

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

**WP(C) 686/2026
CM(1736/2026)**

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

**2. Under Secretary to Government,
Higher Education Department, Civil
Secretariat, Srinagar, Jammu and
Kashmir.**

...Petitioner(s)

Through: Mr. Ilyas Nazir Laway, GA

Vs.

**1. Dr. Waseem Raja
S/O: Shri Ghulam Nabi
R/O: Tiken, Butapora, Pulwama.**

**2. J&K Public Service Commission
through its Secretary Solina,
Rambagh, Srinagar.**

**3. Sumira Jan
D/O: Mohammad Ismail Dar
R/O: Dangerpora, Nanil, Anantnag.**

**4. Javaid Ahmad Wagay
S/O: Ghulam Ahmad Wagay
R/O: House No. 138, New Colony,
Tiken Butapora, Pulwama.**

...Respondent(s)

**Through: Mr. Jahangir Iqbal Ganie, Sr. Advocate with
Mr. Mir Kamil Nazir, Advocate
Mr. Shah Amir, Advocate for R-2.**

CORAM:

**HON'BLE MR. JUSTICE SANJEEV KUMAR, JUDGE.
HON'BLE MR. JUSTICE SANJAY PARIHAR, JUDGE.**

ORDER (ORAL)

18.04.2026

01. Impugned in this petition filed by the petitioners under Article 226 of the Constitution of India is an order and judgment dated 26th February, 2025, passed by the Central Administrative Tribunal, Srinagar Bench [“the Tribunal”] in OA No. 638/2023 in case titled “*Waseem Raja Vs. Union Territory of J&K and Ors.*”, whereby the Tribunal has allowed the OA of the respondent No. 1 herein and, by a Writ of Certiorari, quashed order No. PSC/DR/AP/Botany/2019 dated 6th June, 2023 and a show cause notice bearing No. Head-GAZ/176/2023 dated 3rd August, 2023.

02. The Tribunal has directed the petitioners herein to consider the case of respondent No. 1 herein for his appointment as Assistant Professor in the discipline of Botany against any vacancy which is unfilled as on date. There is a further direction to the petitioners herein to accommodate respondent No. 1 herein by creating a supernumerary post in the event no vacancy of Assistant Professor (Botany) is available in the Department.

03. Impugned judgment is assailed by the petitioners herein on multiple grounds. Before we advert to the grounds of challenge urged by Mr. Ilyas Laway, learned Government Advocate appearing for the petitioners, we deem it appropriate to narrate few facts which are relevant to the disposal of this petition.

04. Vide Advertisement Notification No. 12-PSC (DR-P) of 2014 dated 29th May, 2014, the Jammu & Kashmir Public Service Commission ["PSC"] invited applications for making recruitment to 71 posts of Assistant Professors in the discipline of Botany in the Department of Higher Education. The candidates who were possessing degrees in Applied Botany/Environmental Botany were declared ineligible by the PSC. The aggrieved candidates approached this Court by way of SWP No. 1817/2016 titled "**Javed Ahmad Wagay Vs. State and Ors.**" and SWP No. 2442/2016 titled "**Sumiya Jamshieed and Ors. Vs. State and Ors.**"

05. Pursuant to the interim directions passed, the petitioners in the aforesaid two writ petitions were allowed to participate in the process of viva voce. The PSC notified the selection list vide notification No. 30 PSC (DR-S) of 2017 dated 14th June, 2017. However, due to the interim directions passed by the Court in the aforesaid writ petition four (04) posts under Open Merit (OM) category were kept reserved.

06. In another batch of petitions, this Court vide order dated 29th July, 2016 directed the PSC to finalize the selection process. These writ petitions i.e., SWP No. 1543/2016 titled "**Sanjeev Kumar Vs. State**" and SWP No. 81/2017 titled "**Deepu Pandita Vs. State and Ors.**" were dismissed in terms of order dated 21 February, 2018, whereas the writ petitions SWP No. 1817/2016 titled "**Javed Ahmad Wagay Vs. State and Ors.**" and SWP No. 2442/2016 titled "**Sumiya Jamshieed and Ors Vs. State and Ors.**"

were transferred to the Central Administrative Tribunal, Jammu Bench, and the Tribunal having considered the matter came to conclusion that there was no merit in the petitions and accordingly dismissed the same vide order dated 7th November, 2021.

07. The Judgment of the Tribunal dated 7th November, 2021 came to be challenged before this Court in WP(C) No. 2653/2021 titled "*Javed Ahmad Wagay Vs. U.T of J&K and Ors.*" and WP(C) No. 2665/2021 titled "*Sumiya Jamshieed and Anr. Vs. U.T of J&K and Ors.*" before the Division Bench of this Court. This Court vide order dated 20th December, 2021 directed to keep one post of Assistant Professor in the discipline of Botany in the case of Javed Ahmad supra and two posts of Assistant Professors in the discipline of Botany in the case of Sumiya Jamshieed, reserved.

08. The two cases were clubbed together and were finally disposed of by this Court vide order and judgment dated 7th April, 2023. The judgment of the Tribunal impugned in the writ petitions was set aside and a direction was issued to the petitioners herein to consider the candidature of the petitioners in the said two writ petitions and recommend their candidature for appointment if they would fall in the zone of consideration.

09. It seems that view a view to complying with the judgment of this Court the matter was taken up for consideration by the PSC in its 10th Meeting held on 9th May, 2023, in which the Commission decided to accommodate the two of the three petitioners against the two posts reserved by it and decided to

accommodate the third petitioner namely Ms. Sumaira Jan by withdrawing the selection and appointment of Mr. Waseem Raja-respondent No. 1 herein.

10. The appointment of Mr. Waseem Raja-respondent No.1 herein was withdrawn on the ground that he was a candidate last selected under the Open Merit and had secured lesser merit than Ms. Sumaira Jan. This was done by the PSC vide letter No. PSC/DR/AP/Botany/2019 dated 6th June, 2023. Upon receipt of the communication from the PSC, the Department of Higher Education issued a show cause notice to the respondent No. 1 herein calling upon him to explain as to why his candidature be not withdrawn/cancelled.

11. This is how the respondent No. 1 was constrained to approach the Tribunal by filing OA No. 638/2023. The Tribunal, having considered the rival contentions and the material on record, came to the conclusion that since, in terms of the interim directions passed by this Court in the two writ petition one filed by Mr. Javed Ahmad (supra) and the other filed by Ms. Sumiya Jamshieed (supra,) there were three posts kept reserved and, therefore, there could not have been any difficulty for the petitioners herein to accommodate all the three petitioners, more so, when they had succeeded in their writ petitions and were possessing the requisite merit and eligibility.

12. The Tribunal was, however, apprised by the petitioners herein that though there were interim directions to keep three

posts reserved yet due to oversight only two posts had been kept reserved by the PSC and, therefore, it would not be possible to accommodate all the three petitioners without withdrawing the candidature of at least one candidate i.e., the candidate who is the last selected candidate.

13. The Tribunal allowed the OA and passed the directions which have already referred to hereinabove. It is this order and judgment of the Tribunal which has been called in question by the petitioners herein before this Court.

14. Having heard learned counsel for the parties and perused the material on record, we are of the considered opinion that the judgment passed by the Tribunal is perfectly legal both on facts and law and, therefore, calls for no interference. Admittedly, there were three posts directed to be kept reserved in terms of the interim orders passed by this Court in SWP No. 1817/2016 titled *"Javed Ahmad Wagay Vs. State and Ors."* and SWP No. 2442/2016 titled *"Sumiya Jamshieed and Ors Vs. State and Ors"* respectively. Both the writ petitions have been allowed in favour of the writ petitioners therein and, therefore, it was incumbent upon the petitioners and the PSC to offer appoint to all the three petitioners in the aforesaid writ petitions against the three posts reserved.

15. It seems that the PSC did not carry out the mandate of the interim directions passed by this Court in the aforesaid two

writ petitions and, on its own, reserved only two posts as against three posts as directed by this Court.

16. Be that as it may, since the three posts of Assistant Professors in the discipline of Botany were directed to be kept reserved, as such, it has to be presumed that the three posts were available with the PSC as well as with the petitioners herein for accommodating the writ petitioners in SWP No. 1817/2016 titled "*Javed Ahmad Wagay Vs. State and Ors.*" and SWP No. 2442/2016 titled "*Sumiya Jamshieed and Ors Vs. State and Ors.*"

17. We do not see any good reason or justification in the impugned communication of the PSC as well as the show cause notice issued by the petitioners herein for withdrawing/cancelling the appointment of the respondent No. 1 herein, who was neither a party in the aforesaid two writ petitions nor his appointment/selection was assailed in any petition. That apart, the PSC having failed to carry out the mandate of the interim directions passed by this Court, is under an obligation to make three posts available for appointment of the three petitioners without disturbing the appointment of the respondent No. 1 herein.

18. With a view to sort out the matter, we had called upon Mr. Ilyas Laway, learned Government Advocate appearing for the petitioners herein to ascertain whether any vacancy of Assistant Professors in the discipline of Botany was lying vacant with the petitioners herein or not, and he has submitted that twenty one

(21) posts of Assistant Professors in the discipline of Botany are available in the Department which are yet to be referred to the PSC for selection.

19. In view of the aforesaid submission made by the learned Government Advocate for the petitioners herein, there is no difficulty in accommodating the respondent No. 1 herein by allowing him to continue in service by utilizing one of the twenty one (21) available posts. *Ordered accordingly.*

20. With the slight modification which we have made hereinabove, we uphold the judgment of the Tribunal and consequently dispose of the writ petition accordingly. The petitioners herein shall do well to complete the entire exercise as directed above within a period of two months from today.

21. *Disposed of.*

(SANJAY PARIHAR)
JUDGE

(SANJEEV KUMAR)
JUDGE

SRINAGAR:

18.04.2026

"Mir Arif"

- (i) Whether the order is reportable? Yes/No.
- (ii) Whether the order is speaking? Yes/No.