

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

CJ Court

**Case No. WP(C) No. 3546/2025
CM No. 8091/2025
CAV No. 2864/2025**

UT of J&K and ors.

.....Appellant(s)/Petitioner(s)

Through: Mr. Raman Sharma, Sr. Advocate (AAG)
with Ms. Saliqa Sheikh, Assisting Counsel

vs

Pawan Singh

..... Respondent(s)

Through: Mr. Sudesh Sharma, Advocate for
respondent/caveator

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

**ORDER
24.12.2025**

1. Petitioner No. 1 (Board) through Advertisement Notice No. 03 of 2012 dated 28.12.2012 under Item No. 223, advertised 04 posts of Driver of Divisional Cadre, Jammu with Consumer Affairs Public Distribution Department. Out of 04 posts, 02 posts were advertised for open merit (OM) category and one post each was advertised for SC and ST category. Petitioner No. 1 (Board), conducted the skill test/viva voce and prepared the merit list of the candidates. The Selection Committee prepared the select list and placed the same before the petitioner No. 1 (Board). Petitioner No. 1 (Board), after perusal of the selection record, found that the indent provided by the Indenting Department i.e. petitioner Nos. 2 and 3 was ambiguous as no

reference to the category was made in respect of 02 posts other than SC and ST category because both the number of posts and the roster points given in the indent were for SC and ST only, due to which, petitioner No. 1 (Board) could not finalize the selection relating to them. Accordingly, petitioner No. 1 (Board) issued the select list for only one post of ST category vide communication dated 15.02.2021 and one post under SC category remained unfilled due to non-availability of the eligible candidate, after the petitioner No. 1 (Board) in its 177th meeting held on 22.12.2020, decided to return two posts along with the select list of one ST category to the Indenting Department with a request to furnish the fresh indent.

2. Respondent, being aggrieved of the decision of petitioner No. 1 (Board) taken in 177th meeting held on 22.12.2020, whereby two posts of Driver of CAPD Department advertised vide Advertisement Notice *ibid* were returned to petitioner Nos. 2 and 3, approached the learned Tribunal, thereby, assailing the same and for directing the petitioners to select and appoint him as Driver against the post under open merit category advertised vide Advertisement Notice (supra). It was asserted by the respondent that pursuant to application dated 19.01.2021 filed under Right to Information Act, he was informed that he was figuring at Serial No. 1 in the merit list of candidates of all the categories and eligible in all respects for the post of Driver in the Department of petitioner No. 2.
3. Petitioner No. 1 (Board) objected to the claim of the respondent on the identical grounds as recorded above by us by asserting that as there was lack of clarity regarding category of two posts other than SC and ST category in the indent, petitioner No. 1 (Board) was unable to finalize the selection. It

was also stated that vide communication dated 15.02.2021, the unfilled posts including two posts advertised under open merit category were returned to petitioner No. 2.

4. Learned Tribunal vide order dated 19.09.2024, allowed the application filed by the respondent and set aside the decision of petitioner No. 1 (Board) taken in 177th meeting held on 22.12.2020 and declared the respondent eligible in all respects for being selected and appointed as Driver in CAPD Department in open merit category in terms of advertisement notice (supra).
5. The petitioners have now come up with this writ petition for assailing the order of the Tribunal dated 19.09.2024 on the grounds *inter alia* that the learned Tribunal has failed to appreciate that Indenting Department vide communication dated 05.03.2025, intimated that the posts returned by SSB vide communication dated 15.02.2021 cannot be utilized by SSB at this stage when no fresh indent has been placed after return of relevant indent by the SSB. Further, reliance is placed upon the decision of the Coordinate Bench of this Court in *CCP(D) No. 8/2022 in LPA No. 184/2012*, titled, '*Ishfaq Tantray and ors. vs. Khalid Jahangir*' to assert that the policy decision has been taken by the Administrative Council vide decision No. 01/1/2022 dated 29.01.2022 to the effect that all posts referred to JKPSC/JKSSB prior to 31.10.2019 for which the selections have not been finalized till date, as also the posts in which there are litigations and the cases are pending in the Hon'ble Court, shall be deemed to have been withdrawn with immediate effect.
6. Heard learned counsel for the parties.

7. Pursuant to the order dated 16.12.2025, Mr. Raman Sharma, learned Senior Advocate had sought a brief adjournment to clarify the classification of the posts advertised on 28.12.2012. Mr. Sharma has since produced a communication dated 22.12.2025 from the Joint Director (Adm) FCS&CA Department, Jammu, addressed to petitioner No. 1. This document clearly demonstrates that two posts were available under the Open Merit category, as referenced in letter No. 40/G/88/767-G dated 28.06.2012. Consequently, it is evident that these two Open Merit posts were available and rightly advertised by Petitioner No. 1. Furthermore, a communication dated 27.11.2024 shows that the Board (Petitioner No. 1) sought clarification from Petitioner No. 2 regarding the status of these posts, however, the response provided by the Assistant Legal Remembrancer was inadequate and did not address the specific requirements of the initial inquiry.
8. It is also contended that as per the policy decision of Administrative Council bearing No. 01/01/2022 all posts referred to JKPSC/JKSSB prior to 31.10.2019, for which the selections have not been finalized till date, as also the posts in which there are litigations and the cases are pending in the Court have been withdrawn with immediate effect. The petitioners cannot cite the Administrative Council Decision No. 01/01/2022 to defeat the claim of the respondent as the selection process was completed. Fault, if any, was only with the petitioners. The judgment relied upon by the petitioners rendered by the Coordinate Bench in case titled, *'Ishfaq Tantray and ors. vs. Khalid Jahangir'* cannot be cited as a defence to object to the genuine claim of the respondent because in the said case, arising out of the contempt proceedings,

the selection process had not completed, whereas in the instant case, the selection process stood completed.

9. We have examined the order passed by the learned Tribunal and the learned Tribunal has rightly arrived at the conclusion that the respondent is eligible in all respects for being selected and appointed as Driver in Consumer Affairs Public Distribution Department (now FCS&CA), Jammu in terms of Advertisement Notice dated 28.12.2012. We do not find any error on the part of the learned Tribunal.
10. This petition is found to be misconceived, as such, the same is **dismissed**.

Jammu
24.12.2025
Neha-II



(RAJNESH OSWAL)
JUDGE

(ARUN PALLI)
CHIEF JUSTICE

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