

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

SWP No. 1234/2015

Reserved on: 02.02.2026
Pronounced on : 13.02.2026
Uploaded on : 13.02.2026
Whether the operative part or full
judgment is pronounced: Full

Kasturi Lal

....Petitioners

Through:- Mr. D. S. Chauhan, Advocate.

V/s

State of J&K & Ors

.....Respondents

Through:- Mr. Suneel Malhotra, GA

CORAM: HON'BLE MR. JUSTICE SANJAY DHAR, JUDGE

(JUDGMENT)

01. The petitioner has challenged the final seniority list of the Secretaries issued by respondent No. 2 to the extent of placement of respondents No. 3 to 5 with a prayer for re-fixing of seniority. Challenge has also been thrown to promotion/confirmation of respondents No. 3 to 5 as Executive Officers; with a further direction to the official respondents to consider the petitioner for promotion/confirmation to the post of Executive Officer with effect from the date respondents No. 3 to 5 were accorded promotion in terms of Government Order

No. 21-HUD of 2015 dated 23.01.2015 and to grant grade attached to the post of Executive Officer to the petitioner w.e.f., 14.01.2010.

02. According to the petitioner, he came to be appointed as an Electrician in Municipal Council, Rajouri on 21.11.1979 and he was promoted to the post of Store Keeper on 25.03.1986. Thereafter, the petitioner was promoted to the post of Senior Assistant on 15.01.1987 and to the post of Secretary/Head Assistant on 15.01.1997. It is being claimed that the petitioner was given the charge of Executive Officer w.e.f., 14.01.2010. It has been further stated that vide Government Order No. 215-HUD of 2003 dated 28.08.2003, pay scale of Rs. 6500-10500 was accorded to all the Secretaries working in Local Bodies w.e.f., 28.08.2003 and the petitioner was also granted the said benefit.

03. According to the petitioner, a tentative seniority list dated 09.12.2013 of the Secretaries was issued to which the petitioner filed his objections but without considering his objections, final impugned seniority list came to be issued wherein the petitioner was placed at serial No. 6 but the respondents No. 3 and 4, who rank junior to him, were placed above him. It has been also submitted that vide Government Order No. 21-HUD of 2015 dated 23.01.2015, respondents No. 3 to 5 have been granted promotion to the post of Executive Officers but the claim of the petitioner has not been considered.

04. The petitioner has challenged the impugned action of the respondents primarily on the ground that he ranks senior to respondents No. 3 to 5, as such, he is entitled to be promoted as Executive Officer with effect from the date respondents No. 3 to 5 were accorded promotion to the said post. It has been contended that impugned final seniority list issued by respondent No. 2 wherein the petitioner has been shown at serial No. 6, below respondents No. 3 and 4, is liable to be quashed because the petitioner was appointed prior in point of time to the aforesaid two respondents.

05. Official respondents as well as the private respondent Nos. 3 and 4 have contested the writ petition by filing their separate replies.

06. In their reply, official respondents have contended that the petitioner was promoted as Head Assistant/Secretary along with others by the DPC in the pay scale of Rs. 5000-8000 in terms of Order No. 352-DULBJ of 2004 dated 22.11.2004. It has been submitted that vide Government Order No. 215-HUD of 2003 dated 28.08.2003, the pay anomaly of the Secretaries was removed and they were placed in the pay scale of Rs. 6500-10500 and the said scale was made applicable to all full-fledged Secretaries. However, President of Municipal Committee, Sunderbani placed the petitioner in the grade of Rs. 6500-10500 retrospectively in terms of his order dated 18.04.2006. The said order came to be rescinded by respondent No. 2 by virtue of order No. 05

dated 10.01.2008 as the President, Municipal Committee, Sunderbani was not vested with administrative power to place the petitioner in higher pay scale. It has been submitted that aforesaid order was challenged by the petitioner by filing writ petition-SWP No. 226 of 2008 and the order was stayed by this Court in terms of order dated 29.02.2008. It has been further submitted that vide order dated 06.01.2012, the petitioner along with others was designated as the Secretary notionally w.e.f., 22.11.2004.

07. Regarding respondent No. 3, it has been submitted that he was directed to work as the Secretary in the pay scale of Rs. 5000-8000 vide order dated 18.10.2002 and in terms of Government Order dated 28.08.2003, which cleared the pay anomaly of the Secretaries, respondent No. 3 was placed in the pay scale of Rs. 6500-10500. Regarding respondent No. 4, it has been submitted that he was promoted as Secretary in the pay scale of Rs. 5000-8000 by the DPC vide order dated 06.04.2005 and later on vide order dated 06.01.2012, he was designated as Secretary along with others w.e.f., 22.11.2004. In respect of respondent No. 5, it has been submitted that he was promoted to the post of Receptionist in the pay scale of Rs. 5000-8000 vide order dated 20.05.2009. It has been further submitted that the post of Receptionist was re-designated as Secretary vide order dated 26.04.2010. It has also been submitted that the post of Secretary was upgraded in the pay

scale of Rs. 6500-10500 vide order dated 15.12.2010 w.e.f., 18.12.2008.

08. The official respondents have claimed that tentative seniority list of the Secretaries was issued on 09.12.2013 for inviting objections whereafter the final seniority list was issued wherein respondents No. 3, 4 and 5 figured at serial Nos. 4, 5 and 8 and the petitioner figured at serial No. 6. It has been submitted that vide Government Order No. 21-HUD of 2015 dated 23.01.2015, respondents No. 3, 4 and 5 were promoted as per their seniority and reservation rules. It has been submitted that respondent No. 5 has been confirmed as Executive Officer on the basis of reservation roster applicable to Scheduled Caste candidates under the reservation rules.

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

10. The grievance of the petitioner in short is that he was promoted to the post of Secretary on 15.01.1997 in terms of order dated 18.04.2006 issued by President, Municipal Committee, Sunderbani whereas, respondent No. 3 was promoted to the said post on 28.08.2003, respondent No. 4 was promoted to the said post on 22.11.2004 and respondent No. 5 was promoted to the said post on 18.12.2008. Therefore, in the impugned seniority list of the Secretaries, the petitioner could not have been placed below respondents No. 3 and 4, who were promoted to the said post after the promotion of the petitioner.

11. In the above context, it is to be noted that order dated 18.04.2006 issued by the President Municipal Committee, Sunderbani, which accorded retrospective effect to the promotion of the petitioner as Secretary w.e.f., 15.01.1997, was rescinded by respondent No. 2 on the ground that President of the Municipal Committee is not the competent authority to accord approval to the retrospective effect to the promotion of the petitioner. An order to this effect came to be issued by respondent No. 2 on 10.01.2008.

12. It seems that the aforesaid order was challenged by the petitioner by way of writ petition bearing SWP No. 226 of 2008 before this Court. Initially the said order dated 10.01.2008 was stayed by this Court but later on vide order dated 11.11.2021, the writ petition came to be dismissed and the interim order was vacated. A copy of order dated 11.11.2021 has been produced by learned counsel for the respondents during the course of hearing.

13. Once order dated 18.04.2006 issued by President, Municipal Committee, Sunderbani whereby retrospective effect to the promotion of the petitioner as Secretary was granted stands rescinded, retrospective effect to his promotion vanishes and it is to be treated that he has been promoted to the post of Secretary w.e.f., 22.11.2004 in terms of order dated 06.01.2012. Thus, the very basis of the claim of the petitioner that he ranks senior to respondents No. 3 and 4 vanishes.

14. The stand of the official respondents is that respondent No. 3 was promoted as Secretary on 18.10.2002 whereas petitioner and respondent No. 4 were promoted as Secretaries w.e.f., 22.11.2004, therefore, respondent No. 3 has to rank senior to both respondent No. 4 as well as to the petitioner in the grade of Secretaries. Although, the petitioner and respondent No. 4 were promoted as Secretaries on the same date but initial date of appointment of the petitioner is 21.11.1979 whereas, respondent No. 4 was appointed on 01.06.1977. Therefore, the said respondent has to rank senior to the petitioner.

15. So far as respondent No. 5 is concerned, it is the stand of the official respondents that he belongs to SC category and he has been granted promotion on account of reservation policy ahead of his seniors and has been placed in the grade of Executive Officer in terms of Government Order dated 23.01.2015 along with respondents No. 3 and 4. The petitioner as such, cannot have any grievance with regard to grant of promotion to respondent No. 5 because he belongs to Open Merit category. Respondent No. 5, being a reserved category employee, is entitled to reservation in promotion as per the roster point so the petitioner cannot claim parity with him.

16. For what has been discussed hereinbefore, the claim of the petitioner that he is entitled to seniority over and above respondents No. 3 and 4 in the cadre of Secretaries is without any basis once retrospective effect to his promotion as

Secretary stands rescinded. His claim for promotion to the post of Executive Officer on the ground that respondent No. 5 despite being junior to him has been promoted to the said post is also without any merit because respondent No. 5 is a reserved category candidate, hence entitled to promotion as per the roster point applicable to him.

17. For what has been discussed hereinbefore, there is no merit in this petition. The same is, accordingly dismissed.

JAMMU
13.02.2026
Naresh/Secy.

(SANJAY DHAR)
JUDGE

Whether the judgment is speaking: **Yes**

Whether the judgment is reportable: **No**

