

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

Reserved on: 24.04.2025.
Pronounced on: 09.05.2025

WP(C) No. 1741/2022

- 1. MANZOOR AHMAD DAR S/O: ASSADULLAH DAR
R/O: LARIYAR, TRAL, DISTRICT: PULWAMA.**
- 2. RASHID HAMEED GUROO, S/O: ABDUL HAMEED
GUROO, R/O: GHAT TOKUNA, TEHSIL AWANTIPORA,
DISTRICT PULWAMA.**
- 3. RUBINA ASHARAF, D/O: MOHAMMAD ASHRAF DAR,
R/O: BADERMUNA, TEHSIL DOORU, DISTRICT
ANANTNAG.**

...PETITIONER(S)

Through: - Mr. Jahangir Iqbal Ganaie, Sr. Advocate with
Ms. Mehnaz Rather, Advocate

Vs.

- 1. U.T OF J&K THROUGH SECRETARY TO GOVT
GENERAL ADMINSTRATION DEPARTMENT, CIVIL
SECRETARIAT SRINGAR/JAMMU.**
- 2. SECRETARY TO GOVERNMENT SCHOOL EDUCATION
DEPARTMENT, CIVIL SECRETARIAT
SRINAGAR/JAMMU.**
- 3. JAMMU AND KASHMIR, SERVICE SELECTION BOARD
THROUGH SECRETARY SEHKARI BHAWAN, RALL
HEAD, JAMMU.**
- 4. CHAIRMAN JAMMU AND KASHMIR SERVICE
SELECTION BOARD THROUGH ITS SECRETARY,
SEHKARI BHAWAN, RALL HEAD, JAMMU.**
- 5. DIRECTOR SCHOOL EDUCATION, KASHMIR,
SRINAGAR.**
- 6. UNIVERSITY GRANTS COMMISSION THROUGH ITS
SECRETARY BAHADUR SHAH ZAFFAR MARG, NEW
DELHI 11000.**
- 7. UNIVERSITY OF KASHMIR THROUGH ITS REGISTRAR
HAZRATBAL, SRINAGAR.**
- 8. MEHRAJ-UD DIN WANI S/O: GULAM MOHI-UD-DIN
WANI
R/O: PULWAMA.**

9. **IBAHAT JAN D/O: ABDUL GAFFAR JAN
R/O: PULWAMA AND ORS.**
10. **RAFIA GULL D/O: GHULAM MOHAMMAD BHAT
R/O: GABERPORA, PULWAMA.**
11. **NEELASH YOUSUF SHEIKH D/O: MOHAMMAD YOUSUF
SHEIKH
R/O: PULWAMA**
12. **IRFAN MUSHTAQ WANI S/O: MUSHTAQ AHMAD WANI
R/O: NAINA BATAPORA, PULWAMA.**
13. **MAIRAJ AHMAD SOFI S/O: ALI MOHAMMAD SOFI
R/O:TRICH KAKAPORA, PULWAMA.**
14. **TAIQ AHMAD DAR S/O: ABDUL RASHID DAR
R/O:AUGLAR CHIRATE, PULWAMA.**
15. **MEHRAJ-UD-DIN KUMAR S/O: GHULAM HASSAN
KUMAR R/O: AKINGAM ANANTNAG.**
16. **REFAT RASHID D/O: ABDUL RASHID SHEIKH
R/O:AKINGAM, ANANTNAG.**
17. **GOWSIA AMIN D/O: MOHAMMAD AMIN HARGAH
R/O:LOHERSENZI, ANANTNAG.**
18. **MALIK IRFAN RASHID S/O: MALIK ABDUL RASHID
R/O:FATHEPORA ANANTNAG.**
19. **TANVER AHMAD NAJAR S/O: GHULAM RASOOL NAJAR
R/O:WATLAR, GANDERBAL.**
20. **NASEER AHMAD TANTRAY S/O: BASEER AHMAD
TANTRAY R/O:MANIGAM GANDERBAL.**
21. **SHABIR AHMAD KHAN S/O: AB. HAMEED KHAN
R/O:BANDIPORA.**
22. **MOHD RAFI BHAT S/O: ASHIQ HUSSAIN BHAT
R/O:SOPORE BARAMULLA.**
23. **FEROZ AHMAD RESHI S/O: GH. HASSAN RESHI
R/O:WATLAB SOPORE DISTRICT BARAMULLA.**
24. **MAQSOOD AHMAD BHAT S/O: ABDUL AHAD BHAT
R/O:TANGMARG BARAMLLA.**
25. **MUDASIR BASHIR S/O: BASHIR AHMAD BHAT
R/O:PATTAN BARAMULLA.**
26. **MAJID KHAN S/O: FARID KHAN
R/O:GINGAL URI BARAMULLA.**

27. **AIJAZ AHMAD DAR S/O: GHULAM QADIR DAR
R/O:TANGMARG BARAMULLA.**
28. **SAMEERA YOUSUF D/O: MOHD YOUSUF HAJI R/O:
TANGMARG BARAMULLA.**
29. **ISHARAT SOFI D/O: MOHAMMAD SHAFI KHANDI
R/O:MOHANDPORA SHOPIAN.**
30. **SUMAIYA SHARIEF D/O: MOHAMMAD SHARIEF
RATHER R/O: PADSHAHI BAGH, SRINAGAR.**
31. **MUKHTAIR AHMAD GOJER BHAT S/O: ABDUL GANI
BHAT R/O: SUNDERBRARI KOKERNAG, ANANTNAG.**

...RESPONDENT(S)

Through:- Mr. Abdul Rashid Malik, Sr. AAG with
Mr. Mohd Younis Hafiz, AC for R-1 to 5.
Mr. Z.A. Shah, Sr. Advocate with
Mr. A. Hanan, Advocate for R-11 and 16.
Mr. Syed Faisal Qadiri, Sr. Advocate with
Mr. Syed Mansoor Bukhari, Advocate for R-7.
Mr. Sheikh Umar Farooq, Advocate for R-21 to 23, 25, 26 and 31.
Mr. Shahbaz Sikander, Advocate for R-6.
Mr. Bilal Ahmad Malla, Advocate for R-9 and 10.

CORAM:

**HON'BLE MR. JUSTICE SANJEEV KUMAR, JUDGE
HON'BLE MR. JUSTICE MOHD YOUSUF WANI, JUDGE**

JUDGMENT

Per: Sanjeev Kumar-J:

1. The petitioners, three in number, belonging to the District of Pulwama and Anantnag, respectively, are before this Court and invoke the extraordinary writ jurisdiction vested in this Court under Article 226 of the Constitution of India to throw a challenge to an order and judgment dated 1st August 2022, passed by the Central Administrative Tribunal, Srinagar, [for short "the Tribunal"], in TA No. 4652 of 2022, titled "**Manzoor Ahmad Dar and others vs. Union Territory of J&K and others**", whereby the

Tribunal has dismissed the TA filed by the petitioners being devoid of merit.

2. Before we advert to the grounds of challenge urged by Mr. Jahangir Ahmad Ganaie, learned senior counsel appearing for the petitioners, we deem it appropriate to briefly trace out the factual antecedents leading to the filing of this petition.

3. The Respondent-Board, vide its advertisement notification No. 06 of 2017, invited applications from eligible candidates for participating in the selection process for various district cadre posts of teachers. The petitioners No. 1 and 2 responded to the said notification and submitted their application for the post of teachers borne on district cadre, Pulwama, in the General Category and RBA Category, respectively. The petitioner No. 3, however, applied in the district Cadre, Anantnag, in the RBA Category. On conclusion of the selection process, the Respondent-Board notified a provisional select list on 25th February, 2019, in which the recommendations of some of the candidates were withheld pending clarification regarding their dual/overlapping qualifications. As is claimed by the petitioners, they were figuring in the waiting list.

4. The petitioner No. 1 figured at Serial Number 11 in the waiting list under Open Merit Category for District Pulwama;

the petitioner No. 2 figured at Serial Number 11 in the waiting list under RBA Category for District Pulwama; and the name of the petitioner No. 3 figured at Serial Number 3 under RBA Category for District Anantnag.

5. The petitioners, feeling aggrieved of the consideration of the two degree courses of some of the selected candidates pursued simultaneously, filed their objections to the provisional selection list. Taking note of the objections raised by the petitioners and a few other candidates, the Respondent No. 1 vide Government Order No. 671-GAD of 2019, dated 13th June 2019, constituted a Committee to go into the issue of dual/overlapping degrees acquired by some of the selected candidates. Pursuant to the deliberations held, the Committee submitted its report to the Government. While the recommendations of the Committee were yet to be made public, the Respondent No. 5 vide its Order No. 03-DSEK of 2020, dated 7th January, 2020, accorded sanction for appointment of the candidates whose recommendations were withheld by the Respondent-Board on account of dual/overlapping degrees. The Order of the Respondent No.5 aforesaid was called in question by the petitioners before this Court in WP(C) No. 275/2020.

6. That while the aforesaid writ petition was pending consideration, the Respondent-Board accepted the recommendations made by the Committee and issued an

Order bearing No. 61-SSB of 2020, dated 5th February, 2020, and cleared the appointments of some of the candidates whose selection was earlier withheld. It is this Order of the Respondent-Board, which was assailed by the petitioners in TA No. 4652/2020. The impugned Order was assailed by the Petitioners on the following grounds:-

(a) That pursuing of two degree courses simultaneously was not permissible, as stood clarified by the University Grants Commission (UGC), by way of a public notice issued on 15th January, 2016. The universities, including the University of Kashmir, stood directed by the University Grants Commission (UGC) to conduct their programs strictly in accordance with First Degree and Master Degree Regulations, 2003.

(b) That the University of Kashmir had, by virtue of Notification No. F(Amend-Statutes-Gen)/Acad/KU/08 dated 16th September, 2008, permitted pursuing dual courses, one by a regular mode and another through distance mode. The aforesaid scheme promulgated by the University of Kashmir was suspended with immediate effect by

Notification No. F-(Amend-Statutes-Gen) Acad/KU/11, dated 1st March, 2011. The notification, however, allowed the students already registered for dual courses on 1st March, 2011, to complete the courses. Later on, by a subsequent notification dated 15th March, 2012, the suspended scheme was withdrawn with effect from the date of its suspension.

(c) That any qualification acquired by a candidate in violation of the statutes is nullity in the eye of law and cannot be made use of for seeking employment.

(d) That the decision of the committee that candidates who have pursued two degrees simultaneously shall be declared not to have overlapping degrees, if the admission to second course is taken after completing minimum residential period of 1st course (21 months for the course consisting of 24 months and 09 months for the course consisting of 12 months), is not supported by any statute of the university, in particular, Rule 5.7 of the university statutes.

(e) That the decision of the Board to consider one of the two overlapping degrees in which a candidate has secured more marks was irrational and arbitrary.

7. The OA was contested by the respondents. In the reply affidavit filed by the Respondent-Board and the Director, School Education, Kashmir, the impugned decision made by the Board and implemented by the Director, School Education, Kashmir, was justified on the ground that the grievance raised by the petitioners was taken seriously and got examined by the Committee of Experts. It was pleaded by the Respondent-Board that impugned order was passed on the basis of recommendations made by the Committee of Experts. In a nutshell, the Respondent-Board sought to justify its impugned decision on the ground that it was based on the advice and the recommendations made by the experts and, therefore, was immune from challenge in the court of law.

8. The University of Kashmir also filed its reply affidavit and submitted that it had permitted the pursuing of two courses simultaneously, one as regular candidate and the other through distance mode, for the period from September, 2008 to March, 2011. Private Respondents also filed their written submissions and contested the claim of the petitioners.

9. The Tribunal, having regard to the rival contentions and the written submissions made by some of the parties, came to the conclusion that the decision of the Respondent-Board impugned in the writ petition was based on the advice and recommendations of an expert committee and was, therefore, not amenable to challenge under Article 226 of the Constitution of India. Relying upon a couple of judgments of the Hon'ble Supreme Court, the Tribunal held that it was not within its domain to sit in judgment over the decision of the experts. On this solitary ground, the Tribunal dismissed the OA being devoid of merit, vide its order and judgment impugned in this petition.

10. Before us also, the parties stuck to their rival stand which they had taken before the Tribunal.

11. Heard learned counsel for the parties and perused the material on record, including the judgment impugned passed by the Tribunal. At the outset, it would be appropriate to take note of the fact that the petitioners No. 1 and 2 are the candidates who had applied for the post of Teachers borne in District Cadre, Pulwama. The petitioner No. 1 figured at serial number 11 of the waiting list of General Category candidates, whereas petitioner No. 2 figured at serial number 11 of the waiting list of RBA category candidates of District Pulwama. The grievance of the petitioners, if any, could only be in respect of the

candidates selected in the District Cadre, Pulwama. Simultaneously, petitioner No. 3 was an RBA candidate for the post of Teacher in District Cadre, Anantnag, and therefore, her grievance, too, could be restricted to the candidates selected in the RBA category in District Cadre, Anantnag. The Respondents No. 19 to 30 are the candidates selected in the districts other than Pulwama and Anantnag, and, therefore, are not necessary parties in this petition. Their names are, therefore, struck off from the array of the respondents.

12. The petitioner No. 1 was admittedly figuring at Serial No. 11 of the waiting list of Open Merit Category in the District Cadre, Pulwama. The petitioner would have chances of selection only if 11 candidates finally selected in the General Category in District, Pulwama, are either ousted or have failed to join, which is a remote possibility. Similar is the position with respect to petitioner No. 2. The petitioner No. 3 also figured at Serial No. 3 in the waiting list of RBA Category in District, Anantnag, and therefore, would have chances of coming in the selection list only if the three candidates from District, Anantnag, get out of the select list of RBA Category candidates after their overlapping degrees are ignored. This may be a possibility, but not a guarantee of a selection of petitioner No. 3.

13. With regard to Respondents 11 and 16, it was fairly conceded by Mr. Jahangir Iqbal Ganaie, learned senior counsel, that even if this petition is accepted and their overlapping degrees are ignored, the aforesaid candidates will still make it to the selection. The petitioners, therefore, do not claim any relief against Respondents 11 and 16. It is thus clear that the grievance of the petitioners as projected in this petition survives only against some of the private Respondents, i.e., Respondents No. 8-10, 12-15, 17, 18 and 31.

14. We have given our thoughtful consideration to the matter and find that during the finalization of the selection process for the teachers in different districts of the Kashmir Division, initiated vide Advertisement Notification No. 06 of 2017, an issue of dual/overlapping degrees cropped up before the Respondent-Board. The issue arose due to the objections raised by some of the candidates who were figuring in the waiting list and were aggrieved by the inclusion of the candidates possessing dual/overlapping degrees in the provisional selection list.

15. Having found the issue ticklish and requiring examination by the experts, the matter was taken up by the Respondent-Board with the Government. Taking cognizance of the issue, the Government, vide Order No. 671-GAD of 2019 dated 13th June, 2019, constituted two committees,

one each for Kashmir and Jammu Divisions. The Committee for the Kashmir Division consisted of Secretary to the Government, Department of Higher Education as Chairman, Registrar University of Kashmir, Controller of Examination, University of Kashmir, and a member of Jammu and Kashmir Service Selection Board, as members.

16. The committee deliberated on the issue and came to the conclusion that there were broadly four categories of the candidates with dual/overlapping degrees:-

- (i) Candidates with non-overlapping periods.
- (ii) Candidates with 1-3 months of overlapping periods.
- (iii) Candidates with clear overlapping periods.
- (iv) Candidates who were yet to furnish the actual admission date to the overlapping degrees.

17. The Committee after threadbare discussion arrived at the following decisions: -

- (i) 106 cases have been found to have the residential period of the overlapping degrees falling in two separate academic sessions.
- (ii) 35 candidates have been found to have overlapping period of concurrent degrees but

exempted in light of amended statutes of University of Kashmir from September 2008 to March 2011 vide No. F(Amend-Statues-Gen) Acad/KU/08 dated September, 16, 2008 and No. (Amend-Statues-Gen) Accd/KU/11 dated March, 01, 2011.

- (iii) 39 candidates whose dual degrees have 1-3 months overlapping period, Members from University relaxed such overlapping on case-to-case basis, taking into consideration the admission of students and appearance in examination as such they may be further scrutinized in consultation with the University of Kashmir.
- (iv) 72 number of candidates have been found as having concurrent/dual degrees with clear overlapping period. In respect of such candidates, the Committee was of the opinion that JKSSB may revisit their selection on the basis of only one of the degrees that secures more points.
- (v) 58 candidates are pending as they have not yet furnished the actual date of admission to overlapping degrees.

18. On the basis of the aforesaid decisions of the Committee and the recommendations made, the

Respondent-Board vide impugned order, released the withheld recommendations of the candidates figuring in Annexure-C of the report of Committee, after deducting the points granted for the overlapping degree.

19. It is true that the UGC regulations, in particular, the First Degree and Master Degree Regulations, 2003, [“the regulations”] do not contain any specific provision restricting the candidates to pursue only one degree course at a time, though there is a requirement of minimum attendance for the candidates pursuing their degree courses on regular basis. We could not find anything in the Regulations of 2003 which puts an embargo on the right of the candidate to pursue the two-degree courses simultaneously, more particularly, when one of the course is through distance mode. It is because of this ambiguity, the UGC itself was in quandary and completely baffled with the problem for grant of dual degrees pursued by candidates simultaneously.

20. In the year 2012, the UGC constituted an expert committee to look into the issue. The UGC, after soliciting the views from different Universities, made a positive recommendation for allowing simultaneous degree programmes. It seems that instead of taking its decision to the logical end and seeking the approval from the Central Government, the UGC once again dealt with the issue and solicited views from various statutory councils. The issue

was taken up for discussion by the Full Commission of UGC in the year 2016, in which it was decided not to allow the students to pursue a double degree course simultaneously in the same academic year. The decision was taken to the Ministry of Human Resources Department, Government of India, for its approval. The Ministry was not in favour of approving the decision. This constrained the University Grants Commission (UGC) to again place the issue before another expert committee headed by Shri Bhushan Patwardhan, Vice-Chairman of UGC. The expert committee, after having considered the issue, forwarded its recommendation on 17th June, 2019, favouring the simultaneous degree. The recommendations of the committee headed by Shri Bhushan Patwardhan were approved by the Full Commission of UGC in its 546th meeting, held on 14th May, 2020. The matter has now been referred to the Ministry of Human Resources Department, the Government of India, and is pending consideration. Till the decision is approved by the Government of India, no formal notification can be issued by the UGC.

21. It is true that in the year 2016, when the full commission of the University Grants Commission (UGC) took a policy decision not to allow students to pursue two-degree courses simultaneously, a public notice was issued by the UGC on 15th January, 2016, clarifying that it did not

endorse the idea of students pursuing two degrees at the same time. In terms of the aforesaid public notice, all the Universities were directed to conduct their programmes in accordance with the Regulations of 2003.

22. However, as previously noted, the 2003 Regulations neither expressly permit nor prohibit the pursuing of two-degree courses simultaneously. The Regulations are, as a matter of fact, silent on the issue. The UGC was yet to take a clear decision on the issue. Earlier it did not favour the grant of dual degrees pursued simultaneously, but the said proposal did not receive the concurrence of the Central Government. The matter was subsequently reviewed, and in the year 2019, the UGC took a decision and decided to allow the pursuing of two-degree courses simultaneously and recommended this to the Government. A final decision from the Government was awaited. This was the position during the selection process in question.

23. However, after the promulgation of National Education Policy (NEP, 2020, which, *inter alia*, emphasizes the need to facilitate multiple pathways to learning involving both formal and non-formal modes of education, the University Grants Commission examined the issue of allowing the students to pursue two academic programmes simultaneously. Pursuant to a decision taken in tune with the National Education Policy, 2020, the University Grants Commission issued

guidelines for pursuing two academic programmes simultaneously in April 2022. With the issuance of the guidelines with effect from April 2022, it is now permissible for a student to pursue even two full time academic programmes in physical mode, provided that in such cases, class timings of one programme do not overlap with the class timings of the other programme. The students, however, can pursue two academic programmes one in full time physical mode and another in open and distance learning(ODL)/online mode, or up to two ODL/online programmes simultaneously etc. etc. The guidelines, however, shall be applicable to students pursuing academic programmes other than PhD programmes.

24. In these circumstances, we cannot hold with certainty that the 2003 Regulations as were in vogue anyway prohibited the pursuing of two degree courses simultaneously. There was, however, a requirement of minimum attendance in a regular course which would make it abundantly clear that a student pursuing two degree courses as a regular candidate shall not be able to register the minimum 75% attendance as is required by the statutes. Therefore, practically speaking, a candidate cannot pursue two degree courses simultaneously on a regular basis. However, the situation would be different if one of the degrees is pursued through distance mode.

24. Furthermore, there is no express prohibition in this regard in the University Statutes of the University of Kashmir regarding this matter. Rule 5.7 of the University Statutes only provides that no candidate shall be admitted to more than one course at a time within the University department or any of its constituent or affiliated colleges or institutions. There is, however, an exception to this general rule. It provides that whenever a student having sought admission to a particular course either in the University or any of its constituent or affiliated colleges or institutions as a regular student and having completed a minimum period of attendance and laboratory work, where applicable, and in the meanwhile he gets admission to a different course, such candidate shall not be debarred from appearing in the examination of the course indicated above etc. etc.

25. Thus, Rule 5.7 of the university statute only prohibits pursuing of two-degree courses in the University departments or any of its constituent or affiliated colleges or institutions. The rule admittedly speaks about the regular courses sought to be pursued by a candidate simultaneously from the Kashmir University only. Rule 5.7, therefore, cannot be said to have put a prohibition with regard to pursuing a degree course through distance mode simultaneously with another course through regular mode. It is also relevant to note that the University of Kashmir,

vide its notification dated 16th September, 2008, added a proviso to Rule 5.7 allowing students pursuing a degree through distance mode to simultaneously seek admission to a regular programme and vice versa. This proviso was later withdrawn with effect from 1st March 2011 by a notification issued by the University dated 15th March, 2012. The notification dated 16th September 2008, as is apparent from its reading along with Rule 5.7, is more a clarificatory than an exception to the general provisions of Clause 5.7. Its withdrawal later on, in our opinion, would not make much difference.

26. Viewed from any angle, we are convinced that, in the absence of any express prohibition either in the UGC Regulations of 2003 or in the Statutes of the University as were then applicable, it cannot be held that a candidate was not permitted to pursue two degree courses simultaneously, one through regular mode and another through distance mode. It is also pertinent to note that neither the applicable recruitment rules nor the selection criteria framed by the Respondent-Board provide for the exclusion of such degrees, except, if these are not relevant or have been obtained in violation of some law.

27. The Respondent-Board and for that matter, the appointing authority, in the facts and circumstances of the case, may not be in a position to ignore the degrees of the

candidates obtained from recognized universities unless it is apparent on the face of the record that such degrees are in violation of the UGC Regulations or the University Statutes. The Committee of Experts constituted by the Government has thoroughly examined the issue and made its recommendations which we cannot revise, modify or improve in the exercise of our jurisdiction under Article 226 of the Constitution of India. While we may agree with the learned senior counsel for the petitioners that the Committee, on the basis of the material before it, could have taken a better decision, however, that cannot be a ground to interfere with the well thought-after decision taken by the committee.

28. Viewed thus, we find no merit in this writ petition, and the same is, accordingly, **dismissed**.

(MOHD YOUSUF WANI)
JUDGE

(SANJEEV KUMAR)
JUDGE

Srinagar,
09.05.2025
"Mir Arif"

Whether the Judgment is reportable? Yes

Whether the Judgment is speaking? Yes