

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

Date of Pronouncement: 27.12.2025

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WP(C) No.2656/2022

GHULAM HASSAN SOFI

...PETITIONER(S)

Through: Mr. M. M. Dar, Advocate.

Vs.

UT OF J&K & Ors.

...RESPONDENT(S)

Through: Mr. Ilyas Laway, GA.

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

ORDER(ORAL)

27.12.2025

1. The petitioner through the medium of present petition has challenged order No.DULB/Estt/488/867 of 2020 dated 07.12.2020, whereby, while granting monetary effect to two in-situ promotions in his favour, a direction has been issued for adjusting the same for compensating the recovery of excess amount drawn by the petitioner on account of unauthorized promotion and upgradation. It has been further directed that the remaining excess amount shall be recovered from the petitioner and recorded in his service book.

2. As per pleadings of the parties, initially the petitioner came to be regularized by the respondent as a Lineman w.e.f. 01-04-1984 in the pay scale of Rs.345-460 and later on vide order dated 05.07.1994, the said post was re-designated as Tax Supervisor in the pay scale of Rs.950-1500 w.e.f. 02.12.1996. One of the similarly situated employees, namely, Shri Roshan Lal Raina, approached this Court and sought release of grade attached to the post of Tax Supervisor, on the ground that the said post is supervisory in nature and, as such, it should carry a higher grade. Pursuant to order of the Court, Shri Roshan Lal Raina was placed in the higher pay scale of Rs.5000-8000.

3. The petitioner is stated to have made a request to the respondents to accord him the same treatment, but his request was not considered and he had to approach this Court by way of writ petition bearing SWP No.846/2007. An interim order came to be passed by this Court in the said writ petition directing the respondent to accord consideration to the claim of the petitioner. In pursuance of the aforesaid order, the respondents issued order dated 01-08-2008 and the petitioner was granted the pay scale of Rs.5000-8000 attached to the post of Tax Supervisor with effect from 31-03-1999. The said order was confirmed by respondent No. 2 vide his order dated 01-10-2010.

4. The petitioner is stated to have filed an interim application in the aforesaid petition seeking his placement at an appropriate place in the

seniority list and on 12-02-2016, the Court directed the respondents to consider the claim of the petitioner with regard to his placement in the seniority list. However, in the year 2018, when the tentative seniority list was issued, the petitioner was not given appropriate place in the said list. Instead, on 07-12-2020, the impugned order came to be issued by the respondents, whereunder upgradation/revision of pay of the petitioner vide order dated 01.08.2008, was withdrawn and he was granted two in-situ promotions for the intervening period. It was further directed that the arrears of pay shall be appropriated towards recovery of excess amount on account of unauthorized promotion/upgradation.

5. The petitioner is stated to have filed a review petition with respondent No.2. On 09-09-2021, a Committee Of Officers was constituted for verification of orders and also for reviewing the settlement of in-situ promotion order. The Committee was reconstituted vide order dated 19-12-2022. It seems that during the pendency of the present writ petition, the Committee submitted its report in which it recommended that because the order of upgradation/promotion of petitioner in the pay scale of Rs.5,000 - 8,000 stands withdrawn vide order dated 07-12-2020, the petitioner is entitled to three in-situ promotion if he has not availed any other functional promotion.

6. When the aforesaid development was brought to the notice of this Court by learned counsel for the petitioner, an order came to be passed by this Court on 18-11-2025 whereby the learned counsel for the respondents was asked to inform this Court as to what action has been taken by the respondent on the basis of the aforesaid report of the Committee.

7. Pursuant to the aforesaid direction, the respondents have filed compliance report dated 23-12-2025, wherein it has been submitted that in the light of the report of the Committee, the case of the petitioner was considered and it was found that he has already availed one regular promotion in the shape of upgradation/re-designation and two in-situ promotions, therefore, he is not entitled to third in-situ promotion, as has been recommended by the Committee. Consideration order been issued by the respondents vide order No.DULB/Estt/488/1022 of 2025 dated 19-12-2025, a copy whereof has been annexed with the compliance report.

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

9. The stand of the respondents while issuing the impugned order dated 07-12-2020 is that the upgradation/promotion granted to the petitioner from pay scale of Rs 950-1500 to Rs 1200-2040 w.e.f. 31.03.1999 was in violation of the rules and, as such, the same has been withdrawn. Once the upgradation/ promotion of the petitioner

has been withdrawn by the respondents, it does not lie in their mouth to state that the petitioner has been granted one functional promotion and, therefore, he is not entitled to third in-situ promotion while passing consideration order dated 19-12-2025. The stand of the respondents that the petitioner has been granted one functional promotion and, therefore, he is not entitled to third in-situ promotion, contradicts their stand that the functional promotion granted to him has been withdrawn.

10. It has been recorded in the impugned order dated 07-12-2020 as also in the consideration order dated 19-12-2025 that the petitioner was granted upgradation/functional promotion when the post of Lineman was re-designated as Tax Supervisor and the pay scale of Rs. 950-1500 was released in his favour vide order dated 02-12-1996. It is being contended that since one functional promotion was granted to the petitioner during his service career, therefore, he is not entitled to third in-situ promotion.

11. In the above context, if we have a look at the record, services of the petitioner were regularized initially on the post of Lineman w.e.f. 01.04.1984. The said post was later on re-designated as Tax Supervisor, which carried pay scale of Rs.950-1500. Re-designation does not involve a functional promotion. It only means giving of a different name without change in nature of functions. Therefore, it cannot be stated that the petitioner was granted any functional

promotion when the post he was holding was re-designated as Tax Supervisor. In these circumstances, the stand of the respondents that the petitioner was granted one functional promotion during his service career cannot be accepted. The only upgradation that was granted to the petitioner during his service career is when the pay scale attached to his post viz. Tax Supervisor was upgraded to Rs.1200-2040 w.e.f. 31.03.1999. On account of withdrawal of the said upgradation by the respondents, his service career becomes stagnant and, therefore, he is entitled to third in-situ promotion in terms of J&K Civil Services (Higher Standard) Pay Scale Scheme Rules, 1996, notified vide SRO 14 of 1996. The respondents cannot take two contradictory stands. Either they have to accept that the petitioner has stagnated on the same post during his service career, or they have to accord him the benefit of upgradation, which has been withdrawn. In this view of the matter, the impugned order passed by the respondents is not sustainable in law.

12. Apart from the above, it is not in dispute that a similarly situated employee, Shri Roshan Lal Raina, has been accorded the benefit of upgradation in similar circumstances by the respondents on the basis of the orders passed by the Court. Therefore, the respondents cannot deny the similar treatment to the petitioner by issuing the order of withdrawal relating to his upgradation in pay scale.

13. It is also to be noticed that the order impugned whereby upgradation of the petitioner has been withdrawn, violates the principles of natural justice as the petitioner has not been heard before passing the said order. Since the order impugned visits the petitioner with adverse consequences, therefore, it was incumbent upon the respondents to afford opportunity of hearing to the petitioner, which in the instant case has not been done. On this ground also, the impugned order is liable to be set aside.

14. For the foregoing reasons, the writ petition is allowed and the impugned order passed by the respondents on 07-12-2020 is set aside. The respondents are directed to settle the issue relating to service and pensionary benefits accordingly.

(Sanjay Dhar)
Judge

Srinagar
27.12.2025
“Bhat Altaf-Secy”

Whether the order is reportable: Yes/No