

IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH

AT SRINAGAR

CCP(S) No. 554/2023

Ghulam Rasool Lone

...Appellant/Petitioner(s)

Through: Mr. Prince Hamza, Advocate vice
Mr. M.Y. Bhat, Sr. Advocate

Vs.

Santosh D. Vaidya and Anr.

...Respondent(s)

Through: Ms. Maha Majeed, Assisting Counsel

CORAM:

HON'BLE MR JUSTICE VINOD CHATTERJI KOUL, JUDGE

ORDER

10.12.2025

1. By virtue of the directions passed in SWP No. 1452/2014, decided on 01.05.2015, respondents were directed to consider the claim of the petitioner for promotion in accordance with the rules and to take a decision thereon within a period of eight weeks.
2. The aforesaid direction came to be passed in a writ petition wherein the petitioner had sought a direction for his promotion to the post of Accountant, on the ground that he had crossed the age of 45 years and, therefore, in terms of the first proviso to the relevant Rules, was entitled to relaxation in qualifying the S.A.C. Part-I examination.
3. It is further submitted that earlier the petitioner approached the respondents for grant of the aforesaid benefit; however, his request was not acceded therefore, he filed the aforesaid writ petition.
4. The said writ petition was disposed of with the aforesaid directions and, in compliance thereof, the respondents passed the order impugned herein, whereby the claim of the petitioner came to be rejected.
5. Aggrieved of the said order of rejection, the petitioner has filed the present writ petition, contending that his case has not been considered in accordance with the mandate of the directions

issued by the Court in SWP No. 1452/2014. It is claimed that the petitioner is entitled to promotion to the post of Accountant, notwithstanding the fact that he has not qualified the S.A.C. Part-I examination, as his case is claimed to be covered by the first proviso to Rule 5.

6. The learned Single Judge, upon hearing learned counsel for the parties, disposed of the writ petition by holding that the petitioner had not made out a case for grant of benefit under the first proviso to Rule 5 and that he could not be promoted to the post of Accountant without having qualified the prescribed examination. The relevant portion of the judgment is reproduced hereunder:-

- I. That in terms of rule 7 of the Rules, petitioner having been appointed as Accounts Assistant was obliged to pass the departmental examination, i.e. (ACC) during the period of his probation which was sine qua non for confirmation of his services as Accounts Assistant. However, this Court cannot lose sight of the fact that petitioner did not qualify the ACC examination during the course of his probation but he was allowed to continue in the department as accounts Assistant. The petitioner, it is not denied, has been performing his duties as accounts Assistant ever since he was appointed. That being the position, I am in agreement with the learned counsel for the petitioner that it is a case of deemed confirmation of the petitioner as Accounts Assistant.

7. The petitioner contends that the order passed by this Court has not been complied with. It is noted that the petitioner had challenged the said order. However, the order was not set aside.
8. The LPA filed in this regard was disposed of with a direction that the petitioner's case shall be considered by the respondents on its own merits.
9. The directions pertained to the consideration of the petitioner for promotion to the post of Accounts Assistant and the compliance report filed by the respondents indicates that the petitioner's case was considered and he was found not entitled or eligible for promotion to the post of Accounts Assistant and the directions regarding the consideration of the petitioner's case for promotion have been complied with. No contempt can, therefore, be said to have been committed by the respondents.
10. Additionally, counsel for the petitioner submits that the respondents have not given the benefit to which the petitioner may be entitled. The petitioner is at liberty to make a representation in

this regard, and any benefit to which he may be entitled shall be considered and granted.

11. Accordingly, **disposed of.**

(VINOD CHATTERJI KOUL)
JUDGE

SRINAGAR
10.12.2025
Shabroz

