Serial No. 28
Regular Cause List

IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH AT SRINAGAR

LPA 69/2026 in [WP(C) 1398/2025] CM (2277/2026)
Caveat 437/2026

Union Territory of J and K and Others …Petitioner(s)/Appellant(s).

Through: Mr. T.A Lone, Dy. AG
Mr. Ilyas Nazir Laway, GA

Vs.

Abdul Ahad Lone ...Respondent(s).

Through: Mr. M.A. Beigh, Advocate

CORAM:

HON'BLE MR. JUSTICE SANJEEV KUMAR, JUDGE
HON'BLE MR. JUSTICE MOHD YOUSUF WANI, JUDGE

ORDER (ORAL)

04.11.2026

1. Impugned in this intra-court appeal, filed by the Union Territory of J&K and Others, is the order and judgment dated 7th November, 2025, passed by the Ld. Single Judge of this Court [the "Writ Court"] in WP(C) No. 1398/2025 titled ***"Abdul Ahad Lone vs. Union Territory of J&K and Others"***, whereby the Writ Court has allowed the petition filed by the respondent herein and the Order No. DULB/ACCTTS/3293/314 of 2025 dated: 11.04.2025, passed by the Director, Urban Local Bodies, Srinagar, has been quashed.

2. The Due and Drawn statement submitted by the Executive Officer, Municipal Committee, Tangmarg/Gulmarg to the Director, Urban Local Bodies, Srinagar has also been quashed. The Writ Court has directed the appellants herein to fix the pension of the respondent on

the basis of the pension case submitted by the Director, Urban Local Bodies, Srinagar in terms of letter dated 11th November, 2024.

3. Briefly stating the facts leading to filing of this Appeal as are gatherable from the pleadings of the parties and the judgment impugned are that the respondent herein was initially appointed as a Store Munshi vide order dated 9th April, 1985 and was promoted/upgraded vide order dated 1st October, 1985 as Cattle Pond Keeper. The higher pay grade attached to the post of Cattle Pond Keeper was released in his favour vide Order No. 29 of 1990 dated: 28th November, 1990. On the basis of this appointment/promotion to the post of Cattle Pond Keeper in the then pay scale of Rs. (800-1500), the respondent was given first in-situ promotion w.e.f. 1st December, 1999 and second in-situ promotion w.e.f 1st December, 2008.

4. The respondent, however, retired on superannuation on 31st May, 2024. The Executive Officer, Municipal Committee, Magam vide his communication dated 11th November, 2024 prepared and forwarded the pension case of the respondent to the competent authority for release of pension and other post-retiral benefits. It seems that, at this stage, the appellants herein found fault with his initial appointment as well as upgradation/promotion to the post of Cattle Pond Keeper within a span of Six (6) months from his appointment. Vide Order No. DULB/ACCTTS/3293/314 of 2025, dated: 11.04.2025, the adjustment of the respondent as Cattle Pond Keeper made in terms of order dated 1st October, 1985 and his

upgradation to the pay scale of Rs. (800-1500) was rescinded *ab-initio.* The first and the second in-situ promotions granted pursuant to the aforesaid grant of grades were also cancelled *ab-initio*. It is this order which was called in question by the respondent in WP(C) No. 1398/2025.

5. The writ petition was contested by the appellants herein, while submitting that the promotions given to the respondent from the post of Store Munshi to Cattle Pond Keeper within a period of Six (6) Months on his appointment was *de-hors* the law and, therefore, void *ab-initio*. Mere release of higher grade in his favour on the ground that he was holding the post of Cattle Pond Keeper was not sustainable in law. The grant of two in-situ promotions based on aforesaid release of grade were also claimed to be void *ab-initio*. In short, the appellants herein justified the issuance of impugned order passed by the Director, Urban Local Bodies dated 11th July, 2025, saying that the wrong which was committed by the Officers from time to time alone was justifiably rectified.

6. The Writ Court considered the rival contentions and the material on record and came to the conclusion that the impugned order, besides suffering from violation of principles of natural justice, was, otherwise, not sustainable in that it would deprive the respondent of the benefits which he had received over a period of time during his service career, that too, after he had superannuated and was expecting his post-retiral benefits.

7. Having heard learned counsel for the parties and perused the material on record, we are of the considered opinion that the Writ Court has considered the entire controversy in right perspective and has rightly quashed the orders impugned in the writ petition.

8. It is true that the respondent was appointed as Store Munshi in the Notified Area Committee, Tangmarg/Gulmarg against an available vacancy on 9th April, 1985 and before he could complete his probation on the post, he was adjusted/upgraded as Cattle Pond Keeper in terms of the order dated 1st October, 1985. However, it is undeniable fact that this order which was passed on 1st October, 1985 was never withdrawn by the competent authority anytime during his service career, rather the order was acted upon and formal pay scale attached to the post of Cattle Pond Keeper was also released in favour of the respondent vide order dated 28th November, 1990. To top it all, he was also granted the benefit of two in-situ promotions. It was only after he retired and his case was forwarded by his DDO for disbursement of pensionary benefits, the appellants thought of reviewing the entire matter and withdraw all the benefits granted to the respondent from time to time during his service career that too without even providing him opportunity of hearing.

9. While we do not dispute the proposition put forth by the learned counsel for the appellants that the mistake, if any committed, can be rectified at any time, however, in this instant case, it was not a mistake but an order, purportedly not in consonance with law, which was passed by the Chairman, Notified Area Committee. There is

nothing on record to show that the order of the Chairman, Notified Area Committee was ever examined by the higher authorities or any steps were taken to withdraw the same.

10. Had the appellants herein initiated action during the course of his service, the respondent would have at least got an opportunity to defend the pay scale given to him as also the in-situ promotions granted to him from time to time. The respondent has now retired on superannuation and, therefore, cannot be subjected to any enquiry. Otherwise also, there is nothing on record to indicate that the release of grade attached to the post of Cattle Pond Keeper and the subsequent release of two in-situ promotions in favour of the respondent were due to any act or omission, misrepresentation or concealment attributable to the respondent. Otherwise also, the respondent, being a petty employee cannot be subjected to such harsh treatment, that too, after he has retired and is expecting the fruits of service rendered by him for so many years to the department of Urban Local Bodies.

11. For the foregoing reasons, we find no merit in this appeal, which is accordingly **dismissed**.

(MOHD YOUSUF WANI)
JUDGE

(SANJEEV KUMAR)
JUDGE

SRINAGAR
04.11.2026
Shahid Manzoor

(i) Whether the order is speaking? Yes/No.
(ii) Whether approved for reporting? Yes/No.