

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

WP(C) No. 2792/2024
CM No. 6802/2024
CAV No. 2177/2024

Harjeet Singh & Ors.

.....Appellant(s)/Petitioner(s)

Through: Mr. Rahul Pant, Sr. Advocate with
Mr. Dhruv Pant, Advocate.

Vs

UT of J&K & Ors.

..... Respondent(s)

Through: Mr. Rajnish Raina, Advocate for 2 to 4.
Mr. Gagan Basotra, Sr. Advocate with
Ms. Navdeep Kour, Advocate for
Caveator/respondent No. 5.

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

ORDER
(25.11.2024)

Caveat No. 2177/2024

With the appearance of learned counsel for the caveator-private respondent No. 5, the caveat stands discharged.

WP(C) No. 2792/2024 & CM No. 6802/2024

01. The petitioners, through the medium of this petition, under Article 226 of the Constitution of India, have sought quashment of Order No. JMC/Estt./5850-56 dated 13.11.2024 passed by the respondent No. 4

whereby consequent to the promotion of Sh. Ramesh Wazir as Sanitation Officer, re-allotment of sanitation zones has been ordered with immediate effect showing the petitioners as Sanitary Inspectors to look after the work of Assistant Sanitation Officers of Zone-III till further orders.

- 02.** The case of the petitioners is that they had already been promoted as Incharge Assistant Sanitation Officers and as such, the impugned order amounts to their demotion as against private respondent No. 5 who has been promoted as Assistant Sanitation Officer without consideration of the claim of the petitioners to be regularized to the post of Assistant Sanitation Officer.
- 03.** Learned senior counsel appearing for the petitioners submits that the petitioners had already been working as Assistant Sanitation Officers and the private respondent No. 5 had been promoted as Khilafwarzi Inspector as such, the petitioners and the private respondent No. 5 belong to two different wings of the respondent-Corporation.
- 04.** The private respondent No. 5 had filed a writ petition-WP(C) No. 1165.2022 challenging his promotion as Khilafwarzi Inspector and had prayed that the order of his promotion be quashed with a direction to promote

him as Assistant Sanitary Officer. However, a Coordinate Bench of this Court had dismissed the writ petition, filed by the respondent No. 5, holding no merit in the case, however, on a submission made by his counsel that two posts of Assistant Sanitation Officer were available with the respondents and the petitioner therein as per his seniority is entitled to be considered for promotion against one of those posts, it was ordered that while disposing of the petition that the claim of the petitioner therein against available post of Assistant Sanitation Officer, if any, available as on date or which shall become available in future shall be considered, provided he forgoes his promotion as Enforcement Inspector granted to him vide order dated 25.04.2022, strictly in accordance with the relevant rules, regard being had to his seniority position and availability of vacancy.

- 05.** It has been alleged that the private respondent No. 6 was transferred by the Government from the position of Commissioner, Jammu Municipal Corporation on 15.08.2024 and on next day i.e., 16.08.2024, he, in pursuance of a decision taken in DPC held on 08.08.2024, accorded sanction to the revocation of promotion order of private respondent No. 5- Arun Nayar as Enforcement Inspector ab-initio and granted

promotion in his favour as Assistant Sanitation Officer against the available vacancy with immediate effect, ignoring the claim of the petitioners to have been regularized from the date they had been holding the charge of the post of Assistant Sanitation Officer.

06. Learned counsel appearing for the respondents No. 1 to 4 and senior counsel for respondent No. 5, however, opposed the plea raised by the petitioners and submitted that the private respondent No. 5 has been accorded promotion to the post of Assistant Sanitation Officer strictly in accordance with the rules and on the basis of the decision taken in DPC and he is certainly senior to the petitioners in the cadre of Sanitary Inspectors as such, there was no illegality committed by the respondent-Corporation while according promotion to the private respondent No. 5.

07. On a consideration of the submissions made by the learned senior counsel for the petitioners and the objections raised by the learned senior counsel appearing for the private respondent No. 5 and the standing counsel appearing for the respondents-Corporation, in the considered opinion of this Court, a case is made out for indulgence to protect the petitioners from being demoted at this stage.

- 08.** Issue notice to the respondents.
- 09.** Mr. Rajneesh Raina, Advocate waives notice on behalf of the respondents No. 2 to 4 and Mrs. Navdeep Kour, Advocate waives notice on behalf of private respondent No. 5. They are directed to file reply to the petition within four weeks.
- 10.** List again on **30.12.2024**.
- 11.** In the meantime, till next date of hearing and subject to objections, the impugned order is stayed qua the petitioners.

JAMMU
25.11.2024
NARESH/SECY



(M A CHOWDHARY)
JUDGE

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