

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

CM(536/2025) IN WP(C) 1830/2024
CM(4950/2024)
c/w
WP(C) 2571/2023 CM(4863/2024)
CM(6095/2023)

SHOWKAT AHMAD LONE

...Petitioner(s)/appellant(s)

Through: Mr. Asif Maqbool, Advocate

Vs.

UNION TERRITORY OF J AND K AND ORS.
(AGRICULTURE PRODUCTION / FARMERS
WELFARE)

...Respondent(s)

Through: Mr. Faheem Nissar Shah, GA
Mr. Aswad Attar, Advocate

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE RAJNESH OSWAL, JUDGE

ORDER

09-09-2025

Vide this order, we shall decide WP(C) No.1830/2024 as also WP(C) No.2571/2023, for, the cause of action in both these petitions emanates from the same set of facts and parties to the *lis* are common.

Pursuant to item No. 252 (Advertisement No.03 of 2016 dated 30.06.2016) issued by the Horticulture Department, the petitioner (Showkat Ahmad Lone) competed for selection to the post of Telephone Operator. And was selected by the Jammu and Kashmir Services Selection Board in the year 2016. Formal appointment followed in September, 2018. It is not in dispute that he continued to serve the department for six years and drew

salary. However, vide order dated August 7, 2024 passed by the Director Horticulture, Kashmir, his appointment was cancelled. And vide WP(C) No. 1830/2024, he has assailed the said order on multiple grounds.

However, without dilating much upon the merits, we may hasten to refer to one of the preliminary objections raised by the respondents 1 and 5 in their response. Per which in terms of Section 28 of the Administrative Tribunals Act, 1985, applicable to the Union Territory of Jammu and Kashmir, on and from the date from which any jurisdiction, powers and authority becomes exercisable under this Act by a Tribunal in relation to recruitment and matters concerning recruitment to any service or post or service matters concerning members of any service or persons appointed to any service or post, no Court except the Supreme Court or any Industrial Tribunal, Labour Court or other authority constituted under the Industrial Disputes Act, 1947 shall have or be entitled to exercise any jurisdiction, powers or authority in relation to such recruitment or matters concerning such recruitments or service matters.

Thus, it is averred that in terms of the provisions referred to above, this Court lacks original jurisdiction in relation to the recruitment matters and hence, the petitioner may, if so advised, seek redressal of his grievances before the Tribunal.

Faced with this, and having argued the matter at some length, learned counsel for the petitioner submits that petition be disposed of with liberty to the petitioner to move the Tribunal by filing an Original Application. However, he submits that this Court on August 21, 2024 having found a *prima facie* had issued notice and ordered *status quo*.

Accordingly, he submits that the petitioner undertakes to file the Original Application within a week from today.

Obviously, learned counsel for the respondents plead no objection. Rather, Mr. Faheem Nissar Shah, learned counsel for the respondent Nos.1 to 5, as always, fairly submits that to secure the rights/interests of all the parties and to avert any complication, the interim order dated August 21, 2024 (ibid) be continued to operate till the matter is adjudicated by the Tribunal. However, in the given circumstances, the Tribunal be directed to dispose off the matter finally within a specified time. Particularly, for the pleadings in the present proceedings are complete and the respondents shall formally submit their respective response/replies before the Tribunal within two weeks of an Original Application being filed by the petitioner.

In the wake of the above and in terms of the statement made by the learned counsel for the parties, the petition is disposed of with liberty to the petitioner to move the Tribunal. And as observed earlier, in the event, he files the Original Application within a week from today, the order dated August 21, 2024 shall continue to operate till the matter is finally decided.

To secure the rights/interest of all the parties, we also consider it necessary to request the Tribunal to decide the matter as expeditiously as possible preferably within three months.

The petition is accordingly disposed of.

As regards **WP(C) No.2571/2023**, we may briefly state that the private respondent (Shabir Ahmad Mir) competed for selection to the post of Telephone Operator pursuant to the advertisement issued in the year 2011 by Agriculture Production Department. He was at top of the waiting list but since one of the selected candidates opted not to join, as she got

appointment in another department, he moved the authorities for his appointment. But in the meanwhile, the department issued another advertisement in the year 2016 and selected the petitioner (Showkat Ahmad Lone). As a result, the private respondent moved the Tribunal vide OA No.856/2021. However, the stand set out by the authorities before the Tribunal was that it was reconsidering the claim of the applicant (Shabir Ahmad Mir). The matter was accordingly disposed of by the Tribunal vide order dated June 23, 2021 with a direction to the respondents to complete the exercise within a specified time.

The petitioner, being aggrieved of the order dated June 23, 2021 filed this petition. In essence, his grievance is that the order passed by the Tribunal is unsustainable, for, despite the petitioner being a party to the OA he was neither served nor heard.

But as indicated earlier, vide impugned order dated June 23, 2021, the matter was disposed of by the Tribunal, for, the official respondents maintained that they were re-considering the claim/candidature of the private respondent. Thus, the Tribunal as such never adjudicated upon the *lis* or passed any order on merits. Be that as it may, as indicated above, the matter was re-examined by the authorities and vide order dated August 7, 2024, the appointment of the petitioner was cancelled. Thus, nothing substantive survives in this petition. And the same is accordingly disposed of as having been rendered infructuous.

(RAJNESH OSWAL)
JUDGE

(ARUN PALLI)
CHIEF JUSTICE

SRINAGAR
09-09-2025
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