

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

**WP(C) 151/2026
CM(319/2026)**

Date of Order: 06.02.2026

1. Union Territory of J&K Through
Commissioner Secretary to
Government, Higher Education
Department, Civil Secretariat,
Srinagar, Jammu and Kashmir
190001.
2. Under Secretary to
Government, Higher
Education Department, Civil
Secretariat, Srinagar, Jammu
and Kashmir 190001.

...Petitioner(s)

Through: Mr. Ilyas Nazir Laway, GA.

Vs.

1. Rayees Ahmad Dar, Aged 47
Years S/o Habib Ullah Dar R/o
Jamia Masjid, Baramulla, 193101.
2. Rumana Gulzar Matoo, Aged 48
Years D/o Ghulam Muhammad
Matoo R/o House No. 22,
Kanitar, Nasee, Abad, Saderbal,
Hazratbal, Srinagar, 190006
3. J&K Public Service Commission
Through its Secretary Solina,
Rambagh, Srinagar, 190009.
4. Rashpal Singh S/o Kulwant
Singh R/o Master Hakim Singh
Colony, Talab Tillo, Camp Gole
Gujral, Jammu.
5. Javid Gani Dar S/o Ab Gani Dar
R/o Bogund P.O Danow Bogund,
Tehsil & District Kulgam.

...Contesting Respondents

...Proforma Respondent(s)

Through: Mr. Shah Aamir, Advocate for R-3.
Mr. Meharban Singh, Advocate for Caveator/
Respondent Nos. 4 and 5.

CORAM:

HON'BLE MS. JUSTICE SINDHU SHARMA, JUDGE.
HON'BLE MR. JUSTICE SHAHZAD AZEEM, JUDGE.

ORDER

06.02.2026

01. The petitioners through the medium of the instant writ petition, have assailed the order dated 10th November, 2025 passed by the learned Central Administrative Tribunal, Srinagar Bench (for short the Tribunal) in OA No. 632/2023 titled "*Rayees Ahmad Dar vs Higher Education Department*", whereby the Tribunal modified its earlier order and directed the petitioners herein to create two supernumerary posts for the respondent Nos. 4 and 5 herein, within a period of six weeks.

02. The Jammu & Kashmir Public Service Commission (JKPSC) vide Notice No. 12-PSC(DR-P) of 2014 dated 29th May, 2014, invited applications for 11 (Eleven) posts of Assistant Professor in the discipline of Statistics, with the following: break up:

OM (06); RBA (02); SC (01); ST (01); ALC (01)

03. The selection process was concluded and since one post in the Open Merit Category was reserved on the directions of this Court, therefore, selection list of five candidates under Open Merit Category was issued. After disposal of the Letters Patent Appeal bearing LPA(SW) 29/2017, recommendation in favour of sixth candidate in Open Merit Category was also issued by the JKPSC

and the selected candidates were appointed and are working in different colleges in the Higher Education Department.

04. Two candidates, namely, Rashpal Singh and Javid Gani Dar (proforma respondents herein) aggrieved of their non-selection, filed a compliant with the JKPSC on the ground that the merit of two candidates, namely, Dr. Rayees Ahmad Dar and Dr. Rumana Gulzar (contesting respondents herein) had been wrongly calculated, which had raised their aggregate marks, resulting in their selection/appointment.

05. In order to settle the issue, JKPSC constituted a Committee to look into the allegations. The Committee after examining the available record, was of the view that the merit of the two aggrieved candidates (i.e. Rashpal Singh and Javid Gani Dar) was higher than the selected candidates and it is only due to inadvertent error caused in the calculation of their marks, which resulted in recommending the selected candidates for appointment.

06. The JKPSC vide its notice dated 12th May, 2018 asked the respondents Nos. 1 and 2 to defend their case, in view of the fact that the discrepancies as pointed out in the complaint filed by the contesting respondents herein, were endorsed by the Committee constituted by the Commission and also supported by the panel of Experts. This notice was challenged by the contesting respondents by way of a writ petition bearing SWP No. 1115/2018. The said writ petition was transferred to the Tribunal and the Tribunal in terms

of its order dated 15th April, 2021, quashed impugned notices issued to the selected candidates.

07. The JKPSC again vide its communication dated 15th July, 2021 forward the case of the contesting respondents herein, to the Higher Education Department and accepted that the proforma respondents herein had secured higher marks than that of the respondent Nos. 1 and 2, however, expressed its inability to recommend candidature to the Government in view of the fact that no post is available with the Commission in the relevant category.

08. In response to communication dated 15th July, 2021, the Higher Education Department in terms of communication dated 20th August, 2021 asked the Commission to provide clear cut recommendations in favour of the proforma respondents herein. Accordingly, the Higher Education Department issued Show Cause Notice to the selected candidates i.e. respondent Nos. 1 and 2 herein on 2nd August, 2023 to explain their position, as to why their appointment as Assistant Professor should not be cancelled ab-initio.

09. Both the respondent Nos. 1 and 2 filed an Original Application being OA No. 632/2023 titled "*Rayees Ahmad Dar & Anr vs Union Territory of J&K and Ors*" before the Tribunal and the Tribunal in terms of its order dated 10th August, 2023 stayed the notice dated 2nd August, 2023. Meanwhile, while the matter was still pending consideration, the Tribunal vide impugned order dated

10th November, 2025 modified its earlier order and directed the respondents/petitioners herein to proceed in light of the recommendations made by the Committee for creating two supernumerary posts for respondents-Rashpal Singh and Javid Gani Dar, within a period of six weeks.

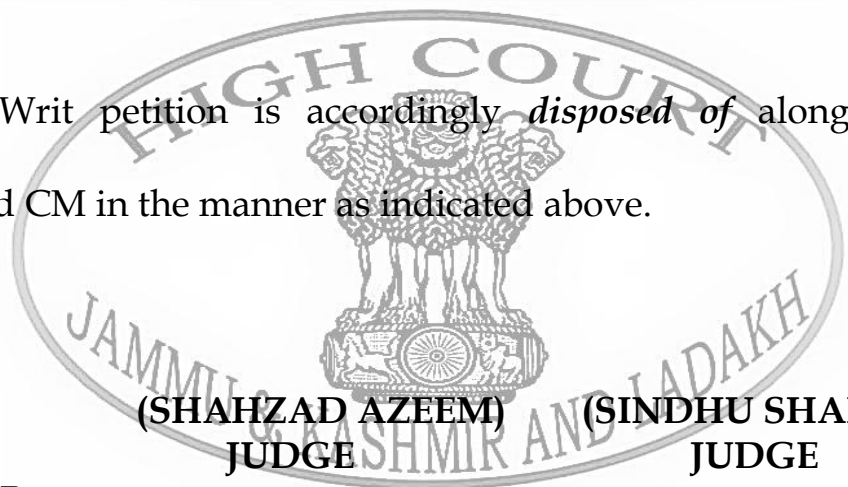
10. The contention of the petitioners is that the learned Tribunal without appreciating the facts and circumstances of the matter, has passed an order which has the effect of finally considering the O.A. The petitioners have only issued a show notice to the contesting respondents to explain their merit position in the light of the recommendations made by the enquiry committee, though the Tribunal has directed maintaining of status quo regarding the present position of the respondent Nos. 1 and 2, but the Tribunal has also directed creation of supernumerary posts for two candidates, which is beyond the jurisdiction of the Tribunal.

11. Since the matter is pending consideration before the Tribunal and only interim order has been modified and keeping in view the fact that OA is still pending consideration, therefore, we are in agreement with the submissions made by the learned counsel for the petitioners that without finally deciding the OA, the order directing creation of supernumerary posts, could not have been passed. The recommendations of the Enquiry Committee were only recommendatory in nature and did not carry any binding force effect upon the petitioners. By directing creation of supernumerary

posts at an interim stage, the Tribunal has exceeded its jurisdiction, while passing the order impugned, without deciding the *lis*. The issue regarding the fact that the respondents are entitled to continue on the post to which they have been erroneously appointed is yet to be adjudicated by the Tribunal.

12. Having regard to the aforesaid facts and circumstances, the direction in the impugned order dated 10th November, 2025, insofar as it relates to creation of two supernumerary posts in favour of the proforma respondents, shall stay. The Tribunal is directed to decide the matter expeditiously, preferably within a period of three months, from the date of receipt of copy of this order.

13. Writ petition is accordingly *disposed of* along with connected CM in the manner as indicated above.



SRINAGAR:

06.02.2026

"HAMID"

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| ❖ | Whether Order is Speaking? | Yes/No. |
| ❖ | Whether Order is Reportable? | Yes/No |