

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

WP (C) No. 634/2025

Reserved On: **30th of December, 2025.**

Pronounced On: **27th of February, 2026.**

Uploaded On: **27th of February, 2026.**

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

1. Sher-e-Kashmir University of Agricultural Sciences & Technology, Jammu through its Vice Chancellor, Main Campus Chatha, Jammu, 180009.
2. The Registrar, Sher-e-Kashmir University of Agricultural Sciences & Technology, Main Campus Chatha, Jammu, Tehsil & District Jammu, 180009.
3. The Dean, Division of Veterinary Surgery Radiology, Sher-e-Kashmir University of Agricultural Sciences & Technology, Jammu, 180009.
4. The Head, Division of Veterinary Surgery Radiology, Sher-e-Kashmir University of Agricultural Sciences & Technology, Jammu, 180009.
5. The Assistant Registrar (Est), Sher-e-Kashmir University of Agricultural Sciences & Technology, Jammu, 180009.

... Petitioner(s)

Through: -

Mr Rahul Pant, Senior Advocate with
Mr Anil Khajuria, Advocate.

V/s

1. Dr. Ankur Sharma
W/O Vikas Gourishanker
R/O Channi Himmat, Jammu, 180015, J&K.

... Respondent

2. The Union Territory of Jammu & Kashmir

Through Principal Secretary to Govt. Agricultural
Production Department, Civil Secretariat, Jammu,
180001.

... Proforma Respondent

Through: -

Mr Abhinav Sharma, Senior Advocate with
Mr Abhirash Sharma, Advocate.

CORAM:

**HON'BLE MS JUSTICE SINDHU SHARMA, JUDGE
HON'BLE MR JUSTICE SHAHZAD AZEEM, JUDGE**

(JUDGMENT)

Shahzad Azeem-J:

01. The Petitioners have challenged the Order dated February 18, 2025 passed by the learned Central Administrative Tribunal, Jammu Bench, Jammu [the Tribunal], whereby the Tribunal, while allowing the OA filed by the Respondent No.1 herein titled '**Dr. Ankur Sharma v. Union Territory of J&K and Ors.**', quashed the impugned communication dated December 18, 2024 and directed the Petitioners herein to grant *post-facto* sanction to the Respondent No.1 for foreign assignment at the United Arab Emirates University [UAEU].

FACTS:

02. The facts in brief relevant to the controversy on hand are that the Respondent No.1-Dr. Ankur Sharma (Applicant before the Tribunal), while serving as an Associate Professor at Sher-e-Kashmir University of Agricultural Sciences & Technology, Jammu (SKUAST), had vide communication dated October 07, 2024 applied to the competent authority seeking permission to apply online for the position of Instructor and Associate/ Professor at the UAEU and further to attend as a follow-up the interview through same mode. Despite the active follow up by the Respondent No.1, she faced delays for the requisite permission. The Respondent No.1, thereafter, received an employment offer from UAEU for the post of Instructor commencing from January 06, 2025 till July 31, 2028, renewable by mutual agreement between the parties.

03. Accordingly, the Respondent No.1, vide communication dated December 11, 2024, apprised the Petitioner No.2-the Registrar, SKUAST, that she had applied and appeared for an online interview for employment opportunity at the UAEU and now she is being informed of her selection as an Instructor and tenure whereof has been commencing from January 06, 2025 till July 31, 2028. However, while awaiting the outcome of her request for necessary permission and protection of lien during the said foreign assignment, the Respondent No.1 was slapped with a show cause notice dated December 18, 2024, so as to explain as to how she had applied for the said foreign assignment and appeared in an interview without formal permission of the competent authority. Thereafter, the Respondent No.1, vide legal notice dated December 23, 2024, submitted her reply to the explanation and thereupon, she had filed OA before the Tribunal titled '**Dr. Ankur Sharma v. UT of J&K and Ors.**' and same has been disposed of by the Tribunal vide impugned Order dated February 18, 2025.

GROUND OF CHALLENGE AND SUBMISSIONS:

04. The contention of the Petitioners is that the Respondent No.1 had applied and was selected for the position/ employment in UAEU without formal permission by the competent authority, however, the Respondent No.1 only apprised the University authorities that she had appeared for an interview for a position in a foreign University and had been selected. Therefore, seeking employment abroad without permission amounts to violation of the relevant Rules, accordingly, show cause notice came to be issued, so as to explain her position.

05. It is further contended that in essence the communication dated December 18, 2024 amounts to rejection of the representation of Respondent No.1, therefore, the Tribunal was not justified in holding that issuance of communication dated December 18, 2024 was arbitrary and unreasonable. It is further stated by the Petitioners that once the Rules operating in the field do not authorize an employee to opt for employment at any other place,

within or outside the country, the employee in any such event cannot either make representation for seeking foreign employment or otherwise press a claim for joining a foreign employment. It was in this backdrop the Respondent No.1 neither had a right to take an employment in a foreign country or otherwise obligate the Petitioners to necessarily grant permission to her for either making application or attending an interview for such employment.

06. Further bone of contention of the Petitioners is that the Tribunal has completely misinterpreted the provisions of the J&K Civil Service Regulations, 1956 [CSR] and J&K Civil Services (Leave) Rules, 1979 [Leave Rules] and also had failed to consider that in absence of any proper permission or authorization from the competent authority, the Respondent No.1 had applied for a position in a foreign University and also participated in an interview in violation of the provisions of the CSR or Leave Rules, therefore, the Tribunal, while passing the impugned Order, had exceeded its jurisdiction and also overlooked the fact that the discretionary power lies with the competent authority. Therefore, the Petitioners finally pray for setting aside of the impugned Order dated February 18, 2025 as same being passed in contravention to the statutory rules governing the field.

07. *Per contra*, the Respondent No.1 has filed the Objections and resisted the Petition on the ground that the case of the Respondent No.1 is squarely covered under Schedule XIX of the CSR. It is further stated that the Respondent No.1 had duly applied, seeking permission to submit online application and also to appear in the consequent interview, however, despite she having remained vigilant and having made every effort to know the status of her application, no permission was granted in her favour. In this regard, Respondent No.1 contends that despite she met with the Vice Chancellor, SKUAST, who assured for grant of requisite permission, but nothing was done, though she was selected and also received an employment offer. According to the Respondent No.1, the Tribunal, vide the impugned Order,

had allowed the OA which is in line with the relevant Rules and also in conformity with the doctrine of legitimate expectation and equal treatment under Article 14 of the Constitution.

08. The other limb of argument is that the Petitioner-University in similar facts and circumstances has allowed numerous employees of the University to take up foreign employment/ assignment, therefore, in the case of the Respondent No.1, the Petitioners are bound to give equal treatment as has been done in similarly situated cases.

09. Much reliance has also been placed on the instructions on Foreign Assignment of Indian Experts issued by the Department of Personnel and Training, that according to the learned Counsel for the Respondent No.1, are duly followed by the Indian Council of Agricultural Research (ICAR). In this regard, the learned Counsel canvassed at Bar that as per the guidelines, the clearance in cases of foreign assignment is to be obtained from the respective Cadre Controlling Authority and, in the case of the Respondent No.1, the Cadre Controlling Authority, being the Head of the Department of Veterinary Sciences, who had duly cleared the application of the Respondent No.1, therefore, there was no plausible reason to delay or deny the permission in favour of the Respondent No.1 to take up foreign employment, hence no fault can be found with the Order of the Tribunal.

ANALYSIS:

10. Broadly speaking, the point that needs consideration is that whether a Government employee can apply for foreign employment without obtaining prior permission from the competent authority and whether, in absence of any violation of statutory rules or provisions, the interference by the Tribunal is legally justified solely on the basis of a show cause notice issued to the employee. Answer to the point under consideration lies on the interplay between the relevant provisions of the CSR, Leave Rules and the

J&K Government Employees (Conduct) Rules, 1971 [Conduct Rules], respectively.

11. It is an admitted fact that the Respondent No.1, in absence of the requisite permission from the University authorities, had not only applied online for the said post, but also participated in the interview, whereupon she was issued a show cause notice dated December 18, 2024, that was impugned before the Tribunal, whereby explanation was called for applying and appearing in an interview without formal permission of the competent authority for a foreign employment.

12. From the factual narration as adumbrated, it is conspicuous that the Respondent No.1 approached the Tribunal by calling in question the show cause notice dated December 18, 2024, mainly, on the ground of delay in considering her request by the University authorities for grant of permission to apply online and to participate in the interview for a position in UAEU.

13. The reasoning that appears to have prevailed with the Tribunal, while passing the impugned Order dated February 18, 2025 proceeds on two considerations: **firstly**, that the University authorities have failed to take timely action on the request of the Applicant-Respondent No.1, and same amounts to administrative negligence, therefore, show cause notice dated December 18, 2024 was quashed; **secondly**, the Tribunal had come to the conclusion that in terms of Schedule XIX of CSR and Rule 14 (b) of the Leave Rules, the Applicant-Respondent No.1 is entitled to go abroad for employment of her own and thus directed the University Authorities to grant *post-facto* sanction to the Respondent No.1-Applciant for foreign assignment at UAEU in terms of Schedule XIX of CSR and Rule 14 (b) of Leave Rules.

14. Insofar as the period of service spent on foreign assignments is concerned, same is regulated by Article 55-A of CSR, that, in turn, refers to the guidelines contained in Schedule XIX of CSR and the Tribunal had also placed reliance on the same.

15. Now, coming to Schedule XIX of CSR, that regulates the terms and conditions of service during foreign assignments, same categorises foreign assignment under three heads which, for ready reference, read thus:

“(a) When a Government servant is selected by the Government of India for foreign assignment with a foreign country after due sponsorship by the Central Government;

(b) When a Government servant of his own, manages an offer for a foreign country; and

(c) When a Government servant of his own, wants to go abroad for prosecution of higher studies and side by side takes up employment there.”

16. Categories (a) and (c) are admittedly not applicable to the case on hand, in that, the Respondent No.1-Applicant was neither selected by the Government of India for foreign assignment nor she wanted to go abroad for prosecution of higher studies, therefore, the case of the Respondent No.1 falls within the category (b) which deals with a situation when a Government servant, of his own, manages an offer in a foreign country.

17. Schedule XIX of CSR further provides that regarding category (b) cases, the Department may take action in terms of the provisions contained in Rule 14 (b) of the Leave Rules. It further provides that if a person seeks employment abroad and joins foreign assignments without seeking proper permission of the Government to take up such assignments, same infringe the Rules and, in such cases, disciplinary action shall be taken for the unauthorized absence. It further provides that such action includes termination of service.

18. Now, coming to Rule 14 (b) of the Leave Rules, same, *inter alia*, provides that if a Government servant, desirous of taking up service or employment under a non-Government employer, he may be required to resign his appointment before taking up any other service or employment, except where grant of permission to serve elsewhere is considered desirable in any exceptional case.

19. Rule 14 (b) of the Leave Rules is in two parts. Under the first part, the Government servant, who is desirous of taking up service or employment under a non-Government employer, may be required to resign his appointment before taking up any other service or employment; and the second part of it is an exception to the first part, which provides that except where grant of permission to serve elsewhere is considered desirable in any exceptional case.

20. The expression **“except where grant of permission to serve elsewhere is considered desirable in any exceptional case”** (emphasis supplied) carries important connotations, which confers discretionary power and also implies subjective judgment by the employer which falls within its exclusive discretion and domain, if the employer finds it appropriate or beneficial but, in no case, it creates a right enforceable unless a specific provision of law found to be contravened. It is simply for this reason that the Tribunal was not supposed to substitute its own judgment for that of the employer in matters of administrative desirability and policy.

21. Apart from the already discussed statutory provisions so far, there is another aspect of the matter having far reaching consequences that perhaps, while analyzing the interplay between the provisions of CSR and Leave Rules, somewhere Rule 10 (1) of the Conduct Rules has escaped from the attention of the Tribunal, relevant portion thereof reads, thus:

“No Government employee, whether on leave or active service, shall except with the previous sanction of the Government, engage directly or indirectly in any trade or business or undertake any other employment.

Provided

22. Therefore, in the wake of the above statutory position governing the employment elsewhere, that too abroad without seeking previous sanction of the Government, same not only amounts to misconduct but also violates the statutory safeguards contained under the provisions of the CSR and Leave Rules, respectively.

23. Where the discretion to grant permission to take up foreign assignment/ job lies with the employer, the Tribunal generally cannot direct the employer to grant such permission, as in the case of granting permission for leave, foreign assignment or similar administrative permissions, to grant or to refuse the necessary permission lies within the discretion of the employer and, thus, the role of the Tribunal is very limited to adjudicate and consider as to whether the action of the employer contravenes any statutory provision involving right of an employee to ask for permission to go abroad or same is *mala fide* and discretionary, but, in any case, the Tribunal cannot substitute its own decision for that of the employer or mandating the grant of permission outright as that would amount to interfering with the legitimate administrative discretion.

24. Nonetheless, the Tribunal, of course, can interfere if the employer's decision is illegal, arbitrary, *mala fide* or violates the statutory or rules of natural justice. The Tribunal, however, can also direct the employer to consider the application properly and fairly and pass a reasoned order or reconsider the issue in accordance with law/ rules, but, in no case, can grant permission itself and to direct the employer to issue the formal orders in tune with its direction.

25. Since, conditions of service during foreign assignments of a Government servant are being regulated under Schedule XIX of CSR and the case on hand falls within the category (b) of the cases mentioned under Schedule XIX, that in an unequivocal terms postulates that a person who seeks employment abroad and joins foreign assignments without seeking proper permission of the Government to take up such assignments infringe the Rules and, in such cases, disciplinary action has to be taken for their unauthorized absence and such action includes termination of service, however, this is subject to the action if any taken by the employer in terms of Rule 14 (b) of the Leave Rules. Under Rule 14 (b) of Leave Rules either the employer may require the employee to resign his appointment before taking

up any other service or employment or, in exceptional cases, may grant permission to serve elsewhere if considered desirable.

26. Therefore, on a plain reading of the relevant provisions of Schedule XIX of the CSR and Rule 14 (b) of the Leave Rules in conjunction with Rule 10 of Conduct Rules there remains no *iota* of doubt that if a Government servant takes up foreign assignment without seeking proper permission, same amounts to misconduct and calls for disciplinary action, except if, any action is taken in terms of Rule 14 (b) of the Leave Rules, including considering the desirability to grant such permission. Therefore, it appears that while directing for grant of *post-facto* sanction in favour of Respondent No.1-Applicant for taking up a foreign assignment, the Tribunal had arrogated to itself the discretionary power which the employer would otherwise have exercised.

27. Notwithstanding the above factual and legal aspects of the matter, even otherwise, the contention of the Respondent No.1, all along, that there is no statutory prohibition barring from taking up foreign assignment flies in the face of Rule 10 of the Conduct Rules, which is couched in a mandatory language and enjoins upon a Government employee to not engage directly or indirectly in any trade or business or to undertake any other employment, except with the previous sanction of the Government, therefore, if without seeking previous sanction of the Government, an employee takes up any employment, as in the case on hand, a foreign assignment, he/ she has to run the risk of misconduct and disciplinary proceedings in terms of Rule 10 of the Conduct Rules.

28. Needless to say, even otherwise, the Respondent No.1 may not have a cause to approach the Tribunal against a mere show cause notice as the competent authority has yet to take a call on the explanation tendered by her. In this regard, we are fortified in our view by the Judgments passed by the Hon'ble Supreme Court in case titled '**Union of India v. Kunisetty**

Satyanarayana, (2006) 12 SCC 28’ and ‘Secretary, Ministry of Defence & Ors. v. Prabhash Chandra Mirdha, (2012) 11 SCC 565’.

29. In view of above, we are of the considered opinion that the Tribunal has overstepped by substituting its views in place of the competent authority by quashing the show cause notice dated December 18, 2024, instead of leaving it to the employer to consider the case within the ambit of the Rules governing the subject.

RESULT:

30. As a necessary corollary to the above discussion, the instant Petition is **allowed** and the impugned Order dated February 18, 2025 passed by the Tribunal is hereby set aside. However, in the peculiar facts and circumstances of the case and in order to balance the equity, the Petitioners are directed to consider the application of the Respondent No. 1 for grant of permission strictly within the contours of law by a speaking Order, within a period of four weeks from the date copy of this Judgment is made available.

31. Writ Petition is, accordingly, **disposed** of in the above terms, along with any pending CM(s).

**(SHAHZAD AZEEM)
JUDGE**

**(SINDHU SHARMA)
JUDGE**

JAMMU

February 27th, 2026

"TAHIR"

i. Whether the Judgment is approved for reporting?

YES.