Sr. No. 21

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

WP(C) No. 3393/2026
CM No. 7540/2026
Cav No. 2859/2026

Date of pronouncement: 27.10.2026
Date of Uploading:28.10.2026

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

Through :- Mr. Raman Sharma, AAG with
Ms. Saliqa Sheikh, Advocate

v/s

Amit Bhat .....Respondent(s)

Through :- Mr. Pariyat Dadgyal, Advocate vice
Mr. Abhimanyu Sharma, Advocate

CORAM: HON'BLE MR. JUSTICE SANJEEV KUMAR, JUDGE
HON'BLE MR. JUSTICE MA CHOWDHARY, JUDGE

ORDER
27.10.2026

01. Impugned in this petition filed under Article 226 of Constitution of India, is an order and judgment dated 26.12.2025 passed by the Central Administrative Tribunal, Jammu Bench at Jammu ["the Tribunal"] in O.A No. 1300/2020 titled "Amit Bhat vs. UT of J&K and others", whereby the Tribunal has, while allowing the OA filed by the respondent, issued following directions.

a) The respondents are directed to operate the waiting list, pertaining to the subject selection for District Cadre Budgam beyond Serial No.13 and appoint the applicant (Serial No.15) against the available vacant post(s), as per the RTI reply as well as the admission made by the respondents in the objections, of Teacher in

District Budgam arising out of non-joining/cancellation from the same selection stream.

b) In the event the said posts have been filled during pendency of this litigation or are otherwise shown as not available for any reason attributable to the respondents, the respondents shall create a supernumerary post for the applicant and appoint him against the same, so that the benefit of this judgment is not defeated by subsequent administrative action.

c) The appointment shall be issued within a period of (12) weeks from the date of receipt of a certified copy of this order.

d) The applicant shall be entitled to notional seniority and notional service benefits from the date when the candidate(s) immediately junior/next operated from the waiting list for Budgam were appointed pursuant to the same chain of operation, with actual monetary benefits/salary payable from the date the applicant actually joins pursuant to the appointment order (no back wages for the period not worked), except to the extent required for fixation based on notional continuity.

HIGH COURT OF JAMMU & KASHMIR AND LADAKH

02. The impugned judgment is assailed by the petitioners primarily on the ground that the Tribunal has not appreciated that the two posts of Teacher, District Cadre, Budgam became available due to non-joining of the candidates appointed from the wait list after 30.09.2020 i.e. date up to which the life of waiting list had been extended.

03. It is, thus, argued that the process of selection including appointing the candidates from the wait list came to be closed with effect from 30.09.2020 and, therefore, the Tribunal ought not to have issued any direction to accommodate the respondent against the post that became available after the cut off date.

04. Mr. Pariyat Dagyal, Advocate appearing for the respondents would submit that the issued raised by the petitioners in this petition is fully covered by a Division Bench Judgment of this Court dated 02.06.2015 passed in LPA No. 207 of 2012 titled "Ajay Raina and others vs. State of Jammu & Kashmir and others" and, therefore, no longer *res integra*.

05. Having heard learned counsel for the parties and perused the material available on record, we are of the considered opinion that the issue raised by Mr. Raman Sharma, learned AAG appearing for the petitioners is indeed settled by a Division Bench of this Court in the case of Ajay Raina (supra), wherein a Division Bench of this Court has, in paragraph 5, held thus:

> "The point in issue is as to whether General Rule which prevails for drawing the waiting list and validity period is applicable when special recruitment is made under the Special Rule, namely, the Jammu and Kashmir Kashmiri Migrants (Special Drive) Recruitment Rules, 2009. In absence of validity period of waiting list in the Special Rules, the rejection of the claim of the appellants by applying the General Rule cannot be sustained".

HIGH COURT OF JAMMU & KASHMIR AND LADAKH

06. In view of the aforesaid categorical position of law laid down by the Division Bench, the argument that the wait list had outlived its life on the 30th of September 2020 cannot be accepted.

07. That being the position, the respondent has definitely a claim to be appointed against one of the two posts which remained unfilled due to non-joining of the candidates appointed from the wait list vide Order No. 342-DSEK of 2020 dated 15.09.2020.

08. It is not in dispute that the wait list up to serial No.13 stood exhausted within stipulated time and the respondent, who was at serial No.15 became entitled to be appointed against one of two posts that became available due to non joining of candidates in the wait list appointed vide Order dated 15.09.2020, the extension of life of wait list by the petitioners up to 30.09.2020 only, notwithstanding.

09. In view of the aforesaid discussion, this petition is found devoid of any merit. However, we find to the fact that the direction passed by the Tribunal to create supernumerary post is totally uncalled of. Since, the two posts had admittedly fallen vacant due to non-joining of the candidates from the wait list appointed vide Order dated 15.09.2020, as such, said posts shall be deemed to be vacant even today.

10. We, further, clarified that in case these two posts which were meant for Kashmiri migrants under Prime Minister special package have been diverted and filled up through Services Selection Board from

HIGH COURT OF JAMMU & KASHMIR AND LADAKH

the general candidates, the two posts lying vacant under the quota of general candidates of the District Budgam shall be made available for utilization of one of them for accommodating the respondent.

11. With the aforesaid clarification the judgment impugned is upheld and the petition disposed of, accordingly.

(MA Chowdhary)
Judge

(Sanjeev Kumar)
Judge

JAMMU
27.10.2026
Sapna

Whether the order is speaking: Yes/No

Whether the order is reportable: Yes/No

HIGH COURT
सत्यमेव जयते
OF JAMMU & KASHMIR AND LADAKH