

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

WP(C) No. 3231/2025
c/w WP(C) No. 3228/2025

Shazia Akhter and Anr.

...Petitioner(s)

Through: Mr. S.M. Ayoub, Advocate in WP(C) No. 3231/2025
Mr. S.A. Naik, Sr. Advocate with
Ms. Shazia Bashir, Advocate in WP(C) No. 3228/2025.

Vs.

Union Territory of J&K and Ors.

...Respondent(s)

Through: Mr. T.A Lone, Dy. AG

CORAM:

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

ORDER (ORAL)

31.08.2026

Chief Justice (A):

WP(C) No. 3228/2025:

01. The petitioner, namely Asif Yaqoob, has filed the instant petition seeking quashing of the judgment and order dated 22nd May 2025, passed by the Central Administrative Tribunal, Srinagar Bench, ["the Tribunal"] in TA No. 4786/2021, titled "*Shazia Akhter and Another v. State of Jammu and Kashmir and others*", and TA No. 141/2022, titled "*Asif Yaqoob v. State of Jammu and Kashmir and others*", whereby the Tribunal has allowed TA No. 4786/2021 and directed the respondents to act upon the pending recommendations and issue formal orders of appointment in favour of the petitioners therein, namely Ms. Shazia Akhter and Mr. Shahnawaz Ahmad Sheikh, against the two

posts of Class-IV (Watchman) which were kept reserved pursuant to an interim order dated 21st August, 2014 passed in SWP No. 1780/2014. The writ petition was later transferred to the Tribunal and registered as TA No. 4786/2021. However, the TA No. 141/2022, filed by the petitioner-Asif Yaqoob, was dismissed by the Tribunal.

02. The challenge to the judgment impugned by the petitioner-Asif Yaqoob is primarily on the ground that the Tribunal has failed to appreciate that the petitioner had a higher merit than petitioners of TA No. 4786/ 2021, namely Ms. Shazia Akhter and Mr. Shahnawaz Ahmad Sheikh, and, therefore, had a better right to be appointed as Class-IV (Watchman).

WP(C) No. 3231/2025:

03. The instant petition has been filed by Ms. Shazia Akhter and Mr. Shahnawaz Ahmad Sheikh, who were the petitioners in TA No. 4786/2021, assailing the judgment and order dated 22nd May 2025, passed by the Central Administrative Tribunal, Srinagar Bench.

04. The challenge in the present petition is confined to the extent that, while allowing the aforesaid TA, the Tribunal has failed to adjudicate upon and determine the real controversy involved in the matter, viz, the challenge to the entire selection process on the ground that the same was conducted on the basis of an irrational, arbitrary and legally unsustainable criteria.

05. Having heard learned counsel for the parties and perused the material available on record, it is necessary, at the outset, to notice a few relevant facts.

06. The respondent-Department notified Class-IV vacancies borne on district cadre Shopian through an Advertisement Notification dated 8th August, 2013. The posts notified included Watchman, Kandaman, Depot Assistant and Orderlies. Twenty out of these vacancies were of 'watchman' earmarked for Open Merit Category.

07. The selection process was envisaged to be undertaken on the basis of the marks obtained by the candidates in Matriculation carrying 60 points, 10+2 carrying 20 points, and Viva-Voce carrying 20 points. The candidates were to be shortlisted for the Viva-Voce in the ratio of 1:5 against the available vacancies.

08. The selection process was, accordingly, completed and a provisional selection list was published in the daily newspaper, Kashmir Uzma, on 1st August 2014, followed by publication of the final selection list in the daily newspaper Greater Kashmir on 18th August 2014. The selection list was also accompanied by a waiting list.

09. It appears that, out of the selected candidates, two candidates failed to join despite issuance of a final notice for joining dated 20th April 2015. In order to fill up the posts that had fallen vacant on account of the non-joining of the selected

candidates, the Assistant Director, Consumer Affairs and Public

Distribution Department, Shopian forwarded the names of the candidates figuring at Serial Nos. 1 and 2 of the waiting list, namely Mr. Asif Yaqoob and Mr. Sajad Ahmad Lone vide communication dated 7th May 2015.

10. Before the waiting list could be implemented and the aforementioned individuals appointed, the two candidates namely Ms. Shazia Akhter and Mr. Shahnawaz Ahmad Sheikh filed SWP No. 1780/2014 in this Court, in which this Court vide order dated 21st August, 2014, directed that the two Class-IV posts out of the twenty posts shall not be filled. It is because of this interim order the process for appointment of the candidates from waiting list could not proceed. This petition was ultimately transferred to the Tribunal and registered as TA No. 4786/2021.

11. Having been denied appointment despite being the candidate next in the order of merit, Mr. Asif Yaqoob also approached this Court by filing SWP No. 135/2016, which, upon transfer to the Tribunal, came to be registered as TA No. 141/2022. Both the aforesaid TAs were ultimately taken up for consideration together by the Tribunal and, in terms of the judgment impugned before us, the TA filed by Ms. Shazia Akhter and Mr. Shahnawaz Ahmad Sheikh was allowed, whereas the TA filed by Mr. Asif Yaqoob came to be dismissed. This is how Mr. Asif Yaqoob, as also Ms. Shazia Akhter and Mr. Shahnawaz Ahmad Sheikh, are before us in these two writ petitions.

12. We have given our thoughtful consideration to the matter in the light of the material available on record. We are of the considered opinion that the Tribunal has failed to appreciate the controversy in its proper perspective. No direction for appointment in favour of Ms. Shazia Akhter and Mr. Shahnawaz Ahmad Sheikh for their appointment could have been passed merely on the ground that in their writ petition this Court had kept two posts of Class-IV reserved, unless the Tribunal would have determined the issues raised by the said petitioners on merits and come to the conclusion that the selection process was vitiated.

13. The Tribunal, however, failed to determine the real controversy involved in the matter and proceeded to dispose of the TA filed by Ms. Shazia Akhter and Mr. Shahnawaz Ahmad Sheikh merely on the premise that two posts had been kept reserved pursuant to the interim order passed in their petition and, therefore, they could be accommodated against those posts.

14. The Tribunal failed to appreciate that the petitioner-Asif Yaqoob who was figuring as serial No. 1 of the wait list had a better right than that of the petitioners Ms. Shazia Akhter and Mr. Shahnawaz Ahmad Sheikh.

15. Having regard to the nature of controversy involved and the erroneous judgment passed by the Tribunal, it was a fit case for us to remand. We could have sent both the petitions back to the Tribunal for consideration afresh. However, having regard to

more particularly, keeping in view the fact that the selection pertains to the year 2013, it would be too late in the day to ask the Tribunal to adjudicate the controversy on merits afresh.

16. With a view to put a quietus to this litigation, we had vide our order dated 24th December, 2025, called upon the official respondents to indicate as to whether there was any post of Class-IV in addition to the two posts kept reserved in the writ petition filed by Ms. Shazia Akhter and Mr. Shahnawaz Ahmad Sheikh available in the Department, so that we could accommodate all the petitioners including Mr. Asif Yaqoob. The affidavit in terms of the order dated 24th December, 2025, has been filed by the Assistant Director, Consumer Affairs and Public Distribution Department, Shopian, a perusal whereof indicates that there are several posts of Class-IV available in the Department.

17. In view of the aforesaid information supplied by the official respondents and with a view to do complete justice between the parties and bringing an end to the long-drawn litigation, we are inclined to dispose of these petitions in the following terms:

- (i) The judgment and order dated 22nd May 2025, passed by the Central Administrative Tribunal, Srinagar Bench, in TA No. 4786/2021 and TA No. 141/2022, is set aside to the extent that it dismisses TA No. 141/2022.

- (ii) The official respondents are directed to appoint all the three petitioners, namely, Ms. Shazia Akhter, Mr. Shahnawaz Ahmad Sheikh in TA No. 4786/2021 and Mr. Asif Yaqoob in TA No. 141/2022, against the two posts of Class-IV (Watchman) which had remained vacant due to non-joining of the selected candidates and one post of Class-IV out of the 30 posts which are lying vacant with the respondents, subject to the fulfillment of the requisite eligibility and other formalities.
- (iii) The appointment of all the three petitioners shall be in the order of merit and prospective in nature.
- (iv) Let the formal order of appointment of all the three petitioners in these petitions be passed within a period of eight weeks from the date a copy of this judgment is served upon the respondents.

18. Disposed of.

(Mohd Yousuf Wani)
Judge

(Sanjeev Kumar)
Chief Justice (Acting)

SRINAGAR:

31.08 .2026

"Mir Arif"

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