

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

SWP No.888/2002

Reserved on 29.01.2026.
Pronounced on 05.02.2026
Uploaded on 06.02.2026

Abdul Salam Dar

..... Petitioner (s)

Through :- Mr. P.N.Goja Sr. Advocate with
Mr. Abhinav Jamwal Advocate

V/s

High Court of J&K and others

.....Respondent(s)

Through :- Mr Aditya Gupta Advocate.

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

Sanjeev Kumar J



JUDGMENT

Background and Reliefs Sought:

1 The petitioner has retired on superannuation as Reader of this Court. While he was in service, he filed the instant petition in the year 2002 seeking, inter alia, the following reliefs:

(i) a direction to respondent No.1 to treat him as having been appointed against the post of Assistant Registrar retrospectively from 09.09.1997 and to re-designate him as Assistant Registrar instead of Reader;

(ii) a direction to respondent No.1 to grant the petitioner promotion in the grade of Rs.8000–12950 (Grade-I) from the date respondents No.2 and 3 were placed in the said grade;

(iii) a direction to respondent No.1 not to regularize the ad hoc promotions of respondents No.2 and 3 in the grade of Rs.8000–

12950 (Grade-I) without allowing such grade to the petitioner w.e.f. 27.04.2001 along with the consequential seniority, placing him above respondent No.3.

Factual Matrix:

2 The petitioner, a graduate from the University of Kashmir, was working as Section Officer in the Administrative Wing of this Court along with respondents No.2 and 3, who were not possessing the qualification of graduation. Vide Order No.349 dated 23.08.1997, respondent No.2 was promoted as Assistant Registrar-II in the grade of Rs.7500–12000 (Grade-II) (old 2125–3600), though he did not possess the qualification of graduation. This promotion of respondent No.2 as Assistant Registrar-II was made by respondent No.1 in relaxation of his qualification. The petitioner, who was also a Section Officer working alongside respondent No.2, was subsequently promoted as Reader in the grade of Rs.2125–3600 (old) revised to Rs.7500–12000, vide order dated 09.09.1997. Respondent No.3 was, in the year 1998, also promoted as Assistant Registrar (Grade-II) by respondent No.1 vide Order No.218 dated 03.07.1998. Though the petitioner accepted and joined as Reader, his appointment came to be challenged by Yash Pal Sharma, Onkar Raina, and Joginder Singh by way of SWP No.140/1998 on the ground that the petitioner did not possess the qualification of LLB required for holding the post. The said writ petition was disposed of by a learned Single Judge of this Court vide judgment dated 20.08.2001, holding that the post of Reader carries a degree in the discipline of law as the minimum qualification and directing respondent No.1 to take note of the observations and take necessary remedial measures. This judgment was assailed by the High Court before a Division Bench of this Court in LPA (SW) No.389/2001 titled '*High Court of J&K v. Yash Pal Sharma and others*', which was dismissed vide judgment dated 14.02.2002.

Rival contentions:

3 It seems, and as is claimed by the petitioner, no remedial measures were taken and the petitioner was allowed to continue as Reader till he superannuated. After the decision of the aforesaid appeal, the petitioner filed a representation dated 20.03.2002 before respondent No.1 seeking his re-designation as Assistant Registrar-II from the date he was erroneously promoted as Reader and for further promotion to the post of Deputy Registrar on the analogy of respondents No.2 and 3. When this did not happen, the petitioner filed the instant petition.

4 In the reply affidavit filed on behalf of respondent No.1, it was not disputed that the petitioner was promoted as Section Officer on ad hoc basis along with respondents No.2 and 3 vide Order No.491 dated 29.09.1994 and was placed at Serial No.1 of the said order. With regard to promotion of respondent No.3 in relaxation of qualification, it was contended that under Rule 6 of the J&K High Court Staff (Conditions of Service) Rules, 1968, Hon'ble the Chief Justice was empowered to lay down and relax qualifications for any post. It was submitted that the representations made by the petitioner were considered and rejected and such rejection was conveyed to him vide letters dated 06.03.1998 and 01.01.2001. Another representation was also considered and rejected by order of Hon'ble the Chief Justice dated 08.03.2005.

5 The writ petition was resisted primarily on the ground that the petitioner never objected to rather derived the benefit of the post of Reader, a post equivalent to Assistant Registrar-II, when it was offered to him immediately after the temporary promotion of respondent No.2 as Assistant

Registrar-II. It was thus submitted that it was not left to the sweet will of the petitioner to switch over from one cadre to another having regard to the promotional prospects in a particular cadre available at a particular point of time. Regarding further promotion of respondents No.2 and 3 to the post of Assistant Registrar Grade-I, it was contended that the said benefit was conferred upon respondents No.2 and 3 in compliance with judicial decisions.

6 Respondents No.2 and 3 also filed their replies reiterating the stand taken by respondent No.1 in its reply affidavit.

Analysis and Findings

7 Having heard learned counsel for the parties and perused the material on record, it is seen that the petitioner was promoted as Section Officer along with Jawahar Lal Khar, Naseeb Singh (respondent No.2), and Rattan Singh (respondent No.3) initially on an ad hoc basis. In the order of ad hoc promotion as Section Officer, the petitioner, possessing the qualification of graduation, was shown at Serial No.1 despite the fact that Jawahar Lal Khar and respondents No.2 and 3 herein were senior to him in the cadre of Head Assistants. It appears that the petitioner was placed above the aforesaid three on the ground that he possessed the requisite qualification of graduation, whereas the promotions in the case of Jawahar Lal Khar, respondents No.2 and 3 herein were on account of relaxation of educational qualification. This is apparent from the order of ad hoc promotion dated 09.09.1994 issued by respondent No.1. However, when the ad hoc promotions of Section Officers were regularised, the petitioner was placed below all the three aforesaid persons on the ground that they were senior to the petitioner in the cadre of Head Assistants and that placement in seniority could not be based on

qualification. The issue was examined by the then Hon'ble Mr. Justice V.K. Gupta, and it was opined that the petitioner as well as respondents No.2 and 3 could not be treated differently, particularly, once the educational qualification in their favour had been legitimately and legally relaxed by Hon'ble the Chief Justice. Accordingly, the recommendations of Hon'ble Mr. Justice V.K. Gupta were accepted by Lord the Chief Justice, and the seniority position was corrected. The petitioner was placed at Serial No.4 of the seniority list of Section Officers after respondent No.3.

8 It is apparent from the record produced before us that the petitioner resented his placement at Serial No.4 of the seniority list of Section Officers by making representation after representation, but all his representations were rejected by the competent authority. In the year 1997, the post of Assistant Registrar-II, i.e., in the then grade of Rs.2125-3600, fell vacant due to the promotion of Shri Romesh Chander Khajuria as Assistant Registrar Grade-I. Respondent No.2, being the senior-most Section Officer available at that time, was considered and temporarily promoted as Assistant Registrar Grade-II by respondent No.1 in relaxation of his educational qualification. It needs no reiteration that respondent No.3 was promoted as 'Section Officer' in relaxation of educational qualification, as he was an undergraduate and did not possess the qualification of graduation prescribed for the post of Section Officer/Assistant Registrar-II.

9 Be that as it may, the petitioner did not challenge the promotion of respondent No.2 as Assistant Registrar-II, though he made a representation seeking his own promotion as Assistant Registrar-II on the ground that he was a graduate and possessed the required qualification. His grievance was

primarily based on his seniority position indicated in the order of ad hoc promotions as Section Officer, which stood rectified by respondent No.1 while confirming the promotions and finalising the seniority of Section Officers.

10 It appears that upon a few posts of Reader falling vacant, a process was initiated to appoint Readers by way of promotion from different cadres. Accordingly, the petitioner, who was a Section Officer and possessed the qualification of graduation, was considered and promoted against one of the posts of Reader carrying the pay grade of Rs.2125–3600 (old), a grade equivalent to that prescribed for the post of Assistant Registrar-II. It was done in supersession of better claim of respondent No.3, who was admittedly senior to the petitioner in the cadre of Section Officers. He accepted the appointment by submitting his joining without any protest or demur. Respondent No.3, who despite being senior to the petitioner, was left out and continued to work in the pay scale of Section Officer. His grievance came to be considered by the High Court, and vide Order No.218 dated 03.07.1998, when he too was promoted as Assistant Registrar-II in the grade of Rs.2125–3600 (old). This is how all the three, i.e., the petitioner and respondents No.2 and 3 herein, came to be placed in the then pay scale of Rs.2125–3600, the petitioner as Reader, whereas respondents No.2 and 3 as Assistant Registrars-II.

11 It is true that some in-service candidates possessing the qualification of LLB resented the adjustment of various officials as Readers without possessing the qualification of LLB and litigated the matter in this Court. Although the Division Bench of this Court ruled in favour of the aforesaid employees, it stopped short of quashing their appointments. There was only a direction to respondent No.1 to take remedial measures and ensure

that the Rules are complied with. Essentially, what was directed by the Division Bench in the aforesaid litigation was to take remedial measures and to adhere to the Rules in future. This is how the appointment of the petitioner as Reader by way of promotion from the post of Section Officer remained intact. It was only when the avenues of promotion opened for the Ministerial cadre due to the creation of new posts and consequent promotions of respondents No.2 and 3 as Assistant Registrar-II, the petitioner felt aggrieved. He felt aggrieved because in the cadre of Reader he did not see many avenues of promotion to the higher post. The petitioner, therefore, came to be retired on 31.12.2004 as Reader, whereas by that time respondents No.2 and 3 had succeeded in getting one more promotion, i.e., promotion to the post of Assistant Registrar-I.

12 We have given thoughtful consideration to the grievance of the petitioner raised in this petition. We do not find any merit in the submission of Mr. Goja, learned Senior Counsel appearing for the petitioner, that the petitioner, being senior to respondents No.2 and 3, ought to have been promoted as Assistant Registrar-II before respondent No.2. It is true that when the promotions of the petitioner and respondents No.2 and 3 to the post of Section Officers were made on an ad hoc basis, the petitioner figured at Serial No.1, but this was notwithstanding the fact that he was junior to respondents No.2 and 3 in the cadre of Head Assistants. This mistake was corrected by the High Court when it later regularised the promotions and finalised the seniority list of the Head Assistants' cadre. The petitioner was placed after respondents No.2 and 3.

13 The plea of the petitioner that he possessed the qualification of graduation required for the post of Section Officer, whereas respondents No.2

and 3 were promoted as Section Officers in relaxation of the Rules by Hon'ble the Chief Justice, was considered and rejected by respondent No.1 on more than one occasion. That decision had attained finality. That apart, we also do not find any good reason to doubt the correctness of the aforesaid decision taken by Hon'ble the then Chief Justice on the recommendations of the One-Man Committee headed by Hon'ble Mr. Justice V.K. Gupta. The qualification in favour of respondents No.2 and 3 was legitimately relaxed and they were treated as eligible and promoted as Section Officers along with the petitioner. Since respondents No.2 and 3 were senior in the lower cadre of Head Assistants, they were rightly shown senior to the petitioner. In the year 1997, only one post of Assistant Registrar-II became available due to the promotion of Mr. R.C. Khajuria to the post of Assistant Registrar-I. The said post was rightly offered to respondent No.2, being the senior-most Section Officer available.

14 True it is that the respondents No. 2 and 3 were not holding the qualification of graduation, but since the qualification stood relaxed while promoting them to the posts of Section Officer, it was thought just and proper to promote them to the posts of Assistant Registrar-II in relaxation of the educational qualification. The petitioner did not wait for the post of Assistant Registrar-II to become available and opted to become a Reader, which was a post equivalent to the grade of Assistant Registrar-II. He, however, resented his appointment as Reader after some time when he realised that he might not have good avenues of promotion in the cadre of Reader. He made frantic efforts to change his cadre from Reader to Assistant Registrar-II, but that was not considered by respondent No.1, and rightly so. The High Court was justified in

not permitting him to seek change of his cadre at his sweet will, and that too after having accepted the appointment by way of promotion as Reader.

15 The contention of the learned Senior Counsel appearing for the petitioner that the petitioner did not work as Reader and performed his duties in the Administrative Wing of the High Court does not change the position. The petitioner, having been appointed as Reader, was entitled to further promotion to the post of Bench Secretary, subject to eligibility and availability of the post. This, however, did not happen during his service career, and he retired on superannuation w.e.f. 31.12.2004.

Conclusion:

16 For all these reasons, we do not find any merit in this petition, and the same is, accordingly, dismissed.

**(SANJAY PARIHAR
JUDGE**

**(SANJEEV KUMAR)
JUDGE**

Jammu
06 .02.2026
Sanjeev

Whether the order is speaking: Yes

Whether the order is reportable: Yes