

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

**CM (6524/2023), WP (C) 710/2023**

**Dr. Mohammad Riyaz Latoo and another**

... Petitioner/Appellant(s)

Through: Mr. Asif Feroz Advocate, Advocate  
V/s

**SKIMS and another**

... Respondent(s)

Through: Mr. Furqan Yaquib Sofi, GA

**CORAM: HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE**

**ORDER**  
**10-11-2023**

1. Heard learned counsel for the parties.
2. Decision making, be it legislative, judicial or administrative, is the fertilizing feed of the Rule of Law. In this regard, an administrative decision making is an active shareholder in the service of the Rule of Law. A timely administrative decision making/taking serves to promote the Rule of Law whereas a procrastination and avoidance of the administrative decision making/taking demotes the Rule of Law.
3. The present writ petition is an exhibit where both procrastination and avoidance of an essential administrative decision making has caused, and continues to cause, precious loss of productive time not only in the service career of the two petitioners but also of the Institution in which the petitioners serve.

4. Just for the sake of getting a deferred interview process to resume, the two petitioners, who are doctors serving as Assistant Professors, have been made to seek indulgence of this court to remind rather than direct the respondents to revive and carry forward the interview process for promotion to its logical end which is lying in a deferred state since September, 2022.
5. The essential fact line of the case is that the two petitioners are serving as Assistant Professors in the Department of Surgical Gastroenterology in the respondent no. 1 – Sher-e-Kashmir Institute of Medical Sciences (SKIMS).
6. The appointment of the petitioners as Assistant Professors relates back to Government Order no. 111-SKIMS of 2018 dated 03.10.2018 pursuant to which the petitioners came to be appointed as such with effect from 13.10.2018.
7. As per the Service domain of the respondent 1 – SKIMS, for the post of Associate Professors there is no direct recruitment provided. It is only from the cadre of serving Assisting Professor that the appointment by promotion is prescribed and the essential eligibility *inter alia* is three years' tenure as Assistant Professor. The petitioners came to complete their three years of tenure as Assistant Professors in the Department of Surgical Gastroenterology in October 2021.
8. The respondent 1 – SKIMS, acting through its Director and Ex. Officio Secretary to the Government, by virtue of an advertisement notice no. 02 of 2022 dated 28.1.2022 came to

invite applications from the eligible inservice faculty members at the level of Assistant Professor, Associate Professor and Additional Professor for promotion to next higher post/grade envisaged under Assessment Merit Promotion Scheme (AMPS). In terms of this advertisement notice, two previous advertisement notices no. 06 of 2020 dated 23.12.2020 and 03 of 2021 dated 22.4.2021 were also tagged requiring the applicants having responded to the said advertisements not to apply afresh, thus in essence the selection exercise envisaged under the said three advertisement notices were meant to be carried out by reference to advertisement notice no. 01 of 2022 dated 28.1.2022. For the purpose of carrying out the requisite selection exercise, the selection committee in existence came to be reconstituted by virtue of Government Order no. 951-JK (GAD) of 2021 dated 17.08.2022. By virtue of this Government Order, eleven (11) members of Apical Selection Committee of the respondent 1 – SKIMS, came to be set into place and is impleaded as respondent 2 in the present writ petition.

9. It is the respondent 2 which was supposed to carry out the requisite selection exercise as envisaged in reference to the advertisement notice no. 02 of 2022 dated 28.01.2022 to which the respondents had responded for the sake of consideration for obtaining permission to the post of Associate Professor under AMPS. By virtue of notice no. SIMS-302-07(XXXVIII)/2022-2899-2907 dated 28.08.2022 issued by the Additional Director to

the respondent 1 – SKIMS, whereby the list of eligible candidates under AMPS with respect to post of Associate Professor in the department of Surgical Gastroenterology SKIMS came to be announced which comprises the names of the petitioners only requiring them to appear before respondent 2 on 01.9.2022 for the purpose of interview and assessment for final promotion. The petitioners came to be taken by sudden surprise when on the schedule date of 01.9.2022 at the last moment it came to be disclosed that the scheduled interview stands deferred in terms of notice no. SIMS 302 07 (XXXVIII)/2022-81-89 dated 01.9.2022 issued by the respondent Additional Director SKIMS & Ex. Officio Special Secretary to Government. This notice, which is accompanying the petition as annexure-1 reads as under:

*“This is for information of all the concerned candidates who have been provisionally called to appear for interview on 01.09.2022 at 9.00 AM at Banquet Hall, M.A. Road, Srinagar, for selection to the faculty posts under direct recruitment/AMPS in the Department of Surgical Gastroenterology, SKIMS that their interview stands deferred till further notice.”*

10. Finding themselves clueless as to what led to the deferment of the interview exercise and seeing nothing stated and shared in this regard even by a whisper in the said notification (supra), the petitioners were constrained to lay a writ petition WP(C) 1936/2022 wherein the actual reason for the deferment of the interview exercise scheduled on 01.9.2022 came to be disclosed in the reply filed. The said disclosure made the disposal of the

writ petition WP (C) 1936/2022 by this court in terms of order dated 05.2.2022.

11. It came to be revealed that the deferment of the interview exercise scheduled to be carried out by respondent 2 came to take place as in addition to interview exercise envisaged in furtherance of advertisement notice no. 02 of 2022 dated 28.1.2022 to which the petitioners were related, there was another advertisement notice no. 02 of 2021 dated 17.4.2021 of the respondent 1 – SKIMS, which was for the purpose of recruitment to the post of Professor and Assistant Professor in various Departments and Disciplines of the respondent 1 - SKIMS. By reference to said advertisement notice of 02 of 2021 dated 17.4.2021 also, the respondent 2 was also scheduled to carry out the interview exercise.
12. In reference to said advertisement notice no. 02 of 2021 dated 17.4.2021, one of the candidates aspiring for the post of Assistant Professor was Dr. Wani Hamza Bruno.
13. One of the eleven members of the respondent 2 was Dr. M. Afzal Wani who is father of Dr. Wani Hamza Bruno, the candidate who was to appear in the interview before the respondent 2.
14. It was in this scenario that Dr. M. Afzal Wani had recused himself from the respondent 2 which purportedly resulted in the deferment of the selection exercise even with respect to the advertisement notice no. 02 of 2022 dated 28.1.2022 with reference of which the petitioners were to be considered for

promotion and with which Dr. Wani Hamza Bruno was having nothing to do.

15. Thus, for a very remote and unrelated cause in the context of selection exercise meant for advertisement notice no. 20 of 2022 dated 28.1.2022, the interview process came to be shelved regarding which the notice dated 01.9.2022 had come to be issued announcing the deferment of the interview exercise though without divulging the actual cause.
16. Finding that the respondents at their end have forsaken the interview exercise meant for promotion of Assistant Professors to the post of Associate Professors in the Department of Surgical Gastroenterology, the petitioners after having waited for more than lost period of six months came forward with the present writ petition seeking a writ of mandamus unto the respondents for resuming the exercise concerning the petitioners' promotion.
17. In the writ petition, the petitioners have registered their genuine concern that they are finding themselves losing out in terms of the time of service as Associate Professor with the simultaneous apprehension that it may result in unwarranted issue of seniority vis-a-vis the Assistant Professors becoming Associate Professors by the contemporary exercise which was able to mature whereas in the case of the petitioners it got abandoned. In this regard, the petitioners submit that in the event of promotion as Associate Professor being accorded to them it would be reckoned from 01.07.2022.

18. In response to this writ petition, the respondent no. 1 has come up with ritual sake reply registering no self concern at its own end as to when the exercise is intended to be resumed. The only reason being cited in the reply is that the matter has been taken up with the Chief Secretary of the UT of Jammu and Kashmir as being the Chairman of respondent no. 2, for convening of the meeting of Apical Selection Committee of the respondent no. 1 for conducting interviews in the left over Departments of Surgical Gastroenterology, Radiological Physics and Bio-Engineering.

19. Keeping in view the aforesaid facts and circumstances whereby the respondents themselves are acknowledging the obligation to do the needful, this court disposes of this writ petition by issuance of writ of mandamus to the respondents, and in particular to the Chief Secretary of the UT of J&K as being Chairman of respondent no. 2, to resume the selection process for promotion with respect to the Department of Surgical Gastroenterology of the respondent no. 1 – SKIMS pertaining to the petitioners and that of the other two Departments as mentioned in the reply filed by the respondent no. 1, and conclude the process by or before 31.03.2024 without any further delay and deferment.

20. A copy of this judgment be sent to Chief Secretary of UT of J&K for notice and compliance.

**(RAHUL BHARTI)**  
**JUDGE**

Srinagar  
10-11-2023  
*N Ahmad*

*Whether the order is speaking:* Yes

*Whether the order is reportable:* Yes