Makroo, Sr. Advocate
With Mr. Irfan Rasool, Advocate

Vs.

JAVID YOUSUF DAR AND ANR

....RESPONDENT(S)

Through:-Mr.Faheem Shah, GA

CORAM:

HON'BLE MR. JUSTICE SANJAY DHAR, JUDGE

ORDER
24.11.2025

1) Through the medium of present petition, the petitioner is seeking implementation of order dated 26.03.2008, passed by the writ Court. The operative portion of the order is quoted below:-

“ On consideration of the matter, I find the matter can properly be looked into and decided by the Superintending Engineer of the department who is directed to hold an enquiry into the matter and while doing so he shall duly consider the report submitted by the SHO P/S Bijbehara and also take into consideration evidence recorded by the police. The Superintending Engineer shall also consider the engagement orders relied upon by the petitioners. Let the copy of the petition as well as annexures placed on file be forwarded to the Superintending Engineer for said enquiry. During the enquiry the Superintending Engineer shall associate the petitioners also with the said enquiry and provide opportunity to them to produce documents in support of their case. The enquiry shall be conducted and completed within a period of two months from the date this order is served on the Superintending Engineer and shall be followed by the formal orders of engagement as well as regularization in favour of the petitioners in case petitioners' case is found genuine.”

2) The respondents have filed compliance report/statement of facts in which it has been submitted that an enquiry was properly conducted by the Superintending Engineer O&M Circle Bijbehara, whereafter it was revealed as under:

“a) Whereas, on a considerable thought after perusal of records available in the shape of Xerox copies, statement given by the petitioners and report of SHO Bijbehara it looks like petitioner may have worked a intermittently earlier however, the wages claimed is mere calculation based on presumption date of engagement as shown in a number of communications bearing Nos 520-21 dated 05.02.2002, 3270-71 dated 10.01.2002 and No.1815 dated 20.08.2008 respectively.”

b) As already intimated vide this office communication bearing No.EDB/1851 dated 20.08.2008 and No.EDB/19 dated 09.04.2010 that as per available records, no clear cut authenticated engagement of authority from any competent authority/MR sheets containing CV references are available with this office.”

3) It has been submitted that the petitioner was offered service as need based worker but he refused the offer. It has been further submitted that for fixation of seniority/regularization of need base labourers, they had to be in possession of bonafide documents viz. authority reference of engagement of competent authority, consecutive 84 months CV references, statement sheets, history sheets duly signed, certificate to the effect that the incumbent has rendered services to the effect, work and conduct and enrollment in Adhaar biometric by or before 17.03.2025, but the petitioner is not in possession of these documents, therefore, does not fall in the criteria for consideration for fixation of seniority/regularization.

4) On 06.08.2025, the respondents were directed to produce a copy of report regarding the enquiry that has been conducted by the Superintending Engineer concerned, so as to ascertain whether the

petitioner has been associated with the enquiry. Today the relevant record has been produced by learned counsel for the respondents. In the enquiry report the Superintending Engineer concerned as observed as under:-

“1. Whereas, the SHO Bijbehara has been approached vide this office letter No.99 dated 06.04.2010 to make available the records with his findings for conducting the enquiry in the case.

2. Whereas, the SHO Bijbehara as made known is reported to have submitted the documents in original viz. A1, A2, A5, S1 & S2 (annexures of petition) to the Hon’ble Court with those of dispatch registers received from the office of Superintending Engineer Electric M&RE Circle Bijbehara & Executive Engineer Electric M&RE Division Bijbehara & Assistant Executive Engineer Electric Sub Division Reshipora to the Hon’ble High Court of J&K vide his letter No.900/5A/07/Bej dated 11.09.2007.

3. Whereas, the petitioners have been asked to attend the office of Superintending Engineer Electric M&RE Circle Bijbehara on 10.04.2010 with all relevant records lying if any with them regarding engagement/working in the department as laid down vide No.100-104 dated 06.04.2010 with a copy to Executive Engineer ED Bijbehara for furnishing his detailed report/comments/remarks before 09.04.2010.

4. Whereas, the petitioners after persuasion have attended the office of undersigned on 15.04.2010 & 17.04.2010 alongwith the records lying with them with regard to their engagement/working in the respondent department, besides to oral statements given by the petitioners. A couple of communications lying with petitioners in the shape of Photostat copies so produced by the petitioners have also been perused.

5. Whereas, the SHO Bijbehara vide his letter No.717/5A/06/Bej dated 02.11.2006 & No.900/5A/07/Bej dated 11.09.2007 submitted to the Hon’ble High Court J&K has reported the genuineness of documents besides the original copies of A2, A3, A5, S1 & S2 have also been submitted to the Hon’ble Court with those of Photostat copies of A1, A4, A7 & S3 as well.

6. Whereas on a considerable though after perusal of records available in the shape of Xerox copies, statements given by the petitioners & report of S.H.O Bijbehara, it looks like petitioners may have worked intermittently earlier however the wages claimed is mere calculation based on presumptive date of engagement as shown in a number of communications bearing Nos. 520-21 dated 05.02.2002, No.3270-71 dated 10.01.2002 & No.1851 dated 20.08.2008 respectively.

7. Whereas, the Executive Engineer ED Bijbehara vide his communication bearing No.1851 dated 20.08.2008 has intimated that Muster Sheets are not available with him and has further reported vide his letter No.19/EDB dated 09.04.2010 that no clear cut authority with regard to their engagement from any competent authority is available with him as per records.

8. Whereas there are no orders from competent authority relaxation to the ban imposed against engagement of casual labourers in light of SRO-64 of 1994 dated 31-03-1994 & 313 dated 28-04-2010.

9. Nevertheless the petitioners need to be preferred as labourers against progress of work as & when required in ED Bijbehara.”

5) From the above, it is clear that the petitioner has been asked to attend the office of Enquiry Officer on 10.04.2010 with all relevant records. It also appears that the petitioner has attended the office of the Enquiry Officer on 15.04.2010 and 17.04.2010 alongwith records that were in his possession. His oral statement has also been taken into consideration. The Enquiry Officer has also considered the documents submitted by SHO, Police Station Bijbehara, whereafter he has reached the conclusion that claim of the petitioner is not tenable.

6) In view of the aforesaid facts and circumstances, respondents/contemnors have complied with all the directions that were extended by the writ Court vide its order dated 26.03.2008, in as much as the requisite enquiry has been conducted. The documents submitted by SHO Police Station Bijbehara have been taken into consideration and the petitioner has also been associated with the enquiry. Thus, the directions of the writ Court stand complied with, as such, no case for proceeding against the respondents is made out. Contempt proceedings are accordingly closed. Record be returned to learned counsel for the respondents.

(SANJAY DHAR)
JUDGE

SRINAGAR
24.11.2025
Sarveeda

Whether the order is reportable: Yes/No