

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

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CJ Court

WP(C) No. 3272/2025
Cav No. 2570/2025

U. T. of J&K and another ...Petitioner(s)/Appellant(s)

Through: Ms. Monika Kohli, Sr. AAG

 v/s

Romesh Kumar Giri Respondent(s)

Through: Mr. Abhinav Sharma, Sr. Adv. with
Mr. Abhirash Sharma, Adv.

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

JUDGMENT
08.12.2025

1. Issue notice.
2. Mr. Abhirash Sharma, Advocate waives notice on behalf of the respondent.
With the appearance of Mr. Abhirash Sharma, Advocate, Caveat stands discharged.
3. This writ petition has been filed by the petitioners seeking to quash the order dated 07.02.2025, passed by the learned Central Administrative Tribunal, Jammu Bench (for short, 'the Tribunal'). The learned Tribunal vide the aforesaid order allowed O.A. No. 745/2022 filed by the respondent and directed the present petitioners (the respondents in the O.A.) to:
 - (a) consider the respondent's case afresh in light of the recommendations of the Establishment-cum-Selection Committee made in its meeting held on 18.01.2022;

(b) reflect the respondent's name at S. No. 16 in the impugned Government Order dated 10.02.2022 (immediately below the name of Sh. Syed Nazir Ahmad-II);

(c) place the respondent in the Time Scale of JKAS [Level-II (67700-208700)] with effect from 01.01.2022, as has been done for persons placed at S. Nos. 16 to 21, all of whom were junior to the respondent; and

(d) to release all the monetary benefits (including salary and pensionary and other retiral benefits at enhanced rate.

4. Before the controversy projected in the writ petition is adjudicated, we observe a contradiction in the learned Tribunal's directions. On the one hand, the petitioners were directed to consider the respondent's case afresh in light of the recommendations of the Establishment-cum-Selection Committee, whereas on the other, the Tribunal simultaneously directed the petitioners to place the respondent at S. No. 16 in the order dated 10.02.2022 and to release all monetary benefits, including salary, pensionary and other retiral benefits.
5. Briefly stated, the respondent was appointed as a Junior Assistant in the J&K Secretariat Subordinate Service in 1984 and subsequently rose to the position of Under Secretary in the J&K Secretariat (Gazetted) Service-I cadre. The Establishment-cum-Selection Committee, chaired by the Chief Secretary, met on 18.01.2022 to examine proposals for appointment to the Time Scale of JKAS from various departmental feeding services. The Committee recommended the appointment of 12 members of the J&K Secretariat (G) Service-I to the Time Scale of JKAS, including the respondent, who was listed at Serial No. 6. These appointments were recommended notionally from 01.01.2022 and on a regular basis from

18.01.2022. However, the respondent attained superannuation on 31.01.2022, before the competent authority could accept the Committee's recommendations.

6. The petitioners sought an opinion from the Department of Law, Justice and Parliamentary Affairs regarding the respondent's case. Specifically, they inquired whether the respondent, who superannuated on 31.01.2022 without working on a 'Time Scale post,' could still be considered for appointment, despite being recommended by the ECSC notionally from 01.01.2022 and regularly from 18.01.2022.
7. The Department of Law, Justice and Parliamentary Affairs opined that the respondent's case was devoid of merit or consideration. This decision was based on the fact that the Rule previously allowing appointments to the Time Scale to take effect from the date of the ECSC recommendations had been omitted, thus weakening the respondent's position after retirement.
8. The petitioners again took up the matter, referencing the recommendations of the Establishment-cum-Selection Committee's meeting held on 25.02.2009, but the Department of Law reiterated its earlier opinion vide order dated 30.05.2022. Consequently, the respondent was not accorded the benefit of promotion.
9. Faced with this situation, the respondent filed the aforesaid O.A. before the learned Tribunal, challenging the order dated 10.02.2022. The challenge was aimed at the respondent's exclusion from the list of those inducted into the Time Scale of J&K Administrative Service (Level-11 [67700-208700]), which was to be effective notionally from 01.01.2022

and regularly from 18.01.2022. The respondent contended that he was eligible and in service on 18.01.2022, the date, the Establishment-cum-Selection Committee recommended his name. Through Original Application, the respondent further requested a direction for compelling the petitioners to place the respondent's name at Serial No. 16 in Government Order No. 152-JK (GAD) of 2022 immediately below Sh. Syed Nazir Ahmad-II and to place him in the Time Scale of JKAS w.e.f. 01.01.2022, a benefit already accorded to his juniors at Serial Nos. 16 to 21.

10. Learned Tribunal after hearing the parties, allowed the application of the respondent vide judgment and order dated 07.02.2025.
11. The petitioners have assailed the impugned order on the ground that the learned Tribunal failed to note that the respondent had already superannuated before the ECSC recommendations were accepted by the competent authority. The petitioners contend that once the respondent retired from Government service, he could not be considered for induction into the Time Scale of JKAS. Furthermore, it is argued that the respondent never officiated in the Time Scale post or any equivalent position before his superannuation; therefore, the benefit of such promotion cannot legally be extended after his retirement.
12. Heard learned counsel for the parties and perused the record including the order impugned.
13. It is an undisputed fact that the respondent was recommended for promotion by the ECSC in its meeting dated 18.01.2022. The Committee considered the suitability of 12 officers, including the respondent in line

with the seniority list issued vide order dated 19.08.2019. After due examination, the respondent's promotion was recommended notionally with effect from 01.01.2022 and on a regular basis from 18.01.2022.

14. The respondent was not inducted into the Time Scale of JKAS because he attained superannuation before the ECSC recommendations could be approved by the competent authority. The petitioners contend that there was no inordinate delay in the process. The ECSC made its recommendations on 18.01.2022, and the promotion sanction was accorded on 10.02.2022 i.e. within a total period of less than one month.
15. The order dated 10.02.2022 granted the promoted officers notional effect of appointment by promotion from 01.01.2022 and regular effect from 18.01.2022. Since the respondent was actively working on 18.01.2022 like other officers, who received their regular promotion vide the same order, he could not have been treated differently. Given that all the officers promoted with retrospective effect were junior to the respondent, he was equally entitled to similar treatment and the benefits meted out under the order dated 10.02.2022, particularly when all of them were working on 18.01.2022.
16. Upon examination of the learned Tribunal's order, we find that although the controversy was rightly considered, the resultant directions suffer from an inherent incongruence, as previously observed. This contradiction requires immediate resolution.
17. In view of all what has been said and analyzed hereinabove, the instant petition is disposed of by directing the petitioner No.1 to consider the case of the respondent afresh for appointment by promotion to the Time

Scale of JKAS in light of the recommendations of the Establishment-cum-Selection Committee made in its meeting held on 18.01.2022, and for grant of similar benefits as have been granted to other officers in terms of order dated 10.02.2022 notwithstanding his superannuation on 31.01.2022.The petitioner No. 1 shall pass a fresh order, in conformity with the discussion and analysis contained in this judgment, within a period of three months from the date of its receipt. The Tribunal's order stands modified accordingly.

18. Disposed of.

(RAJNESH OSWAL)
JUDGE

(ARUN PALLI)
CHIEF JUSTICE

Jammu:
08.12.2025
Rakesh PS

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