

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

Reserved on: 30.04.2026

Pronounced on: 12.05.2026

Uploaded on: 12.05.2026

Whether the operative part or  
full judgment is pronounced: **Full**

**WP (C) 329/2021**

**Mohammad Amin Rather and others**

... **Petitioners**

Through: Mr. Hilal Ahmad Wani, Advocate

Vs.

**UT of J&K and others**

... **Respondents**

Through: Mr. Jehangir Ahmad Dar, GA with

Ms. Shaila Shameem, Assisting Counsel

**CORAM: -**

**HON'BLE MR. JUSTICE SANJAY PARIHAR, JUDGE**

**JUDGMENT**

1. Through the medium of the instant writ petition filed under Article 226 of the Constitution of India, the petitioners seek issuance of a writ of certiorari for quashing Order No. 9033-34 dated 24.12.2020, whereby their claim for being brought at par with respondents 6 to 9 as permanent casual labourers came to be rejected. The petitioners further seek issuance of a writ of mandamus commanding the respondents to accord them the same treatment and benefits as were extended in favour of respondents 6 to 9 vide Order No. 700-02 dated 30.06.2014.

2. The case projected by the petitioners is that they have been working as seasonal labourers in the respondent department since the year 1998 and are similarly situated to respondents 6 to 9. According to the petitioners, despite rendering long years of service, they have not been considered for adjustment or regular engagement, whereas respondents 6 to 9, who were identically placed, were brought within the cadre of permanent casual labourers.
3. Learned counsel appearing for the petitioners argued that the impugned action of the respondents is violative of Articles 14 and 16 of the Constitution of India, inasmuch as the respondents have created an artificial classification amongst similarly situated employees without any rational basis. It is contended that once respondents 6 to 9 were granted the benefit of year-round engagement and permanent casual labour status, denial of the same treatment to the petitioners amounts to hostile discrimination.
4. Per contra, the counsel appearing for the respondents has urged that the petitioners are merely seasonal labourers engaged on need basis during the irrigation season and that they do not fulfil the eligibility criteria prescribed under SRO 520 of 2017. It was further argued that there exists a blanket ban on engagements and that the cases of respondents 6 to 9 stand on a different footing, as they were adjusted against watch and ward duties on the basis of seniority and administrative exigencies.
5. Heard learned counsel for the parties and perused the record.

6. The moot question that arises for determination in the present petition is whether the respondents could legally deny parity to the petitioners despite the admitted position that the petitioners and respondents 6 to 9 were engaged under the same scheme and were similarly circumstanced.
7. It is no longer *res integra* that arbitrariness is antithetical to equality. The Hon'ble Supreme Court in **E.P. Royappa v. State of Tamil Nadu, (1974) 4 SCC 3**, held that equality and arbitrariness are sworn enemies and that any arbitrary action of the State would necessarily violate Article 14 of the Constitution of India. The same principle was reiterated in **Maneka Gandhi v. Union of India, (1978) 1 SCC 248**.
8. From the material placed on record, it emerges that the petitioners and respondents 6 to 9 were all engaged as seasonal labourers under the respondent department. The respondents have not denied that respondents 6 to 9 were subsequently retained on year-to-year basis and brought within the fold of permanent casual labourers. The sole justification offered by the respondents is that respondents 6 to 9 were adjusted against watch and ward duties on account of administrative exigencies and seniority.
9. This Court is of the considered opinion that once the respondents themselves chose to regularize or continuously engage a section of seasonal labourers similarly situated to the petitioners, they could not deny identical consideration to the petitioners without demonstrating

any intelligible differentia having a rational nexus with the object sought to be achieved.

10. In **D.S. Nakara v. Union of India, (1983) 1 SCC 305**, the Hon'ble Supreme Court held that classification amongst similarly situated persons without a rational basis is impermissible in law. Likewise, in **Randhir Singh v. Union of India, (1982) 1 SCC 618**, the Apex Court emphasized the constitutional goal of equal treatment in service jurisprudence. Having considered the rival submissions and upon a careful appraisal of the material placed on record, this Court is of the considered opinion that the petitioners have failed to make out a case warranting interference in exercise of writ jurisdiction under Article 226 of the Constitution of India.

11. It is trite law that equality under Article 14 of the Constitution postulates positive equality and not negative equality. Merely because some benefit may have been extended in favour of another set of employees, the same by itself does not confer an enforceable right upon the petitioners to claim identical relief contrary to the governing statutory framework. The Hon'ble Supreme Court in State of Bihar v. **Kameshwar Prasad Singh, (2000) 9 SCC 94**, held that Article 14 does not envisage perpetuation of illegality or irregularity.

12. The stand taken by the respondents reveals that respondents 6 to 9 were adjusted against watch and ward duties on account of administrative exigencies and on the basis of seniority. The petitioners admittedly figure much lower in the seniority list and continue to remain seasonal labourers engaged purely during

irrigation season. This distinction, in the opinion of this Court, constitutes a reasonable basis for differential treatment.

13. This Court also cannot lose sight of the settled legal position laid down by the Constitution Bench of the Hon'ble Supreme Court in *Secretary, State of Karnataka v. Umadevi* (3), (2006) 4 SCC 1, wherein it was authoritatively held that regularization or permanent absorption cannot be claimed as a matter of right *de hors* the constitutional scheme governing public employment. The Hon'ble Supreme Court categorically observed that Courts must refrain from issuing directions for absorption, regularization, or permanent continuance unless the appointment itself is made in accordance with law.

14. In the present case, the petitioners seek parity with respondents 6 to 9 primarily on the ground that they were also engaged as seasonal labourers. However, parity cannot be claimed in abstraction without establishing complete identity in terms of seniority, nature of duties, availability of posts, and administrative requirements.

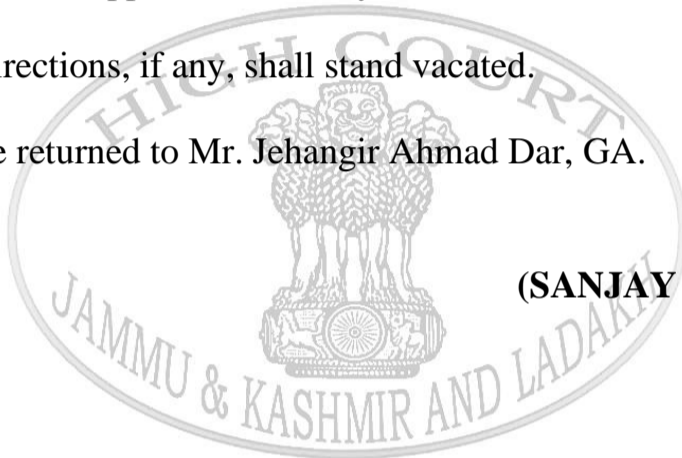
15. The respondents have further placed on record that there exists a blanket ban imposed by the Government on all forms of engagements and that more than 3,000 seasonal labourers are working in various districts of Kashmir under similar conditions. In such circumstances, issuance of a direction by this Court for extending permanent casual labour status to the petitioners would amount to transgressing into the domain of executive policy. Judicial review under Article 226 is confined to examining the decision-making process and not the

decision itself unless the same is shown to be patently arbitrary, *mala fide*, or violative of statutory provisions. No such case has been established by the petitioners in the instant matter.

16. For the foregoing reasons, this Court does not find any merit in the present writ petition and the same is, accordingly, **dismissed** along with connected applications, if any.

17. Interim directions, if any, shall stand vacated.

18. Record be returned to Mr. Jehangir Ahmad Dar, GA.



**(SANJAY PARIHAR)**  
**JUDGE**

**Srinagar**  
12.05.2026  
*N Ahmad*

*Whether the order is speaking: Yes/No*  
*Whether the order is reportable: Yes/No*