

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

*Reserved on: 20.08.2026*

*Pronounced on: 29.08.2026*

*Uploaded on: 29.08.2026*

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

**SWP No.1964/2016**

**MOHAMMAD YOUSUF AHANGER & ANR.**

**...PETITIONER(S)**

*Through: - Ms. Rehana, Advocate, vice  
Mr. Z. A. Qureshi, Sr. Advocate.*

*Vs.*

**STATE OF J&K AND ORS.**

**...RESPONDENT(S)**

*Through: - Mr. Shakir Haqani, Advocate, vice  
Mr. Altaf Haqani, Sr. Advocate-for R1 to R3.  
Mr. Irshad Ahmad, Advocate-for R4.*

**CORAM: HON'BLE MR. JUSTICE SANJAY DHAR, JUDGE**

**JUDGMENT**

1) The petitioners, through the medium of present petition, have challenged the decision taken by the Establishment-cum-Finance Committee in its meeting held on 08.09.2016, whereby they have been held ineligible for confirmation to the post of General Manager.

2) Briefly stated, the facts emanating from the pleadings of the parties are that the petitioners were working as Incharge General Managers in the respondent

Corporation. Both the petitioners have superannuated from service. Petitioner No. 1 is stated to have superannuated from service on 31<sup>st</sup> March, 2012, whereas petitioner No. 2 is stated to have superannuated from service of the respondent Corporation on 31<sup>st</sup> May, 2012.

3) It appears that both the petitioners approached this Court by way of a petition bearing SWP No.2095/2012, voicing their grievance that even though they were placed as Incharge General Managers in the respondent Corporation, but because no meeting of the Departmental Promotion Committee was convened, as such, despite being eligible for promotion, they have not been promoted on substantive basis.

4) The writ petition was contested by the respondents by filing their counter affidavit. In their counter affidavit, the respondents contended that after retirement, all rights that would accrue to the petitioners stand extinguished and they cease to have any relation with the respondent Corporation. It was further contended that Incharge status given to the petitioners would not confer any benefit upon them.

5) This Court, after analysing the pleadings of the parties and after hearing learned counsel for the parties,

allowed the writ petition and issued a direction upon the respondent Corporation to convene DPC within four weeks and place the cases of the petitioners before the DPC for consideration so that a decision is taken as regards their promotion on substantive basis as General Manager with effect from the date such right had accrued in their favour.

6) It seems that when the respondent Corporation did not comply with the directions of the Court, the petitioners were constrained to file contempt petition bearing No.522/2015. During pendency of the contempt petition, the respondents came up with the impugned decision of the Establishment-cum-Finance Committee, whereby claim of the petitioners for their promotion has been rejected.

7) The petitioners have challenged the impugned decision of the Establishment-cum-Finance Committee on the ground that the reasoning given in the said decision for not according promotion to them on substantive basis is not tenable in law. It has been contended that the observation made in the impugned decision that the petitioners were never posted as General Managers by the respondent Corporation is not factually correct. It has also been contended that procuring of vigilance clearance in

respect of the petitioners and collecting APRs of the petitioners was the duty of the Administrative Department of the respondent Corporation and, on that ground, the petitioners could not have been denied promotion.

8) The respondents have contested the writ petition by filing their reply, in which they have taken a stand that both the petitioners were ordered to hold higher posts of General Manager on stop-gap basis against the payment of charge allowance and this arrangement would not confer any right upon the petitioners to promotion on substantive basis. It has been contended that the petitioners were found to be ineligible for promotion and, as such, their claim for promotion was rejected by the Establishment-cum-Finance Committee.

9) I have heard learned counsel for the parties and perused record of the case.

10) So far as contention of the respondents that the petitioners cannot claim promotion after they have superannuated from service is concerned, the said contention has already been dealt with by this Court while passing judgment dated 18.03.2015 in SWP No.2095 of 2012. It has been observed by this Court that once a right has accrued to a Government employee to be promoted on

substantive basis, it cannot be taken away because of his retirement on superannuation. As per the directions of this Court passed in the aforesaid judgment, the respondents were clearly mandated to convene the DPC and place the cases of the petitioners before it for consideration. The judgment dated 18.03.2015 has attained finality, as such, the issue regarding entitlement of the petitioners to promotion despite their superannuation cannot be re-agitated by the respondents in the present proceedings.

11) Pursuant to the judgment (*supra*) of this Court, the respondents, after a considerable delay, placed the cases of the petitioners before the Establishment-cum-Finance Committee. These cases were considered by the Committee in its meeting held on 08.09.2016.

12) The first reason for rejecting claim of the petitioners, as given in the impugned decision, is that, as per the available record, the petitioners were never posted as General Managers by the respondent Corporation. In this regard, it is to be noted that in their reply to the writ petition, the respondents have admitted that, in the exigency of service, the petitioners were ordered to hold higher posts of General Managers on stop-gap basis

against the payment of charge allowance. Thus, the aforesaid reasoning adopted by the Establishment-cum-Finance Committee in rejecting the claim of the petitioners is contrary to the stand of the respondent Corporation.

13) The other reason given for rejecting the claim of the petitioners by the Establishment-cum-Finance Committee is that the respondents had sought vigilance clearance in respect of the petitioners, which has not been received and that APRs in respect of petitioner Mohammad Yousuf Ahangar are also not available.

14) Both the aforesaid reasons are not tenable because it is the duty and obligation of the employer to obtain vigilance clearance and to maintain APRs in respect of its employees. An employee cannot be expected to obtain his vigilance clearance and to maintain his APRs. These are matters entirely within the domain of the employer. Therefore, the petitioners cannot be blamed for non-receipt of vigilance clearance and non-maintenance of APRs so as to deny promotion to them.

15) It has also been reasoned by the Establishment-cum-Finance Committee that the Recruitment Rules do not confer a right upon the officers for promotion to the post of General Manager, as the same is a selection post and

not a promotion post. It is true that an eligible officer of the respondent Corporation is not automatically entitled to promotion to the higher post of General Manager merely on the basis of his seniority but an eligible officer is certainly entitled to consideration for his promotion to the post of General Manager on the basis of his merit, which is to be assessed from the service record and vigilance reports.

16) In the present case, it is not the stand of the respondents that there is any deficiency or adverse entry either in the vigilance report or in the APRs of the petitioners so as to deny promotion to them. In fact, the Establishment-cum-Finance Committee has not even perused the vigilance reports and APRs of the petitioners before rejecting their claim as the same were admittedly not available before the Committee. Thus, the Committee has only completed a formality and has not accorded consideration to the cases of the petitioners for their promotion in accordance with the procedure prescribed under law.

17) For the foregoing reasons, the impugned decision taken by the Establishment-cum-Finance Committee is not sustainable in law and the same deserves to be quashed.

18) Accordingly, the petition is allowed and the impugned decision dated 08.09.2016, taken by the Establishment-cum-Finance Committee, is quashed and the respondents are directed to accord fresh consideration to the cases of the petitioners for their promotion to the post of General Manager on the basis of their service record. The needful shall be done by the respondents within a period of two months from the date a copy of this judgment is made available to them.

19) The petition stands disposed of.

**SRINAGAR**  
**29.08.2026**

"Bhat Altaf-Secretary"

**(Sanjay Dhar)**  
**Judge**

Whether the **judgment** is reportable: **YES/NO**