

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

**Reserved on: 27.11.2025
Pronounced on 11.12.2025
Uploaded on 1.12.2025**

Whether the operative part or full
judgment is pronounced: **Full Judgment**

CJ Court:

**LPA No. 98/2022
CM No. 5712/2022**

Sher-e-Kashmir University of Agriculture ...Petitioner(s)/Appellant(s)
Sciences and Technology and another.

Through: Mr. D. C. Raina, Sr. Advocate with
Mr. Anuj Dewan Raina, Advocate
Mr. Mazher Ali Khan, Advocate &
Mr. Junaid, Advocate

v/s

.... Respondent(s)

Dr. Robinder Nath Koul and others

Through: Mr. P. N. Raina, Sr. Advocate with
Mr. J. A. Hamal, Advocate and
Mr. Ankit Dogra, Advocate

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

JUDGMENT

'Oswal-J'

1. The respondents were employees of Sher-e-Kashmir University of Agricultural Sciences and Technology (SKUAST), Kashmir. Owing to the eruption of militancy, the respondents migrated to the other SKUAST campus in Jammu. Vide Government order No. 605-GAD of 1991, Government employees, who migrated from the Valley to Jammu because

of the turmoil, were termed as "migrant employees", to be paid migrant salary. Subsequently, in terms of another Government order dated 29.04.1992, migrant employees were directed to be considered for promotion, and the effect of the promotion was to be given to such employees only upon their joining the promoted post.

2. SKUAST, Kashmir, through Notification No. 01/2002, amended Schedule II to Chapter 2 (Career Advancement Scheme for Teachers), making its provisions effective prospectively. However, by a subsequent order dated 19.01.2007, the effective date of the Career Advancement Scheme (CAS) for Teachers was retrospectively fixed as 27.07.1998.
3. The respondents asserted that they had completed the requisite years of service as "Assistant Professor/Junior Scientist" and were eligible for promotion under the CAS to the post of "Associate Professor/Senior Scientist". They pressed the appellants for immediate consideration of their cases, citing that the benefits had already been extended to similarly situated and even junior colleagues. Despite receiving assurances, the appellants took no concrete steps to address the respondents' grievance.
4. In the year 2009, the appellants, for the first time, asked the respondents to rejoin in the Kashmir Valley so that their cases for promotion could be considered, and the respondents accordingly did so. The respondents were considered by the Selection Committee for promotion, and the Board of Management (BOM) of the University thereafter considered and approved the recommendations of the Selection Committee for the promotion of "Assistant Professors/Junior Scientists" as "Associate Professors/Senior Scientists" under the Career Advancement Scheme, as is evident from

Item Nos. 49(15) and 49(16) of the BOM minutes of the meeting. However, the Screening Committee, which the respondents allege was constituted contrary to the rules and all Government orders, recommended that the promotion orders for the respondents as “Associate Professors/Senior Scientists” would take effect only from the date of the respondents' joining SKUAST Kashmir in 2009. Crucially, neither the Selection Committee nor the BOM had put any such condition while recommending and approving the promotions cases of the respondents, as the case may be.

5. Following the recommendations of the Screening Committee, the appellants issued promotion orders of the respondents vide orders dated 28.10.2010 under the Career Advancement Scheme in their respective disciplines. These orders stipulated that the promotions would take effect from the date the respondents rejoined SKUAST, Kashmir, in 2009.
6. Upon receiving their promotion orders, which were conditional, as the promotion taking effect only from the date they rejoined the Valley in 2009, the respondents raised objections by citing various precedents. Specifically, they highlighted the case of Dr. Wali Ullah, a similarly situated migrant from the Valley teaching at SKUAST, Jammu, who had been granted the benefit of his entire migrant period for his promotion.
7. The appellants acknowledged the respondents' plea, took cognizance of the request, and referred the matter for examination and opinion to the Principal Secretary to Government, Agriculture Production Department, J&K, via communication dated 01.04.2011. In response, the Agriculture

Production Department (letter dated 08.08.2011) directed the appellants to take appropriate action by:

(i) Bringing the issue before the University's Governing Body in accordance with the Career Advancement Scheme guidelines.

(ii) Ensuring the procedure followed by the State Government was kept in view when considering promotions for migrant teachers.

8. The Board of Management (BOM) of the appellants, in its meeting held on 09.08.2011, considered the abovementioned issue under Agenda Item No. 51(3), but deferred the matter for want of certain clarifications.
9. When the respondents noticed continued inaction on the part of the appellants, they filed the writ petition bearing SWP No. 2527/2011. That petition sought to command the appellants to give effect to the promotion orders made in their favor under the Career Advancement Scheme as "Associate Professors/Senior Scientists" from the date they completed the requisite service period as "Assistant Professors/Junior Scientists". They also sought the quashing of the condition imposed by the Screening Committee in the promotion orders, which stipulated that the promotions would take effect only from the dates of their joining what was called "active service," arguing it was arbitrary, illegal, and without authority.
10. The appellants objected to the writ petition, asserting that the respondents did not fulfill the eligibility criteria at the time of completing nine years of service as "Assistant Professors/Junior Scientists". This was primarily

because they were lacking two requisite training courses of approved duration.

11. The appellants stated that promotions were granted to the respondents with the explicit condition that they must complete these training courses within a period of six months from the date of the promotion order i.e., 27.04.2011. However, the appellants had not received any training certificates from the said Scientists/Teachers to date, in compliance with the conditions laid down in their promotion orders as “Associate Professors/Senior Scientists”. The only exceptions were Dr. R. N. Koul and Dr. R. K. Tikoo, who were granted exemption in terms of University Grants Commission’s communication dated 08.01.2008.
12. Furthermore, the eligibility criteria stipulated that a “Scientist/Assistant Professor (Senior Scale)”, upon completing five years of service in the Senior Scale or a total of nine years of service as a “Lecturer/Assistant Professor with a Ph.D”, would be eligible for promotion to “Reader/Associate Professor” under the revised Career Advancement Scheme (CAS). Notwithstanding this, the CAS benefit for the migrant employees was granted from the date they joined active duties, following the recommendation of the Screening Committee, which was duly constituted by the competent authority.
13. Precisely, the appellants objected to the claim of the respondents by asserting that the respondents did not fulfill the eligibility criteria at the time of completing nine years of service as “Assistant Professors/Junior Scientists” because they were lacking two requisite training courses of approved duration and the promotion was to be granted to them only on

the condition that they would complete these training course within a period of six months from the date of issuance of their promotion orders i.e. upto 27.04.2011. In respect of Dr. Wali Ullah, it was stated that he too had migrated and was promoted under the Career Advancement Scheme (CAS) vide order dated 10.12.2007, with effect from 27.07.1998.

14. This retrospective promotion was justified because Dr. Wali Ullah was actively involved in imparting instructional programs for B.Sc. Agricultural, M.Sc. Agricultural, and Ph.D. students of SKUAST Jammu. This involvement was officially communicated by SKUAST, Jammu, vide letter dated 14.07.2006. Since he had joined SKUAST, Kashmir with effect from 30.08.2004, the Committee concluded that he was in "active service" even after migration and thus, recommended his promotion as Professor-cum-Chief Scientist with effect from 27.07.1998 under the CAS for Teachers. In essence, the appellants have attempted to segregate the case of the respondents from that of Dr. Wali Ullah by asserting that he was on active service while on migration. The appellants admitted the documents placed on record by the respondents.
15. The respondents filed the rejoinder, contending that the Screening Committee lacked any statutory recognition. They argued that the Committee's purpose was solely to screen the documents and it had no authority to change or alter the date of promotion of the respondents, which should have been determined in terms of the Career Advancement Scheme (CAS). The respondents also placed on record certificates demonstrating that Dr. Suresh Kumar Kakroo (Respondent No. 4), Dr. Ravi Kumar Nehru (Respondent No. 3), and Dr. Rajinder Kotru

(Respondent No. 7) had been deputed for and successfully completed the required training courses. Finally, to rebut the appellants' claim regarding Dr. Wali Ullah's "active service," the respondents also placed on record an order dated 16.09.2004 to assert that Dr. Wali Ullah had remained a migrant employee from 1990 until 2004.

16. The learned writ court vide its judgment dated 24.03.2022 allowed the writ petition preferred by the respondents and quashed the condition imposed by the Screening Committee of the appellants in the orders of promotion of the respondents, whereby the effect of promotion was accorded from the date of active joining and the appellants were directed to give effect to the orders of promotion of the respondents under Career Advancement Scheme as Associate Professors/Senior Scientists from the date, they completed the requisite number of years of service as "Assistant Professors/Junior Scientists".
17. The appellants, being aggrieved of the judgment (supra), have challenged the same on the following grounds:
- a. **Active Service:** They contend that the learned writ court failed to consider that the respondents were not in active service and that they only rejoined SKUAST Kashmir to perform their duties in 2009.
 - b. **Condition of Joining:** The learned writ court also failed to note the appellants' contention that the benefits of the promotion were available only if the promoted employees rejoined their new places of posting in the Valley.
 - c. **Distinction of Dr. Wali Ullah's Case:** It is further contended that the case of Dr. Wali Ullah cannot be equated with that of the respondents, as he was actively involved in imparting instructional programs for

B.Sc. Agricultural, M.Sc. Agricultural, and Ph.D. students of SKUAST J&K.

d. Validity of Screening Committee: It is also urged that the Screening Committee was constituted by the Vice Chancellor under Section 19, Chapter-III, of the SKUAST Act. Once the Screening Committee takes a decision, the same is placed before the statutory Selection Committee, which recommends the promotion of Associate Professors/Senior Scientists to the Board of Management (BOM) for approval.

18. Mr. D. C. Raina, learned Senior Counsel for the appellants, has argued that the respondents were not in active service and as such, they were not promoted from the date they became entitled for promotion in terms of Career Advancement Scheme and further that the case of Dr. Wali Ullah was entirely different qua the case of the respondents, as he was in active service and because of that reason only, he was granted the benefit of promotion with effect from 27.07.1998.
19. *Per contra*, Mr. P. N. Raina, learned Senior Counsel for the respondents has argued that while promoting the respondents, the appellants had not given effect to orders of promotions of the respondents from the date of their eligibility, though their promotion to the said post was recommended by the Selection Committee and approved by the Board of Management unconditionally. He has drawn the attention of this Court towards the Agenda item No. 49 and the approval of the recommendation of the Selection Committee and further the note incorporated in the approval, whereby the Board advised that the promotion in respect of the recommended candidates under Career Advancement Scheme be given effect from the due dates as prescribed under the Career Advancement

Scheme for Teachers. He vehemently argued that the case of Dr. Wali Ullah was identical to that of the respondents but for unknown reasons, a condition was incorporated in orders of promotion of the respondents, whereby the effect of promotion was given from date of joining their respective places of posting.

20. Heard learned Senior Counsel for the parties and perused the record.
21. The first contention of the appellants is that the learned Writ Court has not taken into consideration that the respondents were not in active service and that is why they were not granted the benefit of promotion with effect from the period they became entitled to promotion. It is an admitted position that the Selection Committee found the respondents to have fulfilled the eligibility criteria for promotion, and it is also not disputed that the Board of Management also duly approved the recommendations of the Selection Committee. Even in the record of the Screening Committee, it is nowhere mentioned that the respondents were not in active service. In all the cases of the respondents, the Screening Committee has only opined that the respondents lacked two training courses of approved duration, which the respondents can complete in next six months and in some cases, even this requirement was recommended for relaxation in view of their retirement in next three years in accordance with exemption granted by UGC in terms of communication dated 08.01.2008. The cases of the respondents were never rejected by the Screening Committee for the reason that they were not in 'active service' but the Screening Committee only recommended that two requisite training courses of approved duration be completed within a period of six

months or in the alternative, where exemption can be granted, the said condition be relaxed. None of the respondents have been found unsuitable by the appellants on the ground of lack of active service. This contention of the appellants is misconceived and deserves to be rejected.

22. Next, it was contended that Dr. Wali Ullah, who was promoted vide order dated 10.12.2007, was in active duty during his migration, and was consequently granted the benefit of promotion with effect from 28.07.1998. The learned Senior Counsel for the appellants draws a distinction by asserting that Dr. Wali Ullah was involved in imparting instructional programs and joined SKUAST, Kashmir, with effect from 30.08.2004. Because he was deemed to be in active service after migration, the Committee recommended his promotion to the post of Professor-cum-Chief Scientist with effect from 27.07.1998 under the Career Advancement Scheme (CAS) for Teachers.
23. A perusal of the order dated 16.09.2004 reveals that Dr. Wali Ullah migrated from the Valley in the early nineties (90's). During his migration period, he was transferred to and posted at the Regional Agricultural Research Station, Leh, vide order dated 11.08.1993, but he failed to join at Leh and instead continued to enjoy migrant status.
24. It is further evident from the said order that only in the year 2004, Dr. Wali Ullah had requested the appellants for resumption of his duties at the Division of Entomology in Srinagar. This request was examined and considered, and he was subsequently allowed to resume his duties in the Division of Entomology, Shalimar Campus. Thus, it is clear that Dr. Wali Ullah was granted promotion vide order dated 10.12.2007 with effect

from 27.07.1998, despite the fact that he did not join Leh following the order dated 11.08.1993, and continued to enjoy migrant status. He was allowed to resume active duties only upon his request made through communication dated 30.08.2004 and the subsequent order dated 16.09.2004. Given these facts, the appellants have miserably failed to draw any distinction between the case of Dr. Wali Ullah and that of the respondents.

25. It is settled law that similarly situated persons cannot be treated differently. Thus, once the respondents and Dr. Wali Ullah are found to be identically placed for the purposes of the Career Advancement Scheme, the appellants are required to extend the same promotional benefits to the respondents as were extended to him.
26. We have meticulously examined the judgment passed by the learned writ court and we do not find any illegality, infirmity or perversity therein.
27. In view of the foregoing discussions, we are of the considered view that the appellants have failed to make out any case for interference in the well-reasoned judgment of the Writ Court. The appeal, being devoid of merit, is accordingly dismissed. As a consequence, the impugned judgment shall stand upheld in its entirety.

(RAJNESH OSWAL)
JUDGE

(ARUN PALLI)
CHIEF JUSTICE

JAMMU:
11.12.2025
Karam Chand

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