

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

RP No. 114/2022 c/w  
CCP(D) 83/2022

Reserved on: 03.08.2026  
Pronounced on: 11.08.2026  
Uploaded on: 11.08.2026

Whether the operative part or full  
judgment is pronounced: Full

UT of Jammu and Kashmir and others

Petitioners

Through: - Mr. Eishan Dadeechi G.A.

vs

Raki Sharma and others

...Respondent(s)

Through: - Mr. M.K.Bhardwaj Sr. Advocate with  
Mr. Gagan Kohli Advocate.

**CORAM: HON'BLE THE CHIEF JUSTICE (ACTING)  
HON'BLE MR. JUSTICE MOHD. YOUSUF WANI, JUDGE**

**JUDGMENT**

**CHIEF JUSTICE (A)**

1. This review petition has been preferred by the review petitioners seeking review of an order and Judgment dated 23.12.2021 passed by a Division Bench of this Court in LPA(SW) No. 04 of 2021 titled "Raki Sharma and others v. Union Territory of Jammu and Kashmir and others". The primary ground urged for review is that the judgment suffers from an error apparent on the face of the record, in that the Division Bench, while allowing the appeal, has completely overlooked Clause XIII of the Rehbar-e-Khel (ReK) Policy issued vide Government Order No. 141-Edu(YSS) of 2017 dated 27.10.2017.

**Factual Matrix:**

2. The Government of Jammu and Kashmir had sanctioned 142 posts of Rehbar-e-Khel (ReK) for Jammu Zone vide Government Order dated 06.12.2017, which were advertised vide Advertisement Notice dated 17.01.2018. A zone-wise provisional list of 142 selected candidates, along with a waiting list, was issued on 23.01.2019. The private respondents herein figured in the said waiting list for their respective zones. On failure of some of the selected candidates to join within the stipulated time, the Director General, Youth Services and Sports cancelled their appointments *ab initio*, vide order dated 24.09.2019. However, instead of operating the waiting list, a notice was issued to adhere to Clause XIII of the ReK Policy.

3. Aggrieved, the respondents approached the writ Court through a petition seeking a writ of mandamus for operating the waiting list. The writ Court has dismissed the petition, relying on its earlier decision in *Ayaz Chowdhary and others v. Union Territory of Jammu and Kashmir*, holding that the select list and the associated waiting list had expired. The respondents preferred LPA No. 04/2021 before the Division Bench of this Court. The Division Bench allowed the appeal, holding that the respondents were at the top of the wait list and their names had been recommended for appointment. Accordingly, the judgment of the writ Court came to be set aside, and the review petitioners were directed to appoint the respondents herein within six weeks.

4. Aggrieved, the review petitioners approached the Supreme Court by filing SLP No. 10782/2022, contending that Clause XIII of the ReK Policy which debarred them to operate the wait list was not considered by the Division Bench. The Supreme Court dismissed the SLP as

withdrawn with liberty to file a review petition before this Court. Consequently, the instant review petition has been filed.

**Submissions on behalf of the Review Petitioners:**

5. Learned counsel for the review petitioners vehemently argues that the Division Bench has failed to consider Clause XIII of the ReK Policy of 2017, which mandates that any vacancy arising on account of any reason must be re-advertised and filled up afresh, and not by operating a waiting list. It is submitted that no vested right accrues to the candidates to claim engagement based on a waiting list, especially when it has outlived its validity. Reliance is placed on the judgment of the Supreme Court in **Vallampati Sathish Babu v. State of Andhra Pradesh and others, 2022 SCC OnLine SC 470**. Lastly, it is submitted that pursuant to an OM dated 19.05.2022 issued by the General Administration Department (GAD), the unfilled positions of ReKs stand abolished, rendering the appointment of the respondents impracticable.

**Submissions on behalf of the Respondents:**

6. Learned counsel for the respondents would strongly oppose the review petition, submitting that there is no error apparent on the face of the record. It is contended that the names of the respondents were recommended for appointment from the wait list vide order dated 22.04.2019, and this fact was duly noticed by the Division Bench while deciding the matter. It is submitted that once such recommendation was made by the competent authority, the respondents acquired a vested right to be considered in terms of the said recommendation. Having made the recommendation, the review petitioners cannot now be permitted to resile from their own decision or take a contrary stand to the prejudice of the

respondents. Such a course would be arbitrary, contrary to the principles of fairness, and impermissible in law.

**Scope of review and analysis:**

7 Having heard learned counsel for the parties and perused the material on record, we deem it appropriate first to set out the contours of the review jurisdiction of this Court. Although the provisions of the Code of Civil Procedure do not apply to writ proceedings with full rigor, yet the principles underlying the exercise of review jurisdiction can certainly be borrowed and applied to writ proceedings as well. The three grounds mentioned in Order 47 of the Code of Civil Procedure are as under:

- (i) Discovery of new and important matter or evidence which, despite exercise of due diligence, was not within the knowledge of the person seeking review or could not be produced by him at the time when the order or judgment was passed;
- (ii) Some mistake or error apparent on the face of the record;
- (iii) Any other sufficient cause.

8. In the given fact scenario, the first ground is not attracted. The review petitioners have tried to bring their case within the ambit of the second ground, namely, mistake or error apparent on the face of the record. A mistake or error apparent on the face of the record would be one which is self-evident and visible on the face of the order itself. Such mistake or error may be one of fact or law. Keeping in view the aforesaid ground of challenge, particularly the ground on which emphasis was laid by learned counsel for the review petitioners, we proceed to reproduce Clause XIII of the Policy for engagement of Rehbar-e-Khel:

"XIII. Cause of vacancies of Rehbar-e-Khel: If a vacancy of Rehbar-e-Khel is caused due to any reason, the said District Youth Services and Sports Officer concerned shall advertise the said vacancy within one month from the date such

vacancy arises on the recommendations of Zonal Physical Education Officer."

9. A perusal of the Judgment sought too be reviewed reveals that it has already observed that there is no specific provision in the policy prohibiting the preparation of a wait list. The Division Bench has observed that the review petitioners-authorities had themselves prepared the wait list and could not resile from it.

10. The core issue to be decided is whether Clause XIII acts as a bar to operating the wait list. A careful reading of Clause XIII indicates that it pertains to a "vacancy caused due to any reason". The true essence of this clause is that if a position of ReK falls vacant after being filled, due to any reason, viz. death, resignation, etc., or a new vacancy arises, it must be notified and filled up by undertaking the selection process.

11 In the present case, the vacancies in question cannot be said to be vacancies "caused due to any reason" within the meaning of Clause XIII of the Scheme. These were not future vacancies that arose after the completion of the selection process. Rather, they were existing notified vacancies which had already been referred to the Selection Committee for recruitment and were duly advertised. The selection process was conducted against these very vacancies. However, some of the selected candidates did not join their respective posts, with the result that the advertised vacancies remained unfilled. Such vacancies do not fall within the ambit of Clause XIII. Consequently, the bar contained in Clause XIII is not attracted to the facts and circumstances of the present case. It is also important to note that, apart from Clause XIII, there is no other provision in the Scheme which either expressly or impliedly prohibits the Selection Committee from preparing or operating a reserve list or wait list. In the absence of any

specific prohibition, the preparation of a wait list to fill the advertised vacancies that remain unfilled due to the non-joining of selected candidates cannot be regarded as illegal. A wait list is prepared precisely to meet such contingencies and to ensure that the notified vacancies do not remain vacant merely because some selected candidates choose not to join. In the absence of any statutory bar, the preparation and operation of the wait list cannot be held to be legally impermissible. This issue has already been considered and determined by the Division Bench, which has categorically held that there is no legal prohibition against the preparation or operation of the wait list in the facts of the present case.

12. It is true that, in the absence of any specific statutory or other provision mandating the preparation of a waiting list, a candidate who finds himself next in the order of merit cannot, as a matter of right, seek a writ of mandamus directing the Selection Body to necessarily prepare or operate a waiting list. However, if the Selection Body prepares such a list and recommends candidates therefrom for appointment against the posts that remained unfilled on account of the non-joining of selected and appointed candidates, the right to appointment of such wait-listed candidates cannot be denied unless there is a specific provision, statutory or otherwise, in the concerned scheme against the preparation of a waiting list.

13 The reliance placed by the review petitioners on the decision of the Supreme Court in *Vallampati Sathish Babu v. State of Andhra Pradesh and Others* is misplaced.. The said judgment reiterates the settled principle that a candidate in a waiting list does not acquire an indefeasible right to appointment and that the waiting list cannot be operated contrary to the governing rules. However, in the present case, the respondents are not

the very vacancies which were duly advertised and remained unfilled due to the non-joining of selected candidates. Moreover, there is no provision in the Rehbar-e-Khel Policy prohibiting the operation of the wait list in such circumstances. The said decision is, therefore, clearly distinguishable on facts and does not advance the case of the review petitioners.

14. Equally meritless is the submission of the review petitioners that the posts stood abolished in terms of Office Memorandum dated 19.05.2022 and, therefore, no appointment could thereafter be made. It is a settled principle of service law that where a candidate has acquired a vested right on the basis of a valid selection and recommendation made in accordance with law, such right cannot ordinarily be defeated by a subsequent administrative decision, including a decision to abolish the posts, more particularly when such right has been affirmed by the Division Bench of this Court. The recommendations in favour of the respondents were made, and the judgment of the Division Bench was rendered, much before the issuance of the Office Memorandum dated 19.05.2022.

### **Conclusion:**

15 In view of the foregoing analysis, we do not find any error apparent on the face of the record committed by the Division Bench that would call for the recall of the judgment dated 23.12.2021. The interpretation of Clause XIII by the review petitioners is misconceived, as the concept of "remaining unfilled due to non-joining" is distinct from "vacancies caused due to any reason". The issue has already been dealt with by the Division Bench in the judgment sought to be reviewed, though there was no specific reference to Clause XIII of the policy (**see:** paragraph (6) of

the judgment of the Division Bench). The review petition is, accordingly, dismissed.

**CCP(D) No. 83/2022**

16           The present contempt petition has been filed alleging willful disobedience of the judgment dated 23.12.2021 passed by the Division Bench in LPA No. 04/2021, whereby the respondents were directed to appoint the petitioners as Rehbar-e-Khel within six weeks. The respondents challenged the said judgment before the Supreme Court and, thereafter, by way of a review petition before this Court. The review petition having been dismissed, the judgment dated 23.12.2021 has attained finality and is binding upon the respondents. Since the review petition now stands dismissed, the respondents are under a legal obligation to implement the judgment without any further delay. Accordingly, while refraining from initiating contempt proceedings at this stage, the respondents are granted four weeks' time to comply with the judgment dated 23.12.2021 and issue appointment orders in favour of the petitioners in accordance with law. The contempt petition is disposed of as such. It is made clear that in the event of failure to comply within the aforesaid period, the petitioners shall be at liberty to seek revival of the present contempt petition, whereupon appropriate proceedings shall be initiated in accordance with law.

**(MOHD. YOUSUF WANI))**  
**JUDGE**

**(SANJEEV KUMAR)**  
**CHIEF JUSTICE(A)**

Jammu  
Sanjeev  
11.08.2026

*Whether the order is speaking: Yes*  
*Whether the order is reportable: Yes*