

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

Pronounced on : 31.01.2026

Uploaded on : 03.02.2026

WP(C) No. 1243/2024

Lalit Kumar

.....Petitioner

Through: Mr. Rahul Pant, Sr. Advocate with
Mr. Dhruv Pant, Advocate

Vs

Jammu Development Authority & Ors.

.....Respondents

Through: Mr. Atul Verma, Advocate vice
Mr. Adarsh Sharma, Advocate for R-1
to 3
Mr. Suneel Malhotra, GA for R-4

**CORAM: HON'BLE MR. JUSTICE SANJAY DHAR, JUDGE
JUDGMENT (ORAL)**

- 01.** Through the medium of the present petition, the petitioner has challenged **order No. Secy/JDA/PS/795-96 dated 04.03.2024** passed by the respondent No. 2- Vice Chairman, Jammu Development Authority, Jammu, whereby the claim of the petitioner for restoration of his promotion to the post of Assistant Programmer (Computer) has been declined. A further direction asking the respondents to withdraw **order No. 230-JDA of 2010 dated 04.10.2010** whereby promotion of the petitioner

was kept in abeyance with a direction that consequential benefits of seniority, pay increments etc., be released in favour of the petitioner has also been sought by the petitioner.

- 02.** Briefly stated, the facts emanating from the pleadings of the parties are that in terms of an **order No. 71-83 dated 25.07.2001** the petitioner along with one Smt. Sunita Ambardar and three more Computer Assistants was promoted to the higher scale of Rs. 4000-6000 after accord of approval by the Departmental Promotion Committee.
- 03.** In terms of the **order No. 68-72/JDA of 2005 dated 19.11.2005**, order dated 25.07.2001 (supra) was modified and effect of promotion of the petitioner and one Smt. Jyoti Sharma was given from 13.11.1998. It is pertinent to mention here that Smt. Sunita Ambardar who was figuring senior to the petitioner in order dated 25.07.2001 was not given the benefit of retrospective promotion. On 06.01.2007, in 66th meeting of the Board of Directors of Jammu Development Authority, a decision was taken to upgrade one post of Computer Operator held by the petitioner in the pay scale of Rs. 4000-6000

to the post of Assistant Programmer (Computers) in the pay scale of Rs. 6500-10500 and the petitioner was adjusted against the said upgraded post in terms of order dated 28.04.2007 pursuant to the decision of the Board of Directors.

04. It seems that order dated 28.04.2007 whereby the petitioner was adjusted against the upgraded post of the Assistant Programmer (Computers), came to be challenged by Smt. Sunita Ambardar by way of writ petition bearing **SWP No. 2194/2009** before this Court. Vide interim order dated 30.11.2009 passed in the said writ petition, the order dated 28.04.2007 (supra) was stayed. Pursuant to said interim order, the respondents issued **order No. 230 JDA of 2010 dated 04.10.2010** whereby order dated **28.04.2007** regarding adjustment of petitioner as Assistant Computer Programmer was kept in abeyance till further orders.

05. The writ petition was contested by the respondents by filing their reply. It seems that Smt. Sunita Ambardar-the writ petitioner in writ petition bearing **SWP No. 2194/2009** did not pursue the writ petition as a result

whereof, the writ petition came to be dismissed for non-prosecution on 24.10.2017.

06. After the dismissal of the writ petition filed by Smt. Sunita Ambardar, the petitioner made a representation before the respondents for restoration of his position as Assistant Computer Programmer with all consequential benefits. When the respondents did not take any action in the matter, the petitioner filed writ petition bearing **WP(C) No. 507/2022** for redressal of his grievance. The said writ petition came to be disposed of by this Court in terms of order dated 14.03.2022 whereby the respondents were directed to consider the case/claim of the petitioner as per law and rules applicable within a period of two months.

07. Pursuant to the aforesaid direction/order of this Court, the respondents considered the case of the petitioner and issued the impugned consideration **order No. Secy/JDA/PS/795-96 dated 04.03.2024** thereby rejecting the claim of the petitioner on the grounds that the petitioner does not hold eligibility for being promoted as Assistant Computer Programmer as he is not possessing the requisite qualification as laid down in the

Jammu and Kashmir Information Technology (Subordinate) Service Recruitment Rules, 2016. The second ground on which the claim of the petitioner has been rejected is that Smt. Sunita Ambardar figures senior to the petitioner in the list of Computer Operators under Information Technology Wing, as such, he cannot be accorded promotion over and above Smt. Sunita Ambardar.

- 08.** The petitioner has challenged the impugned consideration order on the ground that the same is contrary to the stand taken by them in the objections filed to the writ petition of Smt. Sunita Ambardar. It has been further contended that the order of promotion dated 28.04.2007 passed in favour of the petitioner was issued on the basis of approval accorded by the Board of Directors and once the writ petition filed by Smt. Sunita Ambardar was dismissed, the order whereby the promotion of the petitioner was kept in abeyance was required to be withdrawn by the respondents. It has further been contended that the Jammu and Kashmir Information Technology (Subordinate) Service Recruitment Rules, 2016 are not applicable to the

employees of the respondent-authority and in any case, the said rules came into operation after the petitioner had been promoted to the post of Assistant Computer Programmer in the year 2007. It has been also contended that once the effect to the promotion of the petitioner to the higher grade in terms of an order dated **25.07.2001** was given retrospective effect without according the similar benefit to Smt. Sunita Ambardar, the petitioner ranked senior to her, as such, the stand taken by the respondents is not tenable.

- 09.** The writ petition has been contested by the respondents by filing their reply. In their reply, it has been submitted that recruitment rules relating to the post of Assistant Computer Programmer have not been finalized as yet but as per the recruitment rules of Information Technology Department, a person holding the post of Assistant Computer Programmer, which has been re-designated as Junior System Engineer, must possess the bachelor degree of Engineering/B.Tech with two years experience from AICTE recognized institute and the mode of recruitment is 100% by direct recruitment. It has been further submitted that in draft of the recruitment rules of

the respondent-authority, the same qualification has been proposed and the mode of recruitment has been prescribed as deputation from the Jammu and Kashmir Information Technology Department. The other factual aspects of the case have not been disputed by the respondents.

10. I have heard the learned counsel for the parties and perused record of the case.

11. As already stated above, so far as the factual aspects of the case are concerned, the same are not in dispute. The first ground on which the respondents have rejected the claim of the petitioner is that he does not hold the requisite qualification to man the post of Assistant Computer Programmer which has been re-designated as Junior System Engineer in terms of Jammu and Kashmir Information Technology (Subordinate) Service Recruitment Rules, 2016 inasmuch as that eligibility condition for holding said post is possession of bachelor's degree in Engineering/B.Tech, Information Technology or Electronics and Communication or Computer Engineering or Computer Science Engineering or MCA from recognized University or Diploma in Engineering

with two years experience from AICTE recognized institute and that mode of recruitment is 100% by direct recruitment. It is case of the respondents that they have framed draft rules on the same lines and because the petitioner does not possess the requisite qualification he cannot claim promotion to the post of Assistant Computer Programmer.

- 12.** In the above context, it is to be noted that the petitioner was promoted to the post of Assistant Computer Programmer in the year 2007. The Jammu and Kashmir Information Technology (Subordinate) Service Recruitment Rules came to be framed in the year 2016 and were notified **vide SRO No. 341 dated 24.10.2016.** It is only thereafter that the respondent-authority framed its draft of rules. Thus, at the time when the petitioner was considered for promotion to the post of Assistant Programmer (Computers) neither the Jammu and Kashmir Information Technology (Subordinate) Service Recruitment Rules, 2016, were in existence nor the draft rules framed by the respondent-authority were in operation. The eligibility of the petitioner for promotion to the post of Assistant Programmer (Computers) has to be

determined on the basis of the rules/guidelines/instructions that were in vogue in the year 2007 and not those which came into being later on.

- 13.** It is not a case where the petitioner is to be considered afresh for grant of promotion to the post of Assistant Programmer (Computers) but it is a case where he had already been granted promotion to the said post by virtue of order dated 28.04.2007 (supra) that was kept in abeyance pursuant to interim directions passed by this Court in **SWP No. 2194/2011** filed by Smt. Sunita Ambardar. Once the said writ petition came to be dismissed, the interim order dated 30.11.2009 passed in the said writ petition stood vacated and the cloud over the promotion order of the petitioner vanished. The necessary logical consequence, upon dismissal of writ petition filed by Smt. Sunita Ambardar, was that promotion order dated 28.04.2007 issued in favour of the petitioner would get revived. The respondents instead of reviving the said order continued to deny the rightful claim of the petitioner for years together and compelled the petitioner to resort to two further rounds of litigation.

The conduct of the respondents in this regard is contrary to the legal position and it defies the logic.

14. The second ground on which the respondents have rejected the claim of the petitioner is that he was figuring inferior in rank in the seniority list of Computer Operators to the rank of Smt. Sunita Ambardar therefore, even if, promotion is to be accorded to the post of Assistant Programmer (Computers), the claim of Smt. Sunita Ambardar is superior to the claim of the petitioner.

15. In the above context, it is to be noted that though, Smt. Sunita Ambardar ranks superior in the seniority list to the petitioner in order dated 25.07.2001 (supra) whereby they were accorded higher grade, yet the said order has been given retrospective effect by the respondent-authority in terms of its subsequent order dated 19.11.2005 in the case of petitioner but not in the case of Smt. Sunita Ambardar. Thus, the petitioner is deemed to have been promoted in the higher grade w.e.f 13.11.1998 whereas no such retrospective effect was given to Smt. Sunita Ambardar. This action of respondent-authority has made the petitioner senior to Smt. Sunita Ambardar.

Thus, the contention of the respondents that Smt. Sunita Ambardar is senior to the petitioner is contrary to their own record.

16. Apart from the above, in the writ petition filed by Smt. Sunita Ambardar, the respondents in their reply have justified accord of promotion to the post of Assistant Programmer. They cannot now take a U-turn and take a stand contrary to what they had stated in the previous round of litigation. In law, the official respondents are estopped from doing so.

17. For what has been discussed herein before, the impugned **order No. Secy/JDA/PS/795-96 dated 04.03.2024** passed by the respondent No. 2-Vice Chairman, Jammu Development Authority, Jammu whereby the claim of the petitioner has been rejected is not sustainable in law and the same deserves to be quashed.

18. Accordingly, the writ petition is **allowed** and the impugned **order No. Secy/JDA/PS/795-96 dated 04.03.2024** issued by the respondent No. 2 **is quashed** and a direction is issued to the respondents to revive the promotion **order No. Secy/JDA/P/293-95 dated**

28.04.2007 issued by respondent No. 2 whereby the petitioner has been adjusted against the upgraded post of Assistant Programmer (Computers). The respondents are also directed to release all consequential benefits to the petitioner. The entire exercise shall be completed by the respondents within a period of two months from today.

19. Disposed of.

JAMMU
31.01.2026
SUNIL

HIGH COURT

(SANJAY DHAR)
JUDGE

Whether the order is speaking ? : Yes

Whether the order is reportable ? : No


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