HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

WP(C) No.3343/2026
Caveat No. 2195/2026

Reserved on: 21.10.2026
Pronounced on: 23 .10.2026
Uploaded on : 23 .10.2026

whether the operative part or full judgment is pronounced:Full

UT of Jammu and Kashmir and others

....Petitioners

Through: - Mr. Ravinder Gupta AAG

vs …Respondent(s)

Dev Raj

Through: - Mr.Nitin Bhasin Advocate.

CORAM: **HON'BLE MR. JUSTICE SANJEEV KUMAR, JUDGE**
HON'BLE MR. JUSTICE M A CHOWDHARY,JUDGE

JUDGMENT

SanjeevKumar, J

Caveat No.2195/2026.

With the appearance of learned counsel for the caveator/respondent, caveat stands discharged.

WP(C) No. 3343/2026

1. The petitioners-Union Territory of Jammu and Kashmir and others, have called in question an order and judgment dated 02.12.2025 passed by the Central Administrative Tribunal, Jammu

Bench (hereinafter referred to as "the Tribunal") in TA No. 507/2022, titled *Dev Raj v. State of Jammu and Kashmir and others*, whereby the Tribunal has directed the petitioners to regularize/confirm the promotion of the respondent as Section Officer with effect from the date he was promoted as In-charge Section Officer or the date on which he became entitled to promotion to the said post, whichever is later. The petitioners have also been directed to consider the case of the respondent for his subsequent promotion to the post of Administrative Officer, after regularization of his promotion as Section Officer, with all consequential benefits flowing therefrom, including arrears of salary, allowances and retiral benefits, including revision of pensionary entitlements. The entire exercise has been directed to be completed within a period of two months from the date of receipt of a certified copy of the order.

2 The writ petition, which was originally instituted before this Court as SWP No. 1650/2016, came to be transferred to the Tribunal upon the enactment of the Jammu and Kashmir Reorganisation Act, 2019, and was registered as TA No. 507/2022.

3 The impugned judgment has been assailed by the petitioners on several grounds. However, before adverting to the grounds of challenge urged by Mr. Ravinder Gupta, learned Additional Advocate General, appearing for the petitioners, it would be appropriate to briefly notice the facts giving rise to the present controversy.

Brief facts:

4 The respondent was initially appointed as Junior Assistant in the Designs, Inspections and Quality Control Wing of the Public Works Department on 21.02.1979. He was promoted as Senior Assistant in the year 1985 and thereafter as Head Assistant vide Order No. DD/9 of 1995 dated 05.05.1995, with effect from 29.10.1990.The Jammu and Kashmir Engineering Subordinate Service Recruitment Rules, 1997, notified vide SRO 180 of 1997 (hereinafter referred to as "the Rules of 1997"), govern the recruitment and promotion to various posts in the non-gazetted ministerial establishment of the Public Works Department. Schedule-II-B, Class-I, Category-A of the aforesaid Rules prescribes promotion to the post of Section Officer from amongst eligible Head Assistants possessing the requisite qualifying service. The respondent's case before the Tribunal was that, having been promoted as Head Assistant with effect from 29.10.1990, he had completed the requisite five years of service on 29.10.1995 and, therefore, had become eligible for consideration for promotion to the post of Section Officer. He further pleaded that, despite being the senior-most Head Assistant and having rendered long and satisfactory service, his claim for regular promotion was not considered for several years.

5 It is an admitted position that the respondent was assigned the charge of Section Officer on an in-charge basis vide Order No. 43 of 2000 dated 29.07.2000, following the superannuation of Shri O.N.

Koul, the then incumbent Section Officer. The respondent was also sanctioned charge allowance with effect from 01.08.2000, pursuant to the approval granted by the Departmental Promotion Committee in its meeting held on 24.09.2005.The respondent further relied upon communications dated 23.06.2006, 14.09.2007, 17.12.2009, 01.06.2011 and 24.09.2012, whereby the competent departmental authority had recommended his case for regularisation of his in-charge promotion as Section Officer with effect from 01.08.2000. According to the respondent, notwithstanding these recommendations and his continuous performance of duties attached to the higher post, the petitioners failed to take a final decision on his claim.

6 The petitioners contested the claim before the Tribunal, primarily on the ground that although the respondent had been placed as In-charge Section Officer with effect from 01.08.2000, he had acquired eligibility for regular promotion only on 21.11.2011. It was, accordingly, pleaded that his services against the post of Section Officer could be regularized only with effect from the latter date.

7 The Tribunal, upon consideration of the rival submissions and the material placed on record, accepted the respondent's claim and issued the directions noticed hereinabove. Aggrieved thereby, the petitioners have approached this Court.

Submissions on behalf of the petitioners:

8 Mr. Ravinder Gupta, learned Additional Advocate General, submits that the Tribunal has failed to appreciate the mandate of Schedule-II-B, Class-I, Category-A of the Rules of 1997. According to him, the respondent could not have been regularised as Section Officer from a date anterior to the date on which he fulfilled the prescribed eligibility conditions.Learned counsel would further contend that an in-charge arrangement does not, by itself, confer any vested right to regular promotion. The respondent, according to the petitioners, could not claim regularisation from 01.08.2000 merely because he had been entrusted with the duties of the higher post or had been paid charge allowance. It is, therefore, urged that the Tribunal has erred in directing regularisation with retrospective effect and in extending consequential monetary and retiral benefits.The challenge is also directed against the consequential direction requiring the petitioners to consider the case of the respondent for promotion to the post of Administrative Officer after regularisation of his promotion as Section Officer. On these grounds, the petitioners seek setting aside of the impugned judgment.

Analysis and conclusion:

9 Having heard learned counsel for the parties and perused the material on record, we are of the considered view that no ground is made out for interference with the impugned judgment.

10 The controversy involved in the present petition is with regard to the respondent's claim for regularisation of his in-charge promotion as Section Officer with effect from 01.08.2000 and his further consideration for promotion to the post of Administrative Officer.

11 There can be no dispute with the proposition that promotion to a higher post has to be regulated by the applicable Recruitment Rules. An employee does not acquire a right to regular promotion merely because he has been assigned the charge of a higher post. At the same time, the claim of an employee for promotion, if otherwise eligible, is required to be considered in accordance with the applicable rules.In the present case, the respondent was promoted as Head Assistant with effect from 29.10.1990 and was subsequently assigned the charge of Section Officer vide order dated 29.07.2000, with effect from 01.08.2000. The respondent has also relied upon the recommendations made by the departmental authorities from time to time for regularisation of his promotion.The primary contention raised by the petitioners is that the respondent acquired eligibility for regular promotion only on 21.11.2011 and, therefore, his promotion could not have been regularised with effect from 01.08.2000. The question, therefore, is whether the impugned judgment suffers from any error warranting interference by this Court.

12 The Tribunal, while considering the claim of the respondent, has taken note of his service particulars, the order assigning

him the charge of Section Officer, the sanction of charge allowance and the recommendations made by the departmental authorities for regularisation of his promotion. The petitioners have not been able to demonstrate that the conclusion drawn by the Tribunal is contrary to any specific provision of the applicable Recruitment Rules.

13 It is true that an in-charge arrangement, by itself, does not confer a right to regular promotion. However, the respondent's claim cannot be examined merely with reference to the fact that he was holding the post on an in-charge basis. His eligibility under the Rules of 1997, coupled with the material noticed by the Tribunal, was also required to be taken into consideration.The petitioners have placed reliance upon the requirement of five years' qualifying service prescribed under Schedule-II-B, Class-I, Category-A of the Rules of 1997. The said requirement was completely fulfilled by the respondent. On 01.08.2000, when he was made In-charge S.O, he had more than 09 years of service as Head Assistant. It is, thus, not demonstrated as to how the respondent lacked eligibility/qualification to hold the post on 01.08.2000. No material has been brought to our notice which would persuade us to hold that the findings recorded by the Tribunal in this regard suffer from any patent illegality. It is also relevant to notice that the respondent's case for regularisation had been recommended by the departmental authorities on more than one occasion. Although such recommendations do not, by themselves, confer an indefeasible right to promotion, the claim of the respondent was required to be considered in accordance with the applicable Rules. The petitioners have not

satisfactorily explained their prolonged failure to take a final decision on the respondent's claim.The Tribunal has directed regularisation of the respondent's promotion from the date he was placed as In-charge Section Officer or the date on which he became entitled to promotion, whichever is later. The direction, therefore, has to be read in the context of the eligibility prescribed under the Rules and cannot be construed as dispensing with any statutory requirement governing promotion to the post.The mere fact that the respondent was appointed on an in-charge basis cannot, by itself, be a ground for setting aside the impugned judgment. The petitioners have failed to establish that the directions issued by the Tribunal are contrary to the applicable Recruitment Rules or that the impugned judgment suffers from any legal infirmity warranting interference by this Court.

14 So far as the direction for consideration of the respondent's claim for promotion to the post of Administrative Officer is concerned, the same does not confer upon him an automatic right to such promotion. His claim is required to be considered by the competent authority in accordance with the applicable Recruitment Rules and other governing provisions. No interference with this direction is, therefore, called for.The consequential benefits directed by the Tribunal shall follow in accordance with the terms of its order and the applicable service rules. The mere fact that the respondent was initially assigned the charge of Section Officer on an officiating basis cannot, by itself, be a ground to deny him the arrears that may accrue to him on his regular promotion as Section Officer w.e.f 01.08.2000.

15 It is well settled that this Court, while exercising writ jurisdiction, does not ordinarily interfere with the findings of fact recorded by the Tribunal unless the same are shown to be perverse, contrary to the applicable statutory provisions or otherwise legally unsustainable. In the present case, the petitioners have failed to establish any such infirmity in the impugned judgment.Having regard to the facts and circumstances of the case, we find no sufficient ground to interfere with the view taken by the Tribunal. The challenge to the impugned judgment, therefore, fails.

16 For the foregoing reasons, the writ petition is dismissed. The petitioners shall implement the directions issued by the Tribunal in accordance with the terms of the impugned judgment.

(M.A. CHOWDHARY)) (SANJEEV KUMAR)
JUDGE JUDGE

Jammu
23.10.2026
Sanjeev

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

Sanjeev Kumar
2026.10.23 13:31
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