

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

Reserved on: 26.08.2025
Pronounced on: 04.09.2025

CJ Court

WP(C) No.2065/2025

Mehraj-ud-Din Khan, aged: about 59 years,
S/o Abdul Razak Khan R/o Shaheed Gunj,
Srinagar.

...PETITIONER(S)

*Through: - Mr. Huzaif Ashraf Khanpori,
Advocate.*

Vs.

1. Union Territory of Jammu & Kashmir
through Commissioner Secretary to Govt.
Home Department, Civil Secretariat,
Srinagar/Jammu.
2. Director General of Police, J&K,
Jammu/Srinagar.
3. Inspector General of Police, Armed J&K
Srinagar/Jammu.
4. Commandant JKAP 5th Rajouri.

...RESPONDENT(S)

Through: - None.

**CORAM: HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE RAJNESH OSWAL, JUDGE**

JUDGMENT

OSWAL 'J'

1) The petitioner, after joining the service as Constable with the respondents in the year 1987, when he was having a service period of only three years at his back, proceeded on 30 days earned leave from 15.06.1990, which was extended by another 30 days and he was to

report back to duty on 15.08.1990 but he failed to join and, accordingly, he was removed from service with effect from 15.08.1990 in terms of order dated 06.05.1991.

2) The petitioner claims that owing to the prevalent and alarming security situation caused by widespread militancy and threats to the life during the relevant period, he was unable to resume his duties within the stipulated period but after a lapse of sometime, he presented himself before the Battalion for the purpose of joining his duties but was not permitted to mark his attendance. The petitioner further claims to have submitted numerous representations to the respondents but the same did not evoke any response. Lastly, he submitted a representation in the year 2009 and the respondent No.3 vide his communication dated 22nd July, 2009, directed the respondent No.4 to furnish a comprehensive factual report and consequent thereto, the respondent No.2 issued a communication dated 25th September, 2009, conveying therein that the representation was submitted beyond the period of limitation prescribed for such representations, hence the same stood rejected. The petitioner thereafter, through his counsel, served a legal notice upon respondent No.4 for issuance of order of removal from service and in response thereto, a communication dated

2nd January, 2010, was issued whereby he was intimated that the requisite stamp duty must be deposited for the purpose of providing the copy of the removal order. Ultimately, as claimed by the petitioner, the removal order was received by him on 27.01.2010.

3) Aggrieved of the order of removal from service dated 06.05.1991, the petitioner filed a writ petition bearing SWP No.499/2010 which was disposed of vide order dated 21.10.2016 and the order dated 25.09.2009 in respect of rejection of representation of the petitioner was quashed and a direction was issued to the respondents to consider the petitioner's representation/appeal dated 02.07.2009 afresh strictly on merits after affording due opportunity of hearing to the petitioner.

4) The representation was again rejected by the respondent No.2 vide order dated 23.11.2017 and the same was assailed by the petitioner through the medium of SWP No.1148/2018 which was subsequently transferred to the Central Administrative Tribunal, Srinagar Bench (for short "the Tribunal") and was re-numbered as TA No.1593/2021.

5) The petitioner contended that the order impugned has been passed in complete violation of judgment dated

21.10.2016 passed in SWP No.499/2010 and in violation of rule 359 of the J&K Police Manual.

6) The respondents in their response stated that the petitioner has earned three major punishments, besides 31 days of absence has been treated as DIES NON up to 1991, such worst record during his short service period clearly indicates that the petitioner was not willing to serve the department. In the character roll of the petitioner, his immediate officers have made the remarks of “below average and habitual of absenteeism”. It was also stated that the petitioner was informed through concerned police station vide various signals in the years 1990 and 1991 to resume his duties but he turned deaf ears. SHO also informed the petitioner to report back his duties vide signal dated 27.04.1991 but the petitioner did not report back at Bn. Hqrs. The petitioner never appeared before respondent No.4 for personal hearing and the removal order was issued taking in to consideration the requirement of manpower in the prevalent security scenario.

7) The learned Tribunal, after considering hearing the parties, dismissed the TA vide order dated 6th March, 2025.

8) Aggrieved of the order dated 6th March, 2025 passed by the learned Tribunal, the petitioner has assailed the same by contending that the learned Tribunal has passed the impugned order in complete violation of judgment dated 21.10.2016 passed in SWP No.499/2010 and has not taken note of non-compliance of rule 359 of the J&K Police Manual.

9) The learned counsel for the petitioner has submitted that the impugned order has been passed by the learned Tribunal in utter disregard of the judgment dated 21.10.2016 passed in SWP No.499/2010 and further the learned Tribunal has not appreciated the contention of the petitioner in respect of non-compliance of Rule 359 of J&K Police Manual.

10) This is an admitted case of the petitioner that he submitted a representation in the year 2009 which was rejected by the respondent No.2 vide order dated 25.09.2009 which became the subject matter of SWP No.499/2010. Vide order dated 21.10.2016, the Director General of Police was directed to consider the representation/appeal afresh.

11) Thereafter in compliance to the directions of the learned Single Judge, the case of the petitioner was

examined by the Designated Committee and it was decided to afford personal hearing to the petitioner. The petitioner was heard on 25.03.2017 at PHQ and during personal hearing, he deposed that due to threat from the militants, he absented from duties but could not adduce any evidence/material in support of his plea/claim.

12) The petitioner, admittedly, was a member of the police force and a member of the police force is not expected to remain absent from duty just because of threats from militants, which otherwise the petitioner could not prove before the Designated Committee when he was afforded due opportunity of hearing. A police official, who does not join duty just because threat from the militants, cannot be expected to protect the life and property of the citizens of the country.

13) The petitioner, after remaining absent for nineteen years, for the first time filed representation only in the year 2009. The petitioner has not placed on record any evidence/document to show that in the interregnum he approached the respondents for joining back his duty, though a bald submission has been made by the petitioner that he approached the respondents for joining duty but at the same time, in para (C) of the petition, there is an admission on the part of the petitioner that there

was threat to his life, as such, he could not resume his duties within the stipulated period. In ground (C) of his TA, the petitioner has admitted his misconduct but has complained of excessive punishment. Strangely, enough he has raised the issue of excessive punishment after 19 years of abandoning the service, when at the peak of militancy, the manpower was very much required for protection of life and property of citizens, in the Police Department.

14) Be that as it may, in terms of the order dated 21.10.2016, passed by the learned Writ Court, the only requirement was to afford hearing to the petitioner which was afforded to him whereafter the impugned order dated 23.11.2017, came to be issued by the office of respondent No.2. It is apt to observe that in his TA, the petitioner has nowhere pleaded that he was not afforded any personal hearing by the Designated Committee, particularly when it was specifically mentioned in the order dated 23rd November, 2017, that the petitioner was afforded due opportunity of hearing. Further, the petitioner has not been able to dispute the finding returned by the respondent No.2 in the order dated 23rd November, 2017, that the petitioner could not adduce any evidence/material in support of his plea/claim. The defence of the

petitioner was only that due to the militant threats, he absented from duties but the same did not weigh with the respondent No.2 and, as such, the representation of the petitioner was rejected. This Court cannot ignore the fact that after a short span of three years of his service, the petitioner remained out of service for nineteen long years and approached the respondents only in the year 2009 in respect of representation which was decided by the respondents.

15) We have examined the order passed by the learned Tribunal and we find that the learned Tribunal, after examining the record, has arrived at the conclusion that the record confirmed that he received multiple signals and notices instructing him to join his duties but he failed to do so. The petitioner in his writ petition has not denied the factum of issuance of notices/signals to him. Further, the Tribunal has returned a finding that the petitioner was afforded opportunity of hearing in terms of the directions issued by the Writ Court but he could not make out any case resulting into rejection of his claim by the competent authority. Otherwise, also a member of the Police force is not expected to run away from his duties just due to threat to his life. The conduct of the petitioner is unbecoming of a member of Police force.

16) In view of above, we do not find any reason to show indulgence. Accordingly, the present petition is dismissed being bereft of any merit.

(RAJNESH OSWAL)
JUDGE

(ARUN PALLI)
CHIEF JUSTICE

Srinagar
04.09.2025
“Bhat Altaf”

Whether the Judgment is speaking:	Yes
Whether the judgment is reportable:	No

