



HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

WP(C) No.52/2026

Reserved on: 27.01.2026
Pronounced on: 05.02.2026
Uploaded on: 06.02.2026

Johny, age 29 years S/o Sh. Yaqoob,
R/o Ward No.4, Ammunition Morh, Gadi,
Tehsil and District UdhampurPetitioner(s)

Through:- Mr. Pawan Kumar Kundal,
Advocate

Versus

1. Union Territory of Jammu & Kashmir
Through General Administrative Department, Civil Secretariat,
Jammu/Kashmir
2. J&K Service Selection Board,
Sehkari Bhawan, Rail Head Complex,
Panama Chowk, Jammu/Zum-Zum Building Rambagh,
Srinagar.Respondent(s)

Through:- Mr. Raman Sharma, AAG with
Ms. Saliqa Sheikh, Advocate

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

JUDGMENT

Sanjeev Kumar J

1. This petition by one Mr. Johny, filed under Article 226 of the Constitution of India, is directed against an order dated 07.11.2025 passed by the Central Administrative Tribunal,



Jammu [‘the Tribunal’] in TA No.2800/2020 (Jammu) titled *Johny v. UT of J&K and another*, whereby the Tribunal has dismissed the petition of the petitioner.

2. Before we advert to the grounds of challenge urged by Mr. Pawan Kumar Kundal, learned counsel appearing for the petitioner, it would be appropriate to narrate few facts as are germane to the disposal of the controversy raised in this petition.
3. Vide advertisement notice No.6 of 2015 dated 01.09.2015, respondent No.2 invited applications for making selection to various posts including five posts of Patwari for District Anantnag. Out of the five posts, notified for District Anantnag, one post was reserved for RBA and one for Scheduled Caste category. The essential qualification prescribed for the post, as indicated in the advertisement notification, was “graduation with knowledge of Urdu”.
4. The petitioner being eligible and possessing the requisite qualification, applied for the post of Patwari under scheduled caste category. The petitioner participated in the written test conducted by respondent No.2 under Roll No.30052016659. He was declared successful in the written examination and was shortlisted for participating in the further process of selection.



As contended, name of the petitioner figured at serial No.8 of the said shortlist of candidates.

5. It is further case of the petitioner that on 14.06.2018 i.e. after almost two months of the declaration of the written examination, respondent No.2 issued another notification for conducting examination for testing the “*working knowledge of Urdu*”, which exam was introduced vide notice dated 18.11.2017. Said exam was scheduled to be held on 01.07.2018. The exam was qualifying in nature with the provision of negative marking for each wrong answer. The qualifying percentage was fixed at 40% for open merit candidates and 35% for other category candidates. The petitioner did not question the notification dated 18.11.2017 and the conduct of exam for testing the ‘working knowledge of Urdu’ and instead participated therein. It was only after the final select list was issued on 26.12.2018, the petitioner found that no candidate was selected under the Scheduled ‘Caste Category’ and the note appended to the select list stated that “*one post under SC category remained unfilled due to non-availability of eligible candidate*”.
6. The petitioner having sensed that he could not make it to the selection for not meeting the benchmark provided for scheduled caste category, challenged notification dated 18.11.2017 on



various grounds including that the said criteria was not prescribed at the beginning of the selection process. It seems that initially the writ petition was filed before this Court and registered as SWP No.837/2019, which, on transfer to the Tribunal, was registered as T.A. No.2800/2020 (Jammu). It is this petition which has been dismissed by the Tribunal in terms of the order and judgment impugned in this petition.

7. As is apparent from a reading of the impugned order, the Tribunal has dismissed the petition on the ground that the benchmark for SC category in the examination conducted for testing the working knowledge of Urdu was 35%, whereas the petitioner had secured less than the said percentage and, therefore, was rightly held ineligible. It is this order of the Tribunal, which is called in question by the petitioner on the following grounds:

- i) The introduction of examination for testing the working knowledge of Urdu by respondent No.2 vide notification dated 18.11.2017 was illegal, arbitrary and violative of Article 14 and 16 of the Constitution.
- ii) The examination for testing the working knowledge of Urdu was introduced midway after the selection process had already been set in motion, thereby taking the petitioner by surprise.



- iii) That the qualification prescribed for the post was graduation with knowledge of Urdu, therefore, examination conducted for testing the working knowledge of Urdu was contrary to the statutory prescription and, thus, not permissible.
8. Having heard learned counsel for the parties and perused the material on record, we are of the considered opinion that the petitioner by participating in the examination conducted by respondent No.2 for testing the working knowledge of Urdu in terms of notification dated 18.11.2017 is estopped from challenging the terms and conditions of the said notification after having failed to achieve the benchmark indicated in the aforesaid notification.
9. It is true that in the instant case advertisement notification was issued on 01.09.2015 for making selection for the posts of Patwari *inter alia* for District Anantnag. Before the selection process could proceed further, J&K SSB issued notification No.SSB/Sel/Secy/2017/11832-46 dated 18.11.2017 containing the scheme of selection and making it clear to all the candidates, who had submitted their applications that, in the first, they shall appear in MCQ based test and only the candidates, who would be shortlisted on the basis of such test, would be required to appear in the subsequent examination for



testing the working knowledge of Urdu. Notification dated 18.11.2017 is set out below:

“NOTICE

Subject:- Syllabus for the posts of Naib-Tehsildar and Patwari-regarding

1. The syllabus for the multiple choice based written test for the posts mentioned hereunder is enclosed as Annexure ‘A’.
2. The general guidelines for testing the ‘*working knowledge of Urdu*’ are enclosed as Annexure ‘B’.
3. The candidates will first appear in the MCQ based test. Only the candidates shortlisted on the basis of the written test will be required to appear in the subsequent exam for testing the working knowledge of Urdu.
4. The exam will be conducted in the month of April, 2018 (Naib-Tehsildar) and February/March, 2018 (Patwari).
5. The written exam will be offline (OMR based) exam. There shall be negative marking (0.25 for each wrong answer). The exam for testing *working knowledge of Urdu* will be computer based (Reading Section) and descriptive (Writing Section).
6. The criteria for the overall merit shall be notified subsequently. However, the Urdu exam will be of qualifying nature only.”

10. In the aforesaid notification, it was further made clear that there shall be negative marking (0.25 for each wrong answer) and the examination for testing the working knowledge of Urdu will be computer based (Reading Section) and descriptive (Writing Section). The general guidelines for testing the working knowledge of Urdu were also annexed with the aforesaid notification, which indicated that the examination for testing the working knowledge of Urdu would be qualifying in nature and candidate would be required to obtain 40% in the open merit category and 35% marks in the reserved category with atleast 33% in each section. This notification was well



within the knowledge of the petitioner since 18.11.2017. The notification also dealt with the conduct of MCQ based written test for shortlisting of candidates to be admitted to the examination for testing the working knowledge of Urdu. The petitioner sat in the written examination (MCQ based test) on 25.02.2018. The petitioner even qualified the test and was shortlisted for examination to be conducted for testing the working knowledge of Urdu. He did not raise any objection or resentment against the notification dated 18.11.2017 and sat in the examination conducted by respondent No.2 for testing the working knowledge of Urdu.

11. The petitioner, however, could not qualify the aforesaid examination conducted for testing the knowledge of Urdu, as the percentage of marks obtained by him was less than the benchmark fixed in the notification. He was, therefore, not considered for selection against the post of Patwari. It is only after the final select list was issued and the petitioner found that his name was not in the select list, he thought of filing the writ petition and throw challenge to the notification dated 18.11.2017.
12. The writ petition was filed after publication of the selection list in the year 2019. It is this petition which the Tribunal has dismissed. The Tribunal has though not considered the real



controversy raised by the petitioner, yet the conclusion drawn by the Tribunal cannot be found fault with. It is well settled that a person, who participates in the selection process with his eyes wide open without making any grievance or raising challenge to the selection criteria adopted in the said selection process, cannot be permitted to challenge the result of the selection and selection criteria adopted only after such candidate fails to make it to the select list.

13. Recently, Supreme Court in the case of **State of Uttar Pradesh v. Karunesh Kumar, 2022 SCC Online 1076**, reiterated the settled legal position in this regard. Para 21 of the judgment surveys the case law on the point and sums up with a declaration that unsuccessful candidate cannot turn back and assail the selection process on the ground that the selection criteria adopted was illegal or arbitrary, particularly, when he was well aware of the selection criteria and participated in the selection process without any protest or demur. For facility of reference, paragraph No.21 of the aforesaid judgment is reproduced hereunder:

“21. A candidate who has participated in the selection process adopted under the 2015 Rules is estopped and has acquiesced himself from questioning it thereafter, as held by this Court in the case of Anupal Singh (supra):

“55. Having participated in the interview, the private respondents cannot challenge the Office Memorandum dated 12-10-2014 and the selection. On behalf of the appellants, it was contended that after the revised Notification dated 12-10-2014, the private respondents



participated in the interview without protest and only after the result was announced and finding that they were not selected, the private respondents chose to challenge the revised Notification dated 12-10- 2014 and the private respondents are estopped from challenging the selection process. It is a settled law that a person having consciously participated in the interview cannot turn around and challenge the selection process.

56. Observing that the result of the interview cannot be challenged by a candidate who has participated in the interview and has taken the chance to get selected at the said interview and ultimately, finds himself to be unsuccessful, in *Madan Lal v. State of J&K* [(1995) 3 SCC 486 : 1995 SCC (L&S) 712], it was held as under : (SCC p. 493, para 9)

“9. ... The petitioners also appeared at the oral interview conducted by the Members concerned of the Commission who interviewed the petitioners as well as the contesting respondents concerned. Thus the petitioners took a chance to get themselves selected at the said oral interview. Only because they did not find themselves to have emerged successful as a result of their combined performance both at written test and oral interview, they have filed this petition. It is now well settled that if a candidate takes a calculated chance and appears at the interview, then, only because the result of the interview is not palatable to him, he cannot turn round and subsequently contend that the process of interview was unfair or the Selection Committee was not properly constituted.”

57. In *K.H. Siraj v. High Court of Kerala* [(2006) 6 SCC 395 : 2006 SCC (L&S) 1345], it was held as under : (SCC p. 426, para 73)

“73. The appellant-petitioners having participated in the interview in this background, it is not open to the appellant-petitioners to turn round thereafter when they failed at the interview and contend that the provision of a minimum mark for the interview was not proper.”

58. In *Union of India v. S. Vinodh Kumar* [(2007) 8 SCC 100 : (2007) 2 SCC (L&S) 792], it was held as under : (SCC p. 107, para 19) “19. In *Chandra Prakash Tiwari v. Shakuntala Shukla* [(2002) 6 SCC 127 : 2002 SCC (L&S) 830]

xxx xxx xxx

It was further observed : (SCC p. 149, para 34)

34. There is thus no doubt that while question of any estoppel by conduct not arise in the contextual facts but the law seem to be well settled that in the event a candidate appears at the interview and participates therein, only because the result of the interview is not “palatable” to him, he cannot turn round and subsequently contend that the



process of interview was unfair or there was some lacuna in the process.”

59. Same principle was reiterated in Sheikh [(2008) 4 SCC 619 : (2008) 2 SCC (L&S) 9] wherein, it was held as under: (SCC pp. 645-46, para 59)

“59. It is also a settled position that the unsuccessful candidates cannot back and assail the selection process. There are of course the exceptions carved out by this Court to this general rule. This position was reiterated by this Court in its latest judgment in Union of India v. S. Vinodh Kumar [(2007) 8 SCC 100 : (2007) 2 SCC (L&S) 792] The Court also referred to the judgment in Om Prakash Shukla v. Akhilesh Kumar Shukla [1986 Supp SCC 285 : 1986 SCC (L&S) 644], where it has been held specifically that when a candidate appears in the examination without protest and subsequently is found to be not successful in the examination, the question of entertaining the petition challenging such examination would not arise.”

14. There are of course exceptions to this general rule but the case of the petitioner does not fall under any of such exceptions. It is not the case of the petitioner that notification dated 18.11.2017 is contrary to any statute. The qualification prescribed for the post as indicated in the advertisement notification is graduation with knowledge of Urdu and there is nothing wrong in the respondent No.2 conducting examination for testing the working knowledge of Urdu. It is because of this reason, respondent No.2 without proceeding further in the selection process, issued notification dated 18.11.2017, making it known to all the candidates, the complete scheme of selection process to be followed in the matter. It was clearly mentioned that after conducting the MCQ based test the candidates would be shortlisted for examination to be conducted for testing the working knowledge of Urdu. The examination would be a



computer based examination containing two sections i.e reading section and descriptive section (writing section) and that there would be different cutoff for open and reserved categories. It was also made known to the candidates that the examination would be only of a qualifying nature. This notification was issued by respondent No.2 on 18.11.2017, much before the date when the MCQ based written test was conducted. It is absolutely not a case of change of selection criteria midway. As a matter of fact the scheme of selection was prescribed for the first time in the notification dated 18.11.2017. Not only the petitioner participated in the MCQ based written test but was even shortlisted for sitting in the examination for testing the working knowledge of Urdu.

15. The petitioner voluntarily and without any protest sat in the examination for testing the working knowledge of Urdu and raised no issue with regard to the manner in which it was conducted. It was only after he could not find his name in the final select list, he chose to throw challenge to the prescription of written examination for testing the working knowledge of Urdu in terms of notice dated 18.11.2017. The Tribunal examined the merit of the petitioner and found that he had failed to qualify the examination conducted for testing the working knowledge of Urdu and, therefore, rightly declared ineligible by the SSB.



16. For the foregoing reasons and in view of the settled legal position, we find no merit in this petition. The same is, accordingly, dismissed.

(Sanjay Parihar)
Judge

(Sanjeev Kumar)
Judge

JAMMU
06.02.2026
Vinod, Secy

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

