Sr. No. 2 & 92

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

CJ Court
Case: WP(C) No. 2744/2026 &
WP(C) No. 1251/2025

Wajahat Qayoom and ors. …Petitioner (s)/Appellant(s)

Through: Mr. Abhinav Sharma, Sr. Advocate with
M/s Abhirash Sharma, Aditiya Manhas & Vansh Verma, Advocates.

V/s

Mohd. Saleem and ors. …. Respondent(s)

Through: Mr. Rahul Pant, Sr. Advocate with
Mr. Anirudh Sharma, Advocate
Mr. Anuj Dewan Raina, Advocate.
Ms. Meenakshi Slathia, GA.

CORAM: HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE RAJNESH OSWAL, JUDGE.

ORDER
04.11.2026

(ORAL)

01. The petitions, in hand, are arising out of the impugned orders dated 25.09.2024 and 11.02.2025 passed by the Central Administrative Tribunal, Jammu Bench, Jammu, in OA No. 421/2022 *(Mohd. Saleem & anr. Vs. Union Territory of J&K & anr.)* and TA No. 5079/2021 *(Mohd. Ashraf wani & ors. Vs. State of J&K and ors.).*

02. The prayer made in OA No. 421/2022 reads as follows:

> *i. Direct the respondents to convene the DPC/PSC and to place the cases of the applicants before the DPC/PSC for their substantive promotion to the posts of the Assistant Regional Officers retrospectively from the date they were made in-charge of the post, with all consequential benefits:*

03. The prayer made in TA No. 5079/2021 is as under:

a) *Allow this writ petition of the petitioners.*
b) *Issue a writ in the nature of Certiorari quashing the impugned final seniority list of Motor Vehicle Inspectors (Technical and Survey) issued by the respondent no. 2 & 3 vide Government Order No. 24-TR of 2011 dated 25.03.2011, whereby the petitioners, despite being senior to the private respondent no.5 to 18 have been wrongly placed below the private respondents in the impugned seniority list.*
c) *Issue a writ in the nature of Mandamus Commanding the official respondents to issue a fresh final seniority list strictly in accordance with the relevant rules, thereby placing the petitioners over and above the private respondent no. 5 to 18 a the petitioners were senior to the private respondents.*
d) *Issue a writ in the nature of mandamus commanding the official respondents to place the petitioners over and above the private respondent no. 5 to 18 as per their seniority in the final seniority list/length of service in the Motor Vehicle Department and in accordance with the relevant rules.*
e) *Any other writ, order command or direction as this Hon'ble Court may deem just and proper in the given facts and circumstances of the case may also be passed in favour of the petitioners."*

04. The prayer made in WP(C) No. 1251/2025 reads as under:

a) *allow the present writ petition;*
b) *quash and set aside judgment and order dated 11.02.2025 passed/ rendered by the Central Administrative Tribunal Bench Jammu in TA No.5079/2021 titled "Mohd. Ashraf Wani & ors V/s State of J&K & ors", whereby and whereunder, the Tribunal while allowing the aforesaid TA has quashed final seniority list of Motor Vehicle Inspectors (Technical and Survey) of the Motor Vehicle Department, issued vide Govt. Order no. 24-TR of 2011 dated 25.03 .2011 in which the names of the petitioners figured over and above the names of respondent no. 1 to 5 and a further direction has been issued to proforma respondents to issue fresh seniority list while placing the names of respondent no. 1 to 5 over and above the names of the petitioners;*
c) *ANY other order or direction which this Hon'ble Court may deem fit or proper in the facts and circumstances of the case.*

05 The prayer made in WP(C) No. 2744/2026 reads as under:

a) *allow the present writ petition;*
(b) *quash and set aside the impugned judgment and order dated 25.09.2024 passed/rendered by the Central Administrative Tribunal Bench Jammu in OA no. 421/2022 titled "Mohd. Saleem*

& anr. Vs. UT of J&K & ors.", whereby and whereunder, the Tribunal while allowing the aforesaid OA has directed the proforma respondents to convene the DPC /PSC and to place the cases of respondents no. 1 and 2 before DPC/PSC for their substantive promotion to the post of Assistant Regional Transport Officers retrospectively from the date they were made in-charge of the post, with all consequential benefits, notwithstanding the fact that respondent no. 1 and 2 were not even eligible for promotion to the post of Motor Vehicle Inspector and also to the post of Assistant Regional Transport officers particularly from the retrospective effect i.e. w.e.f. the date they were made incharge of the post of Assistant Regional Transport Officers;

Prayer for setting aside the aforesaid impugned judgment and order dated 26.09.2024 by dismissing the aforesaid OA No. 421/2022;

(c) ANY other order or direction which this Hon'ble Court may deem fit or proper in the facts and circumstances of the case.

06. The crux of the matter in these cases concerns a promotional and appointment dispute between direct recruits and promotees regarding the post of Motor Vehicle Inspector (Survey and Technical). The dispute escalated as a consequence of various judgments including **SWP No. 1792/2007** (***Gurmeet Singh Vs. State and ors.)*** and the impugned orders—because both segments viz. direct recruits and promotees asserted senior status over the other. The promotees to the post of Motor Vehicle Inspector (Survey/Technical) were, admittedly, the recipient of the benefit of promotion prior to the direct recruits and, thus, when the direct recruits claimed seniority over them, the whole issue came before the Courts.

07. Learned Senior counsel for the petitioner Mr. Abhinav Sharma submits that the Motor Vehicle Inspector (Survey) was, in fact, a post which did not find mention in the Rules and nor the post of Motor Vehicle Inspector (Technical) finds any place in the Rules at the entry level. The Departmental Promotional Committee (DPC) allowed the promotees on the basis of the Draft Rules, which

were supported by earlier judgment **Gurmeet Singh (supra)**. Mr. Sharma, has drawn our attention to Gurmeet Singh's judgment, relevant part of which is reproduced as under:

> "*I am in agreement with Mrs. Shekhar, AAG. In the absence of Recruitment Rules, it was open for the Government in exercise of its plenary powers to create new posts and to provide for the mode of filling of these posts. The Government with a view to create promotional avenues for the employees who are in the lower cadre appears to have provided for the promotion to the post of Motor vehicle inspector (survey) by reserving 50% of post for them, in the Draft Rules. As Draft Rules have not been finalized, therefore, the Government could have independently adopted any mode of appointment including the one envisaged by draft rules for filling up the posts of vehicle Inspectors (survey). The petitioner not being in-service person has no right to question the promotions of the private respondents. The private respondents in the absence of Recruitment Rules cannot be said to be usurpers of public office In SWP No. 1108/91 titled Raj Shekhar and ors. Vs State and others and SWP No. 61/ 92 Bipin Singh vs. State and others, decided on 14-8-2000, promotion of the private respondents in both the writ petitions to the post of Motor Vehicle Inspector (Survey) was questioned on the ground that the private respondents who belonged to ministerial cadre of Transport Department were not eligible for holding the Technical posts as they were not possessing the requisite qualification as mentioned in 1974 Rules. The respondents contested the writ petition on the ground that the post of Motor vehicle Inspector (Technical) and Motor Vehicle Inspector (Survey) were two different categories while the qualification for Technical post is Diploma or Degree in Automobile Engineering, it is not so for the post of Motor Vehicle Inspector (Survey). It is also submitted that the post to which the private respondent had been promoted were not technical posts requiring of qualification of Automobile Engineering.*
>
> *While repelling the contention of the writ petitioners, this Court observed as follows:-*
>
> > *"Despite efforts Mr. Kotwal could not Point out that technical qualification is also a pre-condition for promotion or appointment to the post of Survey Inspectors. He however, pointed out that the order of promotion does not indicate that the private respondents have been promoted to the post of survey inspectors and therefore, it is camouflage. However, the order mentions*

that promotees have been promoted in the Survey Cell and not technical side,."

In the above titled Service Writ Petitions, the writ petitioners had also sought the quashment of the promotions of the private respondents on the ground that they were usurpers of the public office. That contention was also repelled by this Court and it was held:

"The other aspect of the case that the petitioners are not in service candidates. They have no right to compete with the private respondents. The order of promotion cannot be quashed because unless it is against the recruitment rules and they cannot be held to be the usurper of the public. post."

There is no merit in this writ petition, which is as such, dismissed. Connected CMP shall also stand disposed of."

08. Learned Senior counsel for the petitioner further submits that the **Gurmeet Singh's case (Supra)** has been rendered on the basis of Draft Rules, which till date, even after passage of more than two years have not culminated into any kind of crystallization as Rules or Statute. It is submitted that the Motor Vehicle Inspector is a post, which is envisaged under the Rules of **J&K Transport Controller's (Subordinate) Service constituted under J&K Transport Controllers (Subordinate) Service Recruitment Rules, 1974 (for brevity 'the Rules of 1974')**. He has laid down the emphasis on Rules 2, 3 4, 5 13 and 15 which reads as under:

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" **Definitions:**

Rule *2* *(a) '**Cadre**' means the cadre of the service;*

*2(c) **'Member of the Service'** means a person appointed to a post in the service under the provisions of these rules, or the rules; and orders repealed by rule 76;*

*2(d) '**Schedule'** means the schedule annexed to these rules*

*2(e) '**Service**' means the Jammu and Kashmir Transport Controller's (Subordinate) Service;*

Rule 3

Organization

The service shall comprise of the posts, classes, categories and grades as are indicated in Schedule 'A'.

Rule 4

Cadre

The cadre of the service shall consist of such posts and such number of them as may be fixed for each of its classes from time to time by the Government; provided, at the commencement of these rules the cadre of each class shall consist of the posts shown in Schedule 'A'.

Rule 5

Qualification and Method of Recruitment

(1) No person shall be eligible for appointment or promotion to any class, category or grade in the service unless he possesses the qualifications as laid down in Schedule 'A' and fulfils the requirements of recruitment provided in the rules and orders for the time being in force.

(2) Appointments to the service shall be made-

(a) by direct recruitment;

(b) by promotion /selection;

(c) partly by direct recruitment and partly by promotion /selection; in the ratio and in the manner as indicated against each post in Schedule 'A'.

Rule 13

Seniority

(*1) The seniority of the members of the service in various classes and categories shall be determined in accordance with the provisions of the Jammu and Kashmir Civil Services (Classification, Control and Appeal) Rules, 1956, and the Jammu and Kashmir Civil Services (Decentralization of and Recruitment to Non-Gazetted Cadre) Rules, 1969.*

(*2) The Food Supplies and Transport Department shall maintain*

an up-to-date and final seniority list of the members of the service.

Rule 15

Interpretation

If any question arises relating to the interpretation of these rules, the decision of the Government thereon shall be final."

09. Mr. Sharma, as per Rule 4, has drawn the attention of this Court to **Schedule "A"** of the Rules of 1974 where the route of the post in question goes in its **Technical** part, which refers to Motor Vehicle Inspector in Pay Grade (340-700) prescribing Qualification with 100% direct recruitment or by promotion from in-service Junior Engineers in the PW(R&B) Department, possessing the qualification prescribed for direct recruitment, in case direct recruits are not available and till they become available.

	A	Mechanical inspectors	**340-700**	**Diploma in automobile Engineering from any recognized institution having at least 5 years experience in any recognized institution of State Transport Undertaking.**	**By direct recruitment**
	B	Motor Vehicle Inspector	**340-700**	**(i) Minimum general education qualification of pass in X standard;** **(ii) A degree in Automobile Engineering** **Or** **Diploma in Automobile Engineering 3 years course Or** **A Degree in Mechanical Engineering Or** **Diploma in Mechanical Engineering 3 years course; and** **(iii) Working experience of at least one year in a reputed automobile workshop which undertakes repairs of both light Motor Vehicles, heavy goods vehicles and heavy passengers motor vehicles fitted with petrol and diesel engine; and** **(iv) Must hold a driving licence authorizing him to drive motor cycle, heavy goods vehicles and heavy passenger motor vehicle.**	**[100% by direct recruitment Or** **By deputation from in-service Junior Engineers in the PW(R&B) Department, possessing the qualification prescribed for direct recruitment, in case direct recruits are not available and till they become available.]**

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10. Mr. Sharma submits that, even if, post of the Motor Vehicle Inspector was to be bifurcated in Survey and Technical by giving two separate nomenclatures, then also it was required to be done by prescribing in the Statute Book, the requirements including the Grade Pay, the Minimum Qualification for direct recruitment, Minimum Qualification for promotion, if at all provided, and the Method of Recruitment. It is submitted that no such provisions have been brought to the Statute Book till today. He has also referred to the **J&K Transport (Gazetted) Services Recruitment Rules, 1987 (for brevity 'the Recruitment Rules of 1987)** which also provide for 'Cadre' and 'Member of Service' of similar descriptions and also deals with a part of the controversy i.e., designation of Assistant Regional Transport Officers.

The same is dealt with in **Schedule -II** of **Rule 1987** which is reproduced as under:

CLASS	CATEGORY	DESIGNATION	GRADE	MINIMUM QUALIFICATION FOR DIRECT RECRUITMENT	MINIMUM QUALIFICATION FOR DEPARTMENTAL PROMOTION/SELECTION	METHOD OF RECRUITMENT
II	A.	Assistant Regional Transport Officer	1000-1560	Graduation from recognized University. Preference being given to Law Graduate/Commerce Graduates	By promotion from Motor Vehicle Inspectors of Survey Cell (Non Technical) having at least seven years service as such.	I. 50 % by promotion II. 50% by direct recruitment.

1

11. Mr. Sharma submits that though the Assistant Regional Transport Officer refers to method of recruitment being 50% by promotion and 50% by direct recruitment but again the minimum qualification required for promotion/selection is that a person has to be Motor Vehicle Inspector of Survey, having at least seven years of service and, also a qualification of Graduate from a recognised University, with preference to Law Graduates/Commerce Graduates. Moreso, again Motor

Vehicle Inspector has been given the minimum qualification though he may be of Survey, but the nomenclature Survey is not given in the Rules of 1974.

12. Mr. Sharma submits that when the core question of Motor Vehicle Inspector is gone into then the basic parameter would be the eligibility for such post even if the stand of the State regarding the promotional posts is accepted. Mr. Sharma has further taken us to the **Motor Vehicles Act, 1988** (for short '**the Act of** 1988) Section 213 providing for appointment of Motor Vehicle Inspectors and has drawn attention of this Court to 213 (1) & 213(4) which is reproduced as under:

> *"213. Appointment of motor vehicles officer—*
> *(1) The State Government may, for the purpose of carrying into effect the provision of the Act, establish a Motor Vehicles Department and appoint as Officer thereof such persons as it thinks fit.*
> ....
> ....
> *(3) The Central Government may, having regard to the objects of the Act, by notification in the Official Gazette, prescribe the minimum qualification which the said officers or any class thereof shall possess for being appointed as such."*

13. It is further submitted that the minimum eligibility prescribed by the Central Government has to prevail. Thereafter, he has referred us to S.O. 443 in which, in exercise of powers conferred by sub-section (4) of the Act of 1988, the Central Government has prescribed the minimum qualification for the Class of Officers consisting of the category of Inspectors of Motor Vehicles or Assistant Inspectors of Motor Vehicles as under:

> "*S.O. 443 (E)—In exercise of the powers conferred by sub-section (4) of Section 213 of the Motor Vehicles At, 1988(59 of 1988), the Central Government hereby prescribes that the minimum qualification for the class of officers consisting of the category of Inspector of motor vehicles or Assistant Inspector of motor vehicles (by whatever names called) shall be as under—*
> *Qualification:*

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1. *Minimum general educational qualification of a pass in X standard; and*
2. *A diploma in Automobile Engineering (3 year course)*

Or

A diploma in Mechanical Engineering awarded by the State Board of Technical Education (3 year course); and

3. *Working experience of at least one year in a reputed authomobile workshop which undertakes repairs of both light motor vehicle, heavy goods vehicles and heavy passenger motor vehicles fitted with petrol and diesel engine; and*
4. *Must hold a driving licence authorizing him to drive motor cycle, heavy goods vehicles and heavy passenger motor vehicles.*

2. Nothing contained in the notification shall apply to a officer appointed to such post before the first day of July, 1989 and to an officer appointed to discharge function of a non-technical nature.

3. This notification shall come into force on the first day of July,1989."

14. It is submitted that any post of Motor Vehicle Inspector, even if, proposed to be bifurcated in Survey/Technical then also the basic requirement of minimum qualification, and the petitioners, who are directly recruited, possess such minimum qualification and, thus, qualified the eligibility criteria. Mr. Sharma, submits that the promotees may find a channel and may have an equity but, at the same time, even if a criteria of promotion was created for them, then also, the Government could not have overcome the basic parameter of minimum eligibility qualification, which stands prescribed and crystallized by the power of **Section 213 of the Act of 1988 read with S.O 443.**

15. It is further contended that the same qualification has been prescribed in the Statute Book. And in the Rules also the qualification is absolutely in line with such qualification prescribed by the Government. Mr. Sharma submitted that at this belated stage when both the promotees and the direct recruits have spent decades in the service of the Department, the issue would not go back to the root of their

appointment but ought to be restricted to the seniority only, while keeping into consideration the minimum eligibility for the post in question.

16. Mr. Sharma has also taken us to the Final Seniority List of the Motor Vehicle Inspectors (Technical and Survey) issued by Government on 25.03.2011, in which the promotees were placed below the direct recruits, which became the bone of contention in the present litigation. He further submits that while narrowing the issue down to seniority, the aforementioned laws clearly stipulate that Motor Vehicle Inspectors, even in the event of bifurcation—must adhere to both the fundamental eligibility parameters and the precedent established in the case of ***Gurmeet Singh's case,(supra)*** was only protecting the equitable part of the service of the promotees, rather than laying down a law. He also submitted that if the Draft Rule was to be made a basis of any relief at this belated stage for the purpose of examining the tentative seniority list, then it would not only deprive the fruits of the employment to the direct recruits but would also be detrimental to the larger interests of the promotees as well because the Government has **ultimately chosen to abandon the draft rules**, following a protracted and considerable delay. The core issue, thus, raised by Mr. Sharma was that without meeting the technical qualification required for the post of Motor Vehicle Inspector and keeping them over the direct recruits, would be prejudicial to their long term interests and future promotions as well.

17. Ms. Meenakshi Slathia, learned Deputy Advocate General, at this stage, submitted that their stand was clear before the learned Tribunal that the promotees were not entitled for their promotion even initially as the Motor Vehicle Inspectors and subsequent promotions as In-charge Assistant Regional Transport Officers as the promotion of the applicants was effected on the basis of Draft Rules and these

Draft Rules were not confirmed by the Competent Authority. She further submits that vide Government Order No. 90-TR of 2009 dated 23.11.2009, the tentative seniority list of Motor Vehicle Inspectors was issued, which resulted into the filing of various representations/objections, which were duly examined and a Committee was constituted under the Chairmanship of the then Director, State Motor Garages, vide Government order No. 56-TR of 2010 dated 09.09.2010, which has laid down its report forming the part of the record. The Committee has gone into the complete dispute in an analytical manner and has come with a conclusion that the past practice of promotion of officers from Ministerial Cadre against the post of Motor Vehicle Inspectors (Survey) was in clear violation of the Government Orders and the recommendations of the High Level Committee. It is also submitted that the practice continued upto 2007 as the promotees were brought in as Motor Vehicle Inspectors (Survey). However, the confirmation was subject to the prerequisite conditions as per the High Level Committee which required them to undergo six months training in Automobile Engineering through Government Polytechnic and one month Police training. It is further submitted that an equitable solution was found out by the High Level Committee so as to enable the Ministerial Staff given due promotions to be equipped with the task of the Motor Vehicle Inspector. It is submitted that merely by holding the charge of ARTO, they cannot be held entitled for such promotions because the promotions to the post of Motor Vehicle Inspectors were to be conducted only strictly in accordance with rules. She further submitted that the issue was resolved in strict accordance with the Committee's recommendations, with no further relaxation in terms of the minimum eligibility to ensure compliance with both the Rules of 1974 Rules and the provisions of the Motor Vehicles Act, 1939.

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18. Mr. Rahul Pant, learned Senior counsel as also Mr. Anuj Dewan Raina, learned counsel for the private respondents/promotees drew our attention to the fact that a conscious decision was taken, in the shape of Draft Rules, which was adhered to by the Government only for the purpose of creating a way out for not reverting the promotees to the original post after prolonged service. The counsel for the promotees also tried to impress upon the Court that the Government had ample powers to notify the cadre and the posts and once the Government had intended to create a post of Motor Vehicle Inspector (Survey), then it cannot retrospectively declare that the Rules which mandated a 50-50 split between promotees and direct recruits, have ceased to exist. It is submitted that, in that case if the promotions of Motor Vehicle Inspectors (Survey) go away, then the appointments of the direct recruits will also meet the same fate because there will be no cadre in existence by the nomenclature of Motor Vehicle Inspectors (Survey). It is also submitted that the promotees have been the long standing employees of the Department without there being any misrepresentation or any kind of misleading actions. It was the Government, which thought it appropriate to give them a career advancement by putting a channel in Department in the shape of Motor Vehicle Inspectors (Survey) whereby 50% could be absorbed on promotional posts by the length of their service while maintaining the 50% as direct recruits. The counsel also submitted that the Rules of 1974 even if do not have the post of Motor Vehicle Inspector (Survey) then also, it was the prerogative of the State to have notified the same and having once given effect to the Policy, they were precluded by the principle of promissory estoppel, to have gone by their own stand that such a process was in shape and was in accordance with law.

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19. **After hearing learned counsel for the parties**, this Court finds that the bone of contention is Motor Vehicle Inspector (Survey), which is a nomenclature arising out of the basic post of Motor Vehicle Inspector. The Motor Vehicle Inspector post has been given minimum general education qualification of pass in Xth standard with a degree in Automobile Engineering Or Diploma in Automobile Engineering three years course or a Degree in Mechanical Engineering or Diploma in Mechanical Engineering three years course; and a working experience of at least one year in a reputed automobile workshop which undertakes repairs of both light Motor Vehicles, heavy goods vehicles and heavy passengers motor vehicles fitted with petrol and diesel engine; and the person must hold a driving licence authorizing him to drive motor cycle, heavy goods vehicles and heavy passenger motor vehicle as per the Rules of 1974 in Schedule "A". The subsequent corollary of the Gazetted posts for the ARTO is given in the Rule of 1987.

20. This Court holds that, even if, the post of Motor Vehicle Inspector constituted the basic cadre which was subsequently bifurcated into the Survey and Technical wings, still the Statute of 1974 must govern the parent post's eligibility criteria and recruitment modalities, unless a distinct statutory provision explicitly prescribes separate qualifications, eligibility criteria, and recruitment procedures and, thus, if the basic eligibility itself is not satisfied by the promotees, to keep them in the promoted post itself would have been difficult, although the same would have to be sustained in light of the **Gurmeet Singh's** judgment (supra), which had already attained finality and there is no reason to interfere with it at this belated stage.

21. This Court has taken note of the minutes of meeting of the High Level Committee formed by the Government, which, in its meeting regarding fixation of

seniority of Motor Vehicle Inspector on 07.12.2010 has deliberated upon the whole issue and has come out with a categorical finding that the Recruitment Rules were not finalised, which resulted into the Motor Vehicle Department repeating the practice of Ministerial Cadre promotions to the post of Motor Vehicle Inspector (Survey) in clear violation of the Government directives and the recommendations. The Committee systematically analyzed the chronology, with the High-Level Committee explicitly noting that the issue has arisen on account of the non-finalization of Recruitment Rules and such failure to finalize the Recruitment Rules precipitated a total operational fiasco, ultimately leading to the promotion of unqualified persons to the position of Motor Vehicle Inspector (Survey).

The relevant part of the Report read as follows:

" *Now keeping view all the facts and circumstances of the case and all the representations in this regard the Committee constituted for the purpose came to the following conclusions:*

1) The Transport Department has failed to update the Recruitment Rules (Both gazetted and non-gazetted) and with the result the decisions taken by the Government from time to time have been violated and promotions have been effected in utter violations of the government directives as well as qualification prescribed for MVIs by the Central Government vide S.O. No. 443 dated 12.06.1989 which provides as under:

i) Minimum general educational qualification of a pass in X standard; and

ii) A diploma in Automobile Engineering (3 year course)

Or

A diploma in Mechanical Engineering awarded by the State Board of Technical Education (3 year course); and

iii) Working experience of at least one year in a reputed authomobile workshop which undertakes repairs of both light motor vehicle, heavy goods vehicles and heavy passenger motor vehicles fitted with petrol and diesel engine; and

iv) Must hold a driving licence authorizing him to drive motor cycle, heavy goods vehicles and heavy passenger motor vehicles.

The route cause of violation is non-finaliziation of the Recruitment Rules which needs to be finalized as soon as possible so as to avoid any such deviation in future and the qualification for the Inspector should be prescribed as has been prescribed by the Central Government in above said notification.

2) *That the promotions made by the Department against the posts of MVI Survey from ministerial cadre in violation of the government orders and recommendations of High Level Committee in 2007 needs to be reconsidered in view of the technical qualification prescribed for MVIs as per the notification of Central Government, however, in view of the stand taken by the Department before the Hon'ble Court in SWP No. 1792/07, the department has to take a decision whether they want to continue with these promotions. In case they want to allow these promotions then they should devise a syllabus in consultation with the Technical Education Department for their training course to be completed within a minimum period of six months so that they are well conversant with the Automobile Engineering for delivering the goods efficiently as Motor Vehicle Inspector. They may also be deputed for police training for a minimum period of one month and only after their successful completion of the training, their placement may be considered by the government at the tail end of the seniority list owing to the fact that their promotions in the year 2007 were effected against the direct recruitment quota in violation of the rules. It has also been seen that S.No. 2 to 6 of the tentative seniority list, some non-technical persons have been included in the list and they do not possess the requisite qualification and these persons also need to be deputed for the training as in case of others already discussed above so that they acquire necessary technical know how for which as already recommended, the department should take up the issue with the Technical Education Department for their training in automobile engineering. They may also be deputed for Police Training for a minimum period of 30 days.*
3) *The Committee while giving due considerations to the representations submitted by the persons also recommends that Sh. Swarn Singh and Abdul Majid Bhat needs to be reflected in the seniority list at their due places above Sh. Peerzada Shabir Ahmad as they are still incharge ARTOs and shall necessarily figure in the seniority of MVIs.*
4) *The seniority of Sh. Jugal Kishore has to be restored above to Sh. Mukhtar Ahmad Sofi and others because as per the selection letter of Service Selection Board Shri Jugal Kishore figures above Shri Mukhtar Ahmad Sofi and others.*
5) *The date of appointment recorded aganst Shri Kuldeep Singh as 27/03/2009 noods to be recorded as "27/03/2008". Moreover, since Neeraj Sharma figures above to Shri Kuldeep Singh in selection list*

therefore the claim of Shri Kuldeep Singh that he is senior to Neeraj Sharma does not merits any consideration.

6) *This disposes off all the communications received by the Committee in this connection.*

22. This Court firmly holds that the Statute Book of Rules 1974, in Schedule "A" provided for the original post of the Motor Vehicle Inspectors and, if at all, the same has to be dealt with as a base point for the promotees or direct recruits, then the Government fundamentally failed in its statutory duty by promoting individuals who lacked the requisite minimum qualifications and, particularly, when the prescribed mode of recruitment was designated as 100% via direct recruitment. Even if, due to the long passage of time and the various judgments rendered and if the issues surrounding direct recruitment could be mitigated, this Court remains firmly of the opinion that the core eligibility criteria and basic qualification which is required cannot be substituted by any alternative mode. The view of the Court is further strengthened by the Statute provided in Motor Vehicles Act 1989, whereby in Section 213, the powers have been envisaged to lay down the minimum qualification by the Central Government in Sub-section (4) and such powers have been exercised by S.O.443 whereby minimum qualifications have been laid down and which are also in tandem with Schedule "A" of Rules 1974. Thus, deviating from the Rules which are the eligibility and basic parameters for appointment to the post is not possible. However, previous implementation of the recommendations of the High Power Committee giving training to the people who are not qualified for the job, as recommended by the Committee, also shows that what the Government wanted in the present case and how it saw the issue of promotions. However, looking into the past factual matrix and the judgments rendered in the cases of **Gurmeet Singh (supra) and**

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Rajesh Gupta and ors vs, State and ors. (SWP No. 1195/2006) and drawing the overall analogy, this Court deems it appropriate to restrict its adjudication only to the seniority list rather than going into the basic promotions which have happened more than 20 years ago. So the core adjudication remains the seniority list, the process of drawing the seniority list by giving the promotions to the persons who are eligible in terms of Rules of 1974 read with the Act of 1988 as also the SO 443, it will be, in the fitness of things that in seniority list, direct recruits are given preference and they remain over and above the promotees. The sequence has to be done as per the various recommendations which are recorded and some prime parts of them have already been reproduced. Thus, while standing by the direct recruits, who are qualified and eligible and not relying upon the proposed or draft rules, this Court finds that standing on the pedestal of the statutes of Rules of 1974, the Act of 1988 would be in accordance with law to resolve the limited issue by the Court.

22. Thus, while setting aside the impugned order(s), we direct that the seniority list be strictly maintained while keeping the direct recruits over and above the promotees and the promotees, as per the decision taken by the Government shall, continue to be at the bottom of the seniority list only to maintain the equitable parameters, which have been consistently laid down by the previous judgments of this Court, particularly, in Gurmeet Singh's case (supra) as also the Policy Recommendations of the Government itself. Such position of law is being only laid in the peculiar factual matrix by limiting its adjudication to seniority part.

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23. **Both the writ petitions are allowed.** The disposal of the writ petitions in the manner mentioned above, shall not preclude the Government to operate the seniority list for future promotions.

24. The petitions are, accordingly, disposed of along with connected applications.

(RAJNESH OSWAL) JUDGE **(DR. PUSHPENDRA SINGH BHATI) CHIEF JUSTICE**

Jammu
04.11.2026
Sunita

Whether the order is speaking. Yes
Whether the order is reportable. Yes.



SUNITA KOUL
2026.11.16 13:46
I attest to the accuracy and
integrity of this document