

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

WP (C) No. 2246/2025

CAV No. 965/2025

1. UT of J & K acting through
Commissioner Secretary to the Govt.,
Agriculture Production & Farmers Welfare
Department,
Civil Secretariat, Jammu.Applicant(s)/Petitioner(s)
2. Director Agriculture Production & Farmers
Welfare Department,
UT of J & K, Tallab Tillo, Jammu.
3. Chief Agriculture Officer,
Udhampur.
4. Sub-Divisional Agricultural Officer,
Udhampur.

Through :- Mr. Suneel Malhotra, GA

v/s

1. Anil Sharma,
S/o late Sh. Chanchal Sharma,
R/o H. No. 69, Adarsh Enclave Sector-1,
Extension Trikuta Nagar, Jammu.Respondent(s)
2. Principal Accountant General (A&E), J & K,
Jammu.Proforma Respondent(s)

Through :- Mr. Abhinav Sharma, Sr. Advocate with
Mr. Abhirash Sharma, Advocate

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

**ORDER
20.08.2025**

CAV No. 965/2025

1. Heard learned senior counsel for the caveator.
2. *Caveat stands discharged.*

WP (C) No. 2246/2025

1. This petition, by the UT of J & K & 03 Ors., filed under Article 226
of the Constitution of India, is directed against an order and

judgment dated 20.02.2025 passed by the Central Administrative Tribunal, Jammu Bench, Jammu [**“the Tribunal”**] in OA No. 1567/2023 titled *“Anil Sharma Vs. UT of J & K & Ors.”*, whereby the Tribunal has, while allowing the OA (supra) directed the petitioners herein to forward the case of the respondent to the Principal Accountant General i.e. the proforma respondent herein for grant of pensionary benefits with immediate effect and has further directed to regularize the period of absence from 20.10.2008 to 31.03.2020 to ensure smooth processing of pensionary benefits. There are other allied directions issued by the Tribunal in terms of the judgment impugned.

2. Before we advert to the grounds of challenge urged by Mr. Suneel Malhotra, learned GA appearing on behalf of the petitioner, we deem it appropriate to take note of few relevant facts.
3. The respondent came to be appointed as Agriculture Extension Officer in the Department of Agriculture on 31.12.1983. On 17.04.2006, he applied for grant of leave which was sanctioned and granted by the competent authority up to 15.06.2006. However, the respondent overstayed his leave and joined back his services on 20.10.2008. The period of absence from 16.06.2006 to 19.10.2008 was treated as leave of whatever kind due to the respondent. It seems that in the year 2010, to be specific on 15.01.2010, the respondent applied for Voluntary Retirement w.e.f. 01.02.2010. The request of the respondent for Voluntary Retirement remained under process and consideration of the petitioners for pretty long time and it was only in July, 2023, when the petitioners approached the

Principal Accountant General in respect of the request of the respondent for Voluntary Retirement, it came to be revealed that the respondent had attained the age of superannuation w.e.f. 31.03.2020. It is in these circumstances, neither the request of the petitioner for Voluntary Retirement could be accepted by the petitioners in time nor was he formally retired on superannuation. This impacted the release of retiral benefits in favour of the respondent.

4. Feeling aggrieved by the inaction on the part of the petitioners to accede to his request on time and thus, depriving him of the pensionary benefits, the respondent approached the Tribunal by way of OA No. 1567/2023 which has been disposed of by the Tribunal in terms of the judgment impugned in this petition.
5. The impugned judgment is challenged by the petitioners, primarily on the ground, that the Tribunal has erroneously and without any justification directed the petitioners to condone the unauthorized absence of the respondent w.e.f. 15.01.2010 till 31.03.2020 so as to enable the respondent to avail the pensionary benefits admissible to him under law. The petitioners, as is averred by them in this writ petition, are not averse to treat the respondent in the service of Government till 15.01.2010 for all purposes including for the purpose of grant of pension.
6. Mr. Abhinav Sharma, learned senior counsel appearing on behalf of the respondent is not opposed to the concession made by the petitioners in ground (B) of the instant petition.

7. **Having heard learned counsel for the parties and perused the material available on record, we are of the considered opinion** that the controversy raised in this petition is narrowed down because of the fair stand taken by both the sides. Indisputably, the respondent was in service and should be treated to be in service till 20.10.2008. The unauthorized absence from 21.10.2008 till the date of superannuation of the respondent i.e. 31.03.2020 is sought to be justified by the respondent on the ground that he had already applied for Voluntary Retirement and, therefore, was well within his right to assume that the same had been accepted and, therefore, did not attend his duties.
8. Be that as it may, the fact remains that the request of the petitioner for Voluntary Retirement which was made in the year 2010 remained undecided till 31.03.2020 when the respondent reached the age of his superannuation. The negligence and indolence exhibited by the petitioners cannot be ignored and lightly brushed aside. The respondent, thus took benefit of the indecisiveness shown by the petitioners and thought of not attending the duties. Being aware of the legal position, the respondent has, before us, very fairly not opted to claim the benefit of service after 15.01.2010. There is, though, a dispute as to whether the respondent has performed his duties w.e.f. 21.10.2008 to 15.01.2010, yet, that dispute cannot come in the way of this Court to dispose of this petition on the broad consensus arrived at by both the sides.
9. For the foregoing reasons, we dispose of this petition by providing as under:

- i. *That the respondent shall be deemed to be in service of the Government w.e.f. 31.12.1983 until 20.10.2008/15.01.2010. The actual date up to which the respondent performed his duties shall be subject to verification by the Government by reference to the record.*
- ii. *That the case of the respondent shall be processed by the petitioners for the release of pensionary benefits within a period of two months from the date of this order. The Principal Accountant General shall accord priority to the case of the respondent and ensure that the pensionary benefits in accordance with the rules are released in favour of the respondent within two months after receipt of complete case from the petitioners.*

10. The judgment of the Tribunal is modified to the aforesaid extent. Needless to say that if the respondent's case is not considered and taken to the logical end within the stipulated period of time, he would be entitled to the pecuniary benefits along with interest @ 6% per annum.

(Sanjay Parihar)
Judge

(Sanjeev Kumar)
Judge

JAMMU
20.08.2025
Manan

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