

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

Reserved on: 29.08.2025
Pronounced on: 03.09.2025

WP(C) No.2367/2025

1. Union of Territory of Jammu & Kashmir through
Principal Secretary to Government, Higher Education
Department, Civil Secretariat, Jammu/Srinagar
2. Director, Colleges, Jammu.

....Appellant(s)

Through:- Mr. Ravinder Gupta, AAG

Versus

1. Prof. Arti Pandoh Gupta W/o Sh. Rakesh Kumar Gupta R/o
House No.03, Lane No.27, Opposite Yougal Complex, Greater
Kailash, Jammu
2. Prof. Narinder Kumar S/o Sh. Balak Ram R/o Mawa Karona,
Near Primary School, Akhnoor, Jammu
3. Prof. Rajender Kumar Sharma S/o Sh. Tej Ram R/o 66-A, Sainik
Colony, Jammu.
4. Prof. Anita Jamwal W/o Sh. Sangram Singh R/o Palanwala,
Tehsil Khour, Jammu

...Respondent(s)

Through:- Mr. Sudershan Sharma, Advocate

5. Secretary, J&K Public Service Commission, J&K,
Jammu/Srinagar.
6. Jan Shabir Ahmed
7. Mir Shabeer Ahmed
8. Manzoor Dar
9. Mohd. Farooq
(Respondents No.06 to 09 C/o Principal Secretary to
Government, Higher Education Department, Civil Secretariat,
Jammu/Srinagar)

.....Proforma respondents.

**Coram: HON'BLE MR. JUSTICE SANJEEV KUMAR, JUDGE
HON'BLE MR. JUSTICE SANJAY PARIHAR, JUDGE**

JUDGMENT

Sanjeev Kumar J

1. This writ petition under Article 226 of the Constitution of India filed by the Union Territory of Jammu & Kashmir and Director, Colleges, Jammu seeks quashing of and setting aside or an order and judgment dated 11th June, 2025 passed by the Central Administrative Tribunal, Jammu Bench, Jammu [“the Tribunal”] in OA No.848/2024 titled *Prof. Arti Pandoh Gupta and others v. Union Territory of J&K and others*, whereby the Tribunal has allowed the OA and held that the select list prepared by the Jammu and Kashmir Public Service Commission pursuant to the communication of the petitioners dated 06.12.2022 is valid and subsisting and, therefore, Government Order No.297-JK(HE) dated 20.05.2024, Government Order No.343-JK(HE) dated 21.06.2024 and Government Order No.381-JK(HE) dated 18.07.2024 are illegal and liable to be quashed. The Tribunal has also directed the petitioner No.1 herein to issue formal orders of appointment and posting in favour of the respondents as Principals (Level 14) against the available 47 vacancies, with all consequential benefits of pay and seniority.
2. The impugned judgment is called in question by the petitioners on various grounds. However, before we advert to the primary grounds of challenge urged by Mr. Ravinder Gupta, learned

AAG appearing on behalf of the petitioners, we deem it appropriate to narrate few facts as are germane to the controversy raised in this petition.

3. In the year 2022, the petitioners herein with a view to fill up vacant posts of Principals, requested the Secretary, Public Service Commission [“PSC”] to initiate process of selection. The indent placed by the petitioners with the PSC was for filling up of 105 posts of Principals in various degree colleges of the Union Territory of J&K. In response to the request of the petitioners, PSC, after undertaking the process, conveyed approval to the selection of 120 Associate Professors as Principals in the Government Degree Colleges of the Union Territory of J&K vide its letter No.PSC/DPC/Principals/2022-1 dated 05.12.2022.

4. In addition to the communication dated 05.12.2022, the PSC vide communication No.PSC/DPC/Principals/2022-1 dated 06.12.2022 conveyed approval of 30 more candidates to be adjusted against the ensuing vacancies, if any, upto November, 2023, as Principals in Government Degree Colleges of U.T. of J&K. Immediately upon receipt of the select panel of 120 candidates, the petitioner vide Government order No.270-JK(HE) of 2022 dated 21.12.2022 made the appointment of 105

Principals and posted them in different degree colleges of the UT of J&K.

5. With a view to appointing 15 more Associate Professors as Principals from the left out panel of 120 candidates, the department of higher education took up the matter with the General Administration Department for seeking latter's opinion. The General Administration Department vide U.O. No.GAD-MTG0RBIV/324/2022 dated 06.02.2023 advised the department of higher education to place formal indent for 15 posts of Principals to the PSC in continuation to the previous indent and then proceed accordingly on the recommendations of the PSC. The matter was then taken up with the PSC for making recommendations in favour of 15 candidates to fill up the available posts of Principals. The PSC vide its letter No.PSC/DPC/Principals/2022-1 dated 20.03.2023 accorded approval to the appointment of 15 more Associate Professors as Principals against the available posts in various Government Degree Colleges of the Union Territory of J&K. Acting upon the recommendations of the PSC, the petitioners appointed 15 more Principals in terms of Government Order No.80-JK(HE) of 2023 dated 24.03.2023.
6. Having found that till 31st March, 2023, ten (10) more posts of Principals had fallen vacant and six (06) were anticipated to fall

vacant between 01.04.2023 to 31.12.2023, the petitioners vide letter No.HED-ADM/45/2021-04 dated 17.04.2023, made another indent to the PSC for supplying the list of eligible candidates.

7. In response to the communication dated 17.04.2023, the PSC conveyed its approval to operate the list of 30 Associate Professors already forwarded by it to the petitioners vide communication dated 06.12.2022 (supra). The respondents who were figuring at serial No.24, 23, 22, 27 and 30 respectively could not be accommodated due to non-availability of the posts in the said calendar year i.e. 2023. Feeling aggrieved, the respondents challenged the inaction of the petitioners by filing different OAs, which were disposed of by the Tribunal with a direction to consider the case of the respondents for promotion as Principals on merits by passing a reasoned speaking order.

8. In compliance with the direction aforesaid, petitioner No.1 considered the claim of the respondents for their promotion as Principals in the Higher Education Department and rejected the same vide Government Order No.297-JK(HE) of 2024 dated 20.05.2024 holding that the select panel in which the names of the respondents figured had lost its validity after 30th November, 2023 and that the posts of Principals that had accrued from December, 2023 upto 31st December, 2024 stood also referred to

the PSC by way of fresh indent. It is this order along with two other orders delegating powers of Drawing and Disbursing Officer to some Principals, which were called in question in OA No.848/2024 on the ground that they stood selected and recommended by the PSC and that delegation of DDO powers to the Principals/senior most faculty members is in violation of the earlier order of the Tribunal dated 28.06.2024 passed in OA No.673/2024. It is this OA, which has been allowed by the Tribunal vide its judgment impugned in this petition.

9. Having heard learned counsel for the parties and perused the material on record, we are of the considered opinion that the judgment impugned passed by the Tribunal is totally erroneous and completely flawed and, therefore, cannot sustain.
10. The appointment of Principals in the Government Degree Colleges of the Union Territory of Jammu & Kashmir is governed by the Jammu & Kashmir Education (Gazetted) College Service Recruitment Rules, 2008, as amended by SRO 124 of 2014 dated 21.04.2014. The post of Principal, which is Class I Category-B post, is required to be filled up in the following manner:

“By selection through PSC/DPC from Class II Category(A) from amongst persons having at least 15 years of teaching experience in Colleges out of which at least three years must be a Associate Professor. Provided that the number of

candidates to be considered shall not ordinarily exceed five times the number of posts.”

11. Obviously, promotion to the post of Principal from Class-II Category(A) (Associate Professor) is not by way of promotion simpliciter, but is by way of selection through PSC/DPC. The zone of consideration can go up to five times the number of posts. The procedure, which is required to be followed by the PSC/DPC for recommending appointment by promotion is provided elaborately in Rule 64 of the Jammu and Kashmir Public Service Commission (Business and Procedure) Rules, 2021 [“the Rules of 2021”], which, for facility of reference, is set out below:-

“64. DPCs shall adopt the following procedure for preparation of promotion panels:-

- a) Decide upon the number of officers eligible according to the rules who should be considered for inclusion in the select list. The eligibility list will not ordinarily exceed 3 times the number of vacancies anticipated during the period of the operation of the list based on the respective records of the service and other relevant parameters. The total select list will not be more than 1½ times the anticipated number of vacancies or 10% of the strength of the cadre whichever be more.
- b) Promotion panels shall be prepared in accordance with the rules for the time being in force;
- c) The DPCs shall not interview candidates unless in the special circumstances of a particular selection, the

Government desires that interviews should be held or if provided in the Recruitment rules; and

- d) Select list shall be reviewed once a year. The officers who have already been promoted on the basis of a previous select list shall be removed from the list and the rest of the names along with those of others who may be eligible reconsidered for inclusion in the new list.”

12. From a careful reading of Rule 64, quoted above, in its entirety, it is quite evident that the DPC is empowered to decide upon the number of eligible officers, who should be considered for inclusion in the select list, according to the Rules, with a caveat that the eligibility list shall not ordinarily exceed three times the number of vacancies anticipated during the period of operation of the list. The DPC shall prepare a select list after considering all eligible candidates in the zone of consideration, which shall not be more than one and half times the anticipated number of vacancies or 10% of the strength of the cadre, whichever is more.

13. As is clear from Rule 64(d), select list prepared shall be reviewed once a year. From the entire reading of Rule 64, particularly clause (a) along with clause (d) following position emerges:-

- i) That number of eligible candidates to be considered for inclusion in the select list is left to be decided by the DPC/PSC.

- ii) Zone of such consideration shall not ordinarily exceed three times the number of vacancies anticipated during the period of the operation of the list.
- iii) The Rule does not specially mention the period of operation of the list. However, as is evident from Clause (d), Select List, which is prepared, shall subserve the available anticipated vacancies in the year in which the DPC meets and prepares the select list. The select list once prepared shall be reviewed once a year and the officers who have already been promoted on the basis of a previous select list shall be removed from the list and the left over candidates shall be considered along with other officers, who may be eligible for inclusion in the new list.
14. It is, thus, obvious that once a select list is prepared, it will serve to supply the vacancies for a period of one year and thereafter the select list shall be reviewed and a new list shall be prepared by considering the candidates left from the previous list and those subsequently enter the consideration zone.
15. Viewed thus, there was inherent fallacy in understanding the Rule 64 of the Rules of 2021 by the Tribunal. The Tribunal without appreciating the true import of Rule 64, erroneously held that there was no life of the select panel prepared by the PSC and that the same could be utilized for filling up the vacancies, even

the vacancies that may have fallen vacant after one year of the preparation of the panel.

16. In the instant case, when reference was made by the petitioners to the PSC there were 105 posts of Principals lying vacant in the Higher Education Department. Accordingly, the DPC/PSC considered the Associate Professors eligible under the Recruitment Rules three times the number of posts referred by the petitioners. The DPC/PSC had the mandate of preparing the select panel of Associate Professors to the extent of one and half times the available and anticipated posts. Initially, in terms of its communication dated 05.12.2022, as against 105 available posts of Principals, a select panel of 120 Associate Professors was forwarded by the PSC to the petitioners. The petitioners appointed and posted the first 105 Associate professors from the panel against the available vacant posts of Principal in various Government Degree Colleges of UT of J&K vide order dated 21.12.2022 (supra). It needs to be clarified at this stage that the exercise was undertaken by the PSC/DPC in the year 2022 which culminated into preparation of select panel on 05.12.2022.

17. That being the position, this select panel could not have been reviewed for framing fresh panel in terms of Clause (d) of Rule 64 of the Rules of 2021 till 04.12.2023. The panel was, thus,

to serve as a reservoir for filling the vacancies that would have accrued till 30.11.2023. It is not in dispute that upto 30.11.2023, 30 more posts became available. 15 posts were filled up from amongst the select panel of 120 whereas 10 posts that had accrued upto 31.03.2023 and six posts, which were anticipated to fall vacant from 01.04.2023 to 30.11.2023, were subsequently filled up from the panel of 30 Associate Professors forwarded vide letter dated 06.12.2022 in addition to its earlier panel of 120 forwarded by the PSC to the petitioners on 05.12.2022.

18. In short, vide communications dated 05.12.2022 and 06.12.2022, the PSC had forwarded the select panel of 150 Associates Professors eligible to be promoted as Principals subject to availability of posts. As a matter of fact, while conveying approval to the selection of 30 Associate professors as Principals, the PSC in its communication dated 06.12.2022 had clearly mentioned that this panel would be valid to fill up vacancies of the Principals accruing upto to November, 2023. It is this list of 30 candidates, which was forwarded by the PSC vide its communication dated 06.12.2022 in which the respondents figured at S.No.24, 23, 22, 27 and 30 respectively.

19. As noted herein above and is also clearly discernible from order dated 20.05.2024, 16 candidates out of the panel of 30 candidates were appointed as Principals against the vacancies

accrued and anticipated upto to 30.11.2023. It is true that Rule 64 of the Rules of 2021 does not fix any tenure or period of validity of the panel prepared by the PSC in so many words, however, reading of the Rule in its entirety makes it abundantly clear that the select panel once prepared cannot be reviewed in the same year and has to be reviewed after one year and while reviewing the panel, the candidates left out of the earlier select panel, who could not be appointed for want of vacancies and those who have subsequently entered the consideration zone are to be considered for preparation of fresh panel.

20. The Tribunal has failed to appreciate the controversy in correct perspective and has clearly misunderstood the import of Rule 64 of the Rules of 2021 and, therefore, has landed in error by allowing the OA in terms of the judgment impugned in this petition.

21. For the foregoing reasons, we find merit in this petition and the same is, accordingly, allowed. The impugned order and judgment passed by the Tribunal is quashed and set aside. As the petitioners have already placed fresh indent to the PSC for filling up of the vacant and anticipated positions of Principals accrued upto 31st December, 2024 and the respondents, who are the left over candidates of the previous select list, are entitled to be considered along with those, who have subsequently

entered the consideration zone, for promotion to the posts of Principals. Government Order No.297-JK(HE) of 2024 dated 20.05.2024 has rightly considered the grievance of the respondents and found the same devoid of merit for the elaborate reasons contained in the said order.

22. Before parting, we, however, would like to direct the petitioners to adhere strictly to the seniority while placing the eligible Associate Professors as Incharge Principal(s). Such Incharge Principal(s) alone shall be delegated the Drawing and Disbursing Powers to run the institution, they are posted in. This, however, shall not come in the way of the petitioners to delegate DDO powers to a substantive Principal of the adjoining Institution in an appropriate case.

(Sanjay Parihar)
Judge

(Sanjeev Kumar)
Judge

JAMMU
03.09.2025
Vinod,PS

Whether the order is speaking : Yes
Whether the order is reportable: Yes