Serial No. 25

HIGH COURT OF JAMMU & KASHMIR AND LADAKH AT JAMMU

CJ Court Case: **WP(C) No. 2641/2024**
CM No. 6428/2024

UT of J&K .....Applicant(s)/Petitioner(s)

Through :- Ms. Monika Kohli, Sr. AAG with
Ms. Malvika Gupta, Advocate.

v/s

Rajni Bala .....Respondent(s)

Through :- Mr. F. A. Natnoo, Advocate.

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

ORDER
03.11.2026

1. The brief facts of the case are that there was a post of legal assistant in which the respondent-Rajni Bala and another candidate-Shashi Kant Bhagat were shortlisted under the S.C. Category and were called for interview on 24.11.2011. Shashi Kant Bhagat was selected on the basis of higher qualification of LLM Degree, which was shown to have been obtained from Crown University, United Kingdom. Rajni Bala approached the Hon'ble High Court by filing SWP No. 201 of 2012, which was disposed of vide order dated 27.04.2017, directing the respondents that if Rajni Bala is found to be more meritorious candidate under the SC category for the post in question, then Shashi Kant Bhagat be excluded. In consequence of the said order, case of the respondent-Rajni Bala was considered by the petitioner and it was found that she was more meritorious and as such, JKSSB recommended her case for appointment as legal assistant in pursuance to Advertisement Notice No. 1 of 2011 in

place of Shashi Kant Bhagat, whose selection was considered cancelled void *ab initio*.

2. The only bone of contention that would remain is that once Rajni Bala's appointment is related back to the advertisement notice No. 1 of 2011 and she was denied such appointment on illegal entry of Shashi Kant Bhagat, whose appointment was cancelled as void *ab initio,* then whether Rajni Bala was entitled for benefits from back date of the year 2012 or the date of actual appointment in the year 2018.

3. Ms. Monika Kohli, learned Senior AAG has referred to Rule 24 of the Jammu and Kashmir Civil Services (Classification, Control and Appeal) Rules, 1956, which reads as follows:

> *"**24. Seniority-***
> ***(1)** The seniority of a person who is subject to these rules has reference to the service, class, category or grade with reference to which the question has arisen. Such seniority shall be determined by the date of his first appointment to such service, class, category or grade as the case may be."*

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4. Learned counsel for the respondent-Rajni Bala, however, submits that the Rule is to be operated from the appointment which has to be related back to the advertisement No. 1/2011 when similarly situated candidates were appointed in 2011 itself and the unlawful illegal appointment of Shashi Kant Bhagat, which deprived the respondent-Rajni Bala, was declared void *ab initio* and in pursuance to her litigation, she was given her appointment which has to rightly relate back to 2011. Learned counsel for the respondent further submits that the period from 06.02.2012 to 01.01.2018 has been declared notional and, therefore, only the benefit of seniority and other consequential benefits shall be given to the respondent, as she

has not actually rendered any service for that period. Learned counsel for the respondent has further submitted that the learned Central Administrative Tribunal (CAT) was right in ordering the actual benefits from the actual date of appointment though notional benefits from the year 2012.

5. This Court on hearing learned counsel for both the parties is of the considered opinion that the advertisement notice No. 1/2011 was of 31.01.2011, whereas both the candidates i.e. Rajni Bala and Shashi Kant Bhagat were contesting for the post of legal assistant under SC category on their own merits. Rajni Bala contested the same in the Court and the Hon'ble Court was persuaded to grant reconsideration of the appointment of Shashi Kant Bhagat which was declared void *ab initio* on subsequent consideration by the respondents. Once Shashi Kant's appointment was declared as void *ab initio*, the right of Rajni Bala would relate back to the 2011 advertisement and on the date when Shashi Kant Bhagat was illegally given the said appointment. Once such appointment relates back to that date, the benefits of the contest made by Rajni Bala would have to go back to the advertisement and similarly situated people being appointed.

6. Both these issues have been rightly taken care of by the learned Tribunal, whereby it has been held that notional benefits be given from the initial date of appointment i.e. 06.02.2012 to the actual date of appointment i.e. 01.01.2018. It is a peculiar process where the agitation travelled through the courts towards the respondents and then the right of the Rajni Bala crystallized and, therefore, Rule

24 of the Jammu and Kashmir Civil Services (Classification, Control and Appeal) Rules, 1956 will not operate.

7. For what all has been discussed hereinabove, we are of the considered view that the petition lacks merits and the same is accordingly **dismissed.**

(RAJNESH OSWAL)
JUDGE

(DR. PUSHPENDRA SINGH BHATI)
CHIEF JUSTICE

JAMMU
03.11.2026
Sahil Padha

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Sahil Padha
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