

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

LPA 128/2025
In [SWP 696/2017]

1. Union Territory of J&K through
Commissioner/Secretary to
Government, Housing and Urban
Development Department, Civil
Secretariat, Srinagar.

2. Director, Urban Local Bodies
Kashmir.

3. Executive Officer, Municipal
Committee, Chadoora, Bugam.

...Appellant(s)

Through: Mr. Ilyas Nazir Laway, GA

Vs.

Shafqat Rasool Bhat
S/O: Kh. Ghulam Rasool Bhat.
R/O: Udipora, Tehsil Handwara
District: Kupwara.

...Respondent(s)

Through: Mr. Musavir Mir, Advocate

CORAM:

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

ORDER(ORAL)

04.08.2026

01. This intra-court appeal by the Union Territory of J&K and two others arises out of an order and judgment dated 30th August, 2024, passed by the learned Single Judge of this Court ["the Writ Court"] in SWP No. 696/2017 titled "*Shafqat Rasool Bhat Vs. State of J&K and Ors.*", whereby the writ Court partly allowed the writ petition filed by the respondent and quashed the order dated 10.04.2017, whereby the appellants had rescinded the

order dated 19.10.2002, adjusting the respondent as Computer Operator in the then pay scale of Rs. 5000-8000. However, the impugned order, to the extent it rescinded the respondent's promotion/placement as Incharge Secretary, Municipal Committee, Chadoora, made in terms of order dated 30.10.2010, was upheld.

02. Briefly stated, the facts leading to the filing of the present appeal are that the respondent was initially appointed as Junior Assistant in the year 2002 vide order dated 21.06.2002, and was subsequently adjusted against the post of Computer Operator in the then pay scale of Rs. 5000-8000 vide order dated 19.10.2002. Although the adjustment of the respondent as Computer Operator was initially for a period of three months, but he was later on confirmed and was allowed to hold the post of Computer Operator substantively till the year 2010.

03. Vide Order No. DULB/Estt/793-062010 dated 30th October, 2010, the respondent was promoted to function as Incharge Secretary, Municipal Committee, Chadoora. The said placement of the respondent as Incharge Secretary, Municipal Committee, Chadoora, was assailed by Mr. Tariq Ahmad Ganie and another in SWP No. 2697/2012, which was disposed of by a learned Single Judge of this Court in terms of order dated 22.12.2014, with a direction to the appellants herein to accord consideration to the claim of the petitioners therein.

04. It appears that instead of considering the claim of the petitioners in SWP No. 2697/2012, the appellants issued Order No. DULB/CC/622/16/PS/601-30 dated 30.05.2016, rescinding the orders dated 19.10.2002 and 30.10.2010, whereby the respondent was adjusted as Computer Operator and Incharge Secretary, respectively. This order was called in question by the respondent in SWP No. 1170/2016, which was disposed of by the learned Single Judge of this Court vide order dated 03.06.2016. The order impugned dated 30.05.2016 in the writ petition bearing SWP No. 1170/2016 was set aside with a liberty to the appellants to pass appropriate orders after affording an opportunity of hearing to the respondent. It was in pursuance to the aforesaid directions of this Court that Order No. DULB/CC/677/2016/PS/511 of 2017 dated 10.04.2017 came to be passed by the appellants, whereby the orders dated 19.10.2002 and 30.10.2010 (supra) were again rescinded. The said order dated 10.04.2017 was made subject matter of challenge by the respondents in SWP No. 696/2017, which has been disposed of by the writ Court in terms of the impugned judgment dated 30.08.2024.

05. The impugned judgment has been called in question by the appellants primarily on the ground that the writ Court has failed to appreciate that the adjustment of the respondent as Computer Operator vide order dated 19.10.2002 was made against a non-existent post and, therefore, he could not have been permitted to continue on such post. It is submitted that prior to the

year 2008, there were no recruitment rules governing appointments to the non-gazetted service in the Department of Urban Local Bodies. The statutory rules, namely the J&K Urban Local Body Institutions (Management) Recruitment Rules, 2008, came to be promulgated vide SRO 417 dated 18.12.2008. It was argued that the Schedule appended to the said Rules does not contain the post of Computer Operator.

06. Having heard learned counsel for the parties and perused the material on record, we are of the considered opinion that the writ Court has correctly appreciated the controversy and by invoking its equitable jurisdiction under Article 226 of the Constitution, rightly saved the appointment of the respondent as Computer Operator made on 19.10.2002.

07. The writ Court has rightly taken note of the fact that the appointment of the respondent as Computer Operator remained without any challenge from any quarter for almost 14 years, and it was only when his placement as Incharge Secretary, Municipal Committee, Chadoora was assailed by some of the Junior Assistants, who were apparently senior to him, that his appointment as Computer Operator came under scrutiny.

08. It needs to be pointed out that in SWP No. 2697/2012, filed by Mr. Tariq Ahmad Ganie and another, the petitioners had not thrown challenge to the appointment of the respondent as Computer Operator, rather their grievance in the petition was that

he being junior to them could not have been placed as Incharge Secretary of Municipal Committee, Chadoora. The Court also did not quash the appointment of the respondent as Computer Operator, rather directed the appellants herein to consider the grievance of the petitioners in the said writ petition.

09. Ordinarily, the appellants ought to have complied with the said direction by considering the grievance of the petitioners. However, with a view to deny them their claim, the appellants herein chose to withdraw the order dated 19.10.2002, whereby the respondent was adjusted as Computer Operator and later confirmed on the said post.

10. In the given facts and circumstances, the learned Single Judge has struck a fair and equitable balance. In the exercise of its discretionary and equitable jurisdiction vested under Article 226 of the Constitution of India, the writ Court has rightly saved the appointment of the respondent as Computer Operator made on 19.10.2002, particularly when the same had remained undisturbed for nearly fourteen years. At the same time, the writ Court, being conscious of the fact that the post of Computer Operator does not find place in the Schedule appended to the J&K Urban Local Body Institutions (Management) Recruitment Rules, 2008, rightly upheld the impugned order insofar as it pertained to the withdrawal of the promotion/placement of the respondent as Incharge Secretary, Municipal Committee, Chadoora.

11. For the foregoing reasons, we find no merit in this appeal and no ground to interfere with the well-reasoned judgment rendered by the writ Court. Accordingly, the appeal is **dismissed**. We, however, make it clear that having regard to the peculiar facts and circumstances of the present case and the equitable jurisdiction exercised by the writ Court under Article 226 of the Constitution of India, this judgment shall be confined to the facts of the present case and shall not be treated as a precedent for any future similar cases.

(Mohd Yousuf Wani)
Judge

(Sanjeev Kumar)
Chief Justice (Acting)

SRINAGAR:

04.08.2026

"Mir Arif"

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

