

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

Pronounced on : 05.02.2026.
Uploaded on : 06.02.2026.

WP(C) No. 1841/2019

Ved Rattan Sharma

.....Petitioner

Through: Mr. Rahil Raja, Advocate

Vs

State of J&K

.....Respondents

Through: Mr. Suneel Malhotra, GA for R-1 & 2
Mr. B.S. Bali, Advocate for R-3

CORAM: HON'BLE MR. JUSTICE SANJAY DHAR, JUDGE
ORDER
(05.02.2026)

- 01.** Through the medium of the present petition, the petitioner has challenged **order No. DULBJ/2017/3038-39 dated 05.06.2017** issued by the respondent No. 2-Director, Urban Local Bodies, Jammu whereby promotion of respondent No. 3-Hans Raj as Senior Assistant has been regularized retrospectively from the date the said respondent was placed as in charge Senior Assistant.
- 02.** The petitioner has sought an alternative prayer in the nature of a direction upon the respondents to promote him as Senior Assistant retrospectively from the date

respondent No. 3 was promoted with all consequential benefits.

03. As per the case of the petitioner, he was appointed as an orderly in the office of the respondent No. 2-Director, Urban Local Bodies, Jammu, in the month of September, 1981 whereafter he was promoted as Junior Assistant in terms of the **order No. 110-DLBJ of 95 dated 28.04.1995**. Regarding respondent No. 3-Hans Raj, it has been pleaded that he was appointed as orderly much after the appointment of the petitioner and he came to be promoted as Junior Assistant along with the petitioner in terms of an order dated 28.04.1995 (supra) but the petitioner was figuring senior to respondent No. 3-Hans Raj in the said promotion order.

04. It has been further pleaded that the respondent No. 3 was given the charge of the post of Senior Assistant in terms of the **order No. DULBJ/2014/4703 dated 14.07.2014** in his own pay grade by ignoring the seniority of the petitioner.

05. According to the petitioner, he agitated the matter before the respondent No. 2 and submitted his representation

but he was assured that his case for placement as in charge Senior Assistant and promotion would be processed, however, no action was taken by the respondent No. 2 and instead the impugned order dated 05.06.2017 came to be issued by the respondent No. 2 whereby in charge promotion given to the respondent No. 3 was regularized retrospectively from the date he was given the charge of Senior Assistant.

- 06.** It has been submitted that the petitioner again filed a series of representations before various authorities agitating his claim but without any response from the authorities. Hence the present writ petition.
- 07.** The official respondents have contested the writ petition by filing their reply. In their reply, the official respondents while admitting that petitioner was senior to the respondent No. 3-Hans Raj have taken a stand that seniority cannot be only factor for according promotion to an employee. It has been contended that promotion can be made on the basis of merit, suitability and seniority in terms of the rules, as such, the petitioner cannot claim to be promoted as a matter of right.

- 08.** It has been further contended that the petitioner has not agitated his claim with the reasonable dispatch inasmuch as he has slept over the matter and approached this Court after a considerable delay thereby accusing the impugned action of the respondents.
- 09.** The respondent No. 3 has also contested the writ petition by filing his reply in which he has supported the stand taken by the official respondents.
- 10.** I have heard learned counsel for the parties and perused record of the case.
- 11.** It is not in dispute that the petitioner was figuring senior to respondent No. 3-Hans Raj at the time when both of them were granted promotion to the post of Junior Assistant in terms of order dated **28.04.1995** (supra). The stand taken by the respondents is that only on the basis of the seniority, the petitioner cannot claim promotion from the date the respondent No. 3-Hans Raj was promoted as Senior Assistant.
- 12.** According to the respondents merit and suitability of eligible employees are also to be taken into account, however, respondents have not even averred that they

had considered the comparative merit of the petitioner and respondent No. 3 while ignoring the petitioner and preferring the respondent No. 3 over him for next promotion.

- 13.** While the respondents may be correct in contending that seniority is only one of the factors for promotion and that merit and suitability are also required to be considered, they have not even alleged that the petitioner was found unsuitable or less meritorious than respondent No. 3. There is nothing on record to show why respondent No. 3 was preferred over the petitioner while placing him as In-charge Senior Assistant in his pay grade or while regularizing the said promotion vide the impugned order.
- 14.** In the absence of such pleadings or record that would go on to show that the petitioner was less meritorious than the respondent No. 3, the impugned action of the official respondents is **vitiated**.
- 15.** The other ground that has been urged by the respondents is that delay and laches on the part of the petitioner in approaching this Court. In this regard, it is to be noted that in the year 2014, the official respondents

No. 1 and 2 had placed the respondent No. 3-Hans Raj as Senior Assistant on in charge basis and no substantive promotion had been given to him. Even though, the petitioner is stated to have made a representations against the said action of the official respondents yet the cause of action in favour of the petitioner actually arose when the said in charge promotion of respondent No. 3 was regularized by the official respondents in terms of the order dated **05.06.2017** whereafter the petitioner has made a series of representations against the said action of the official respondents before various authorities.

- 16.** The present petition has been filed by the petitioner in the month of May, 2019 and, as such, by no stretch of imagination the same can be termed as delayed.
- 17.** During the course of arguments, it has been submitted by the learned counsel for the petitioner that the petitioner has now superannuated from service in the year 2021 and in the year 2022 respondent No. 3 was given another promotion to the post of Head Assistant whereafter he also superannuated in the year 2023.

18. Learned counsel for the petitioner has submitted that the petitioner would be satisfied if he is granted **notional promotion** to the post of Senior Assistant from the date on which respondent No. 3-Hans Raj, was promoted to the said post, so that the petitioner's pensionary benefits may be fixed accordingly.

19. Having held that the impugned action of the official respondents, in overlooking the claim of the petitioner and promoting respondent No. 3 as Senior Assistant, is not sustainable in law, and in view of the developments that have taken place after the filing of the present writ petition, as narrated hereinabove, this Court, instead of quashing the impugned Order No. **DULBJ/2017/3038-39** dated **05.06.2017**, directs as under:

- i. **The petitioner shall be given promotion to the post of Senior Assistant on notional basis from the date on which the respondent No. 3 was substantively promoted to the post of Senior Assistant w.e.f 14.07.2014.**
- ii. **After granting annual increments on notional basis, the official respondents shall recommend the re-fixation of pension in favour of the petitioner to the competent authority in accordance with the rules.**

20. The entire exercise shall be conducted by the official respondents within a period of two months from today.

21. *Disposed of.*

**(SANJAY DHAR)
JUDGE**

**JAMMU
05.02.2026
SUNIL**

Whether the order is speaking ? : Yes/No
Whether the order is reportable ? : Yes/No

