

HIGH COURT OF AZAD JAMMU AND KASHMIR

Writ Petition No. 2141/2025;

Institution 20.08.2025;

Date of hearing 07/09/13.10.2025;

Date of decision 23.10.2025.

1. Muhammad Shoaib Khalid Advocate, Member District Bar Association Mirpur.
2. Muhammad Naveed Khan S/o Muhammad Kabeer Khan R/o Bagh Chowki Tehsil and District Bagh.
3. Waqas Mehboob S/o Mehboob-ul-Haq r/o Tehsil Rehrara District Bagh.
4. Taimoor Qayyum S/o Abdul Qayyum R/o Pambar/Dhahk Tehsil Baloch District Sudhnooti.
5. Shahid Saleem Bilali S/o Muhammad Saleem Khan R/o Sehra Tehsil Hajira, District Poonch.
6. Amar Qayyum s/o Abdul Qayyum Khan R/o Qillan/Manshabad Tehsil, Trarkhel & District Sudhnooti.

.....Petitioners

VERSUS

1. Competent Authority for appointments/nominations/constitutions of Selection Board/Committees in Azad Jammu & Kashmir High Court Establishment through Registrar High Court of Azad Jammu & Kashmir having its office at High Court Building Muzaffarabad.
2. Registrar High Court of Azad Jammu & Kashmir having its office at High Court Building Muzaffarabad.
3. Selection Board for Promotion of Posts of BPS-20/21 in Azad Jammu & Kashmir High Court through Registrar of Hon'ble High Court.
4. Selection Board for appointments of posts of IT wing of High Court of AJ&K MIS Manager BPS-18, Network Administrator BPS-17/System Engineer BPS-17/Web-Programmer/IT Assistant through its chairman through Registrar High Court of AJ&K having its office at High Court Building Muzaffarabad.

5. Selection Committee for appointment of Office Coordinator/Junior Clerks through its Chairman through Registrar High Court of AJ&K.
6. Selection Committee for appointment of Stenographer of Sub-ordinate Judiciary through its Chairman Selection Committee for appointment of Office Coordinator/Junior Clerks through its Chairman through Registrar High Court of AJ&K having its office at High Court Building Muzaffarabad.
7. Selection Committee for appointment of Naib Qasid/Maali/Khakroob/Sweepers. Attendant/Hardware Technician through its Chairman through Registrar High Court of AJ&K having its office at High Court Building Muzaffarabad.
8. Committee for scrutiny for documents through Registrar High Court of AJ&K having its office at High Court Building Muzaffarabad.
9. Selection Board for promotion for the posts of Stenographer through Registrar High Court of Azad Jammu & Kashmir.
10. Selection Committee for considering transfers from Sub-ordinate Judiciary to High Court Establishment through its Chairman through Registrar High Court of AJ&K having its office at High Court Building Muzaffarabad.
11. National Testing Service through managing director having its office at Plot #96, street # 4 H-8/I Islamabad.
12. Nasir Iqbal MIS Manager BPS-18 having its office at High Court of Azad Jammu & Kashmir.
13. Babar Latif Date Base Administration having its office at High Court of Azad Jammu & Kashmir.
14. Arslan Zia Network Administrator, having its office at High Court of Azad Jammu & Kashmir.
15. Asif Feros Qureshi System Engineer, having its office at High Court of Azad Jammu & Kashmir.
16. Ghulam Mustafa Kiyani I.T Assistant having its office at High Court of Azad Jammu & Kashmir.
17. Maryam Ishtiaq I.T Assistant having its office at High Court of Azad Jammu & Kashmir.
18. Imran Zahid Abbasi, I.T Assistant having its office at High Court of Azad Jammu & Kashmir.
19. Muhammad Awais Afzal I.T Assistant having its office at High Court of Azad Jammu & Kashmir.

20. Filza Shabbir I.T Assistant having its office at High Court of Azad Jammu & Kashmir.
21. Tariq Bashir I.T Assistant having its office at High Court of Azad Jammu & Kashmir.
22. Sayed Zohaib Akbar I.T Assistant having its office at High Court of Azad Jammu & Kashmir.
23. Abdullah Khan I.T Assistant having its office at High Court of Azad Jammu & Kashmir.
24. Salman Shahid I.T Assistant having its office at High Court of Azad Jammu & Kashmir.
25. Raja Masood Maqbool I.T Assistant having its office at High Court of Azad Jammu & Kashmir.
26. Hamza Ashraf I.T Assistant having its office at High Court of Azad Jammu & Kashmir.
27. Abdul Bari Mughal I.T Assistant having its office at High Court of Azad Jammu & Kashmir.
28. Iqra Khan I.T Assistant having its office at High Court of Azad Jammu & Kashmir.
29. Rashid Rafique I.T Assistant having its office at High Court of Azad Jammu & Kashmir.
30. Waqar Khan S/o Hassan Dad Khan Office Coordinator/Senior office Coordinator having its office at High Court Building Muzaffarabad.
31. Raja Saddam Ibrar S/o Raja Ibrar Hussain Khan Office Coordinator/Senior office Coordinator having its office at High Court Building Muzaffarabad.
32. Mansoor Ahmed Bhatti S/o Mushtaque Ahmed Bhatti Office Coordinator/ I.T Assistant, having its office at High Court Building Muzaffarabad.
33. Muhammad Ali Hayat S/o Muhammad Siddique Office Coordinator having its office at High Court Building Muzaffarabad.
34. Noman Ali Khan S/o Abdul Mujeed Office Coordinator having its office at High Court Building Muzaffarabad.
35. Junaid Turk S/o mu Naseem Khan Turk Office Coordinator having its office at High Court Building Muzaffarabad.
36. Muhammad Mansoor Malik S/o Abdul Ghafoor Malik Office Coordinator having its office at High Court Building Muzaffarabad.
37. Danish Manzoor S/o Manzoor Hussain Raja Office Coordinator having its office at High Court Building Muzaffarabad.

38. Raja Atif Khan S/o Muhammad Maskeen Khan Office Coordinator having its office at High Court Building Muzaffarabad.
39. Amir Afrasaib S/o Ghullab Khan Office Coordinator having its office at High Court Building Muzaffarabad.
40. Syed Muhammad Ali Kazmi S/o Syed Mehrab Shah Kazmi Office Coordinator having its office at High Court Building Muzaffarabad.
41. Raja Majid s/o Raja Ghulam Muhammad Office Coordinator having its office at High Court Building Muzaffarabad.
42. Muhammad Imran Abbasi S/o Maqbool-ur-Rehman Abbasi Office Coordinator having its office at High Court Building Muzaffarabad.
43. Rameez Raja Stenographer B-16 Sub-ordinate judiciary transferred in High Court Circuit Rawalakot Office having its office at High Court Building Muzaffarabad.
44. Raja Asfand Zahid Stenographer B-16 Sub-ordinate judiciary transferred in High Court having its office at High Court Building Muzaffarabad.
45. Adil Iftikhar Stenographer B-16 Sub-ordinate Judiciary transferred in High Court having its office at High Court Building Muzaffarabad.
46. Syed Umer Khalid Stenographer B-16 Sub-ordinate Judiciary.
47. Adnan Raheem Stenographer B-16 Sub-ordinate Judiciary.
48. Luqman Saleem Stenographer B-16 Sub-ordinate Judiciary.
49. Nabeel Ahmed Mughal Stenographer B-16 Sub-ordinate Judiciary.
50. Umer Mushtaque Stenographer B-16 Sub-ordinate Judiciary.
51. Muhammad Khalid Khan Stenographer B-16 Sub-ordinate Judiciary.
52. Faisal Habib Mughal Stenographer B-16 Sub-ordinate Judiciary.
53. Raja Aamir Asghar transferred from Sub-ordinate Judiciary as Senior Scale Stenographer to the High Court Azad Jammu & Kashmir.
54. Liaqat Ali Meer, Additional Registrar(Admin), having his office at High Court.

55. Raja Yasir Irshad Assistant Registrar(Record) High Court, having its office at High Court.
56. Muhammad Sajid S/o Abdul Qayyum R/o Chota Gala Tehsil and District Poonch.
57. Faisal Hussain S/o Mir Ahmed Naib Qasid.
58. Muhammad Fayyaz S/o Muhammad Ashraf Mali.
59. Aftab Hussain S/o mu Ishaque Mali.
60. Muhammad Bashir S/o mu Ismail Mali.
61. Zafran Ahmed S/o Mohammad Bashir Khan Naib Qasid.
62. Amir Bashir S/o Muhammad Bashir Khan Naib Qasid.
63. Saqlain Ishfaq Naib Qasid.
64. Zeeshan Khan S/o Sarfaraz Naib Qasid.
65. Shahid Sarfaraz S/o Sarfaraz Naib Qasid.
66. Saad Safeer S/o Safeer Hussain Naib Qasid.
67. Muhammad Waseem S/o Abdul Qayyum Naib Qasid.
68. Mohsin Khan Mughal S/o Muhammad Bashir Khan Mali.
69. Muhammad Khurram S/o Maher Din Mali.
70. Nouman Khan S/o Altaf Hussain Mughal Mali.
71. Muhammad Kamran S/o Muhammad Akram Khakroob.
72. Atif Mughal Naib Qasid.
73. Asad Ali Naib Qasid.
74. Siraj Umar Stenographer B-16 High Court Circuit Mirpur.

..... Respondents

Writ Petition No.1298/2025;
Institution 29.05.2025;

1. Taimoor Qayyum S/o Abdul Qayyum R/o of Pambar/Dhahk Tehsil Baloch District Sudhnooti.
2. Shahid Saleem Bilali S/o Muhammad Saleem Khan R/o Sehra Tehsil Hajira, District Poonch.
3. Aamir Qayyum S/o Abdul Qayyum Khan R/o Qillan/Manshabad Tehsil Trakhel, District Sudhnooti.

.....Petitioners

VERSUS

1. Competent Authority for appointments/nominations/constitution of Selection Board in Azad Jammu & Kashmir High Court Establishment in Grade 16 and above through Registrar High Court having its office at High Court Building Muzaffarabad.
2. Rules Making Committee for the Azad Jammu & Kashmir High Court Establishment (Appointment and Conditions of Employment) through Registrar High Court of Azad Jammu & Kashmir having its office at High Court Building Muzaffarabad.
3. Selection Committees for Making Recommendations for appointment through Registrar High Court of Azad Jammu & Kashmir having its office at High Court Building Muzaffarabad.
4. Registrar High Court of Azad Jammu & Kashmir having its office at High Court Building Muzaffarabad.
5. Secretary Presidential affairs, having his office at President Secretariat Jalalabad, Muzaffarabad.
6. Services and General Administration Department through Secretary Services and General Administration having its office at new Secretariat Muzaffarabad.
7. Department of Law, Justice & Parliamentary affairs through Secretary Law, Justice and Parliamentary affairs having his office at new Secretariat Muzaffarabad.

..... Respondents

WRIT PETITIONS

Before:—Justice Chaudhary Khalid Rasheed, J.

APPEARANCES:

M/s Waheed Arif, Kh. Muhammad Akbar and Imran-ul-Haq Khan, Advocate for the petitioners.

M/s Barrister Maham Fadia, Raja Abrar Hussain Khan, Nasir Masood Mughal, Ch. Ghulam Nabi, Ch. Amjid Ali, Shahid Ali Awan, Raja Sajjad Ahmed Khan, Sajid Hussain Abbasi, Najam-ul-Hassan Aftab Alvi, Abdul Rasheed Abbasi, Muhammad Asad Khan, Khalid Bashir Mughal, Muhammad Saghir Javid, Hashaam Anjum Khan, Syed Zulqarnain Raza Naqvi, Raja Shujahat Ali Khan, Advocates and AAG for respondents.

VERDICT:

- i. The captioned writ petitions are hereby accepted.
- ii. The impugned appointment/promotion and transfer orders/notifications are hereby annulled as being void ab-initio and coram non-judice.

JUDGMENT:**FOREWORD:**

Through writ petition No.2141/2025 the petitioners have assailed the appointments, promotions and transfers of the private respondents by different notifications/orders whereas in writ petition No.1298/2025 the petitioners assaulted the assailed notifications dated 21.07.2023 and 23.01.2025 qua “Azad Jammu & Kashmir High Court Establishment (Amended) Rules, 2020 have been amended.

Both the above titled writ petitions have been preferred under Article 44 of the Azad Jammu & Kashmir Interim Constitution, 1974 which are interlinked and can be decided simultaneously, hence, were heard together and are decided through this single judgment.

STANCE OF THE PETITIONERS:

The learned counsel for the petitioners reiterated the facts and grounds already taken in the writ petitions while arguing writ petition No.2141/2025 primarily contended with vehemence that amendments made in the “Azad Jammu & Kashmir High Court Establishment (Amended) Rules, 2020” through notification dated 21.07.2023 was not published in the official gazette, hence, have got no force of law under rule 112 of the Azad Jammu & Kashmir High Court Procedure Rules, 1984 as well as section 22 of the General Clauses Act, thus all the appointments, promotions, transfers on the basis of amendments made in 2023 are anomalous and coram-non-judice. While referring to appointments in furtherance of advertisement (annexure PC) available at page 26 of the writ petition, the learned counsel stated that the posts were advertised for appointment through NTS but without assigning any reason the appointments were made through internal selection committee of the High Court of Azad Jammu & Kashmir. He further alleged that 10 posts of IT Assistants B-16 were advertised, however, 14 appointment orders were issued, similarly, 09 posts of Junior Clerks B-11 were advertised but 14 appointment orders were issued. He also argued that

when the appointments were not liable to be made through NTS then it was enjoined upon the official respondents to re-advertise the posts likewise the qualification, nomenclature of the posts of Junior Clerks B-11 was changed as Office Coordinator and were upgraded to B-14 through amendment, hence, it was sine qua non for the official respondents to re-advertise the posts but this pivotal legal requirement has not been observed. The learned counsel further claimed that respondent No.32 was appointed as Office Coordinator B-14 on 07.12.2024 but just after 23 days he was promoted as IT Assistant B-16 on officiating basis on 01.01.2025 and then after one month was confirmed as such vide notification dated 24.06.2025. He contended that competent authority constituted selection board for appointments in I.T. vide notification dated 16.01.2025, University of Poonch Rawalakot nominated Dr. Adnan Ahmed Rafique Director Information Technology as professional Expert vide letter dated 29.01.2025 just one day before interview and after interview the appointment orders in I.T. were issued on 01.02.2025, thus, the professional Expert neither associated in preparation of question papers for written test nor in the written test, hence, the selection

process for the posts in I.T. has been taken without professional expert by violating the very constitution of committee by the competent authority. He submitted that one Ghulam Mustafa Kiani, challenged advertisement before this Court as he was lacking the required qualification and his case was dismissed up to the Supreme Court reported as 2021 SCR 232 but astonishingly through a subsequent amendment in the relevant rules the qualification for the posts of I.T. Assistant was reduced, he was allowed to participate in the process and was also selected which depicts the factum of favouritism. He pressed into service that official respondents relied upon press release dated 31.12.2024 through which candidates who did not apply in pursuance of the advertisement issued through NTS were allowed to participate in the selection process but the same not only appears to have been issued from Circuit Mirpur rather not published in any newspaper and respondents have also not placed on record any advertisement to establish that said press release was published in any newspaper whereas the copy of the same was also addressed to NTS though said agency was disassociated from the selection process without assigning any reason.

The learned Advocate while attacking appointments of stenographers submitted that 5 posts were advertised vide advertisement annexure PM available at page 106 of the paper book but total 10 appointment orders were issued. He also averred that posts of stenographers were vacant in different districts but instead of associating District Judges of the concerned districts only the selected District Judge posted at Muzaffarabad has been associated as Member Selection Board thus, constitution of selection board for the posts of stenographer was illegal. He contended that respondent No.43 Rameez Raja appointed as Stenographer and Raja Majid, appointed as Office Coordinator are the real brothers of Raja Nadeem, Deputy Registrar High Court a Member of Selection Committee which is a clear nepotism.

While referring to the case of respondent No.53, Raja Amir Asghar, the learned Advocate submitted that respondent No.53 is the real brother of Raja Abid, Deputy Registrar and brother in law of Raja Nadeem Ahmed, Deputy Registrar High Court who as per seniority list of the Stenographers B-16 annexure PR at page 121 of the paper book was listed at serial No.43 but amazingly sine assigning

any reason bypassed 42 stenographers listed ahead to him, he has been transferred and promoted as Senior Scale Stenographer B-18, hence his promotion to the High Court is based on pick and choose, thus, not sustainable.

By referring to notification dated 16.04.2025 annexure PZ at page 150 of the paper book the learned Advocate averred that the post of Server Room Attendant upgraded vide notification dated 20.03.2024 from B-1 to B-3 was wrongly mentioned as B-5 and one Siraj Umar Server Room Attendant was promoted as stenographer B-16 which amounts to promotion from B-3 to B-16 by violating relevant rules and bypassing all the senior officials from B-5 to 15, thus, coram non-judice.

Whilst arguing the case of respondent No.54, the learned Advocate stated that as per rules, 2020 the post of Secretary to Chief Justice was discretionary, hence, permanent appointment of respondent No.54 vide notification dated 15.08.2023 with effect from 30.08.2022 was against the rules because permanent appointment against said post could have been made in the light of amendment notified vide notification dated 21.07.2023 but the same rules were not published in the official gazette,

hence, have got no force of law, therefore, permanent appointment of respondent No.54 as Secretary to Chief Justice was totally against law. He also stated that respondent No.54 was transferred from the post of Secretary to Chief Justice as Additional Registrar while under the relevant rule no mode of transfer for the post of Additional Registrar was available rather the post of Additional Registrar could have been filled in by promotion from High Court establishment or by transfer of Additional District & Sessions Judge. He claimed that respondent No.54 is also not law graduate however, as per rules only law graduate can be promoted as Additional Registrar Judicial, thus, the transfer of respondent No.54 as Additional Registrar is also a flagrant anomaly which deserves to set at naught.

By referring to the case of respondent No.55, the learned Advocate contended that he was serving as Senior Scale Stenographer who was promoted as Assistant Registrar (Record) but at that time the post of Assistant Registrar (Record) was not available in the relevant rules and as per rules a post which exists in the appendix could have been filled in. He stated that the post of Assistant Registrar (Record) has been included in the appendix of relevant rules

in 2023, which were not published, thus, promotion of respondent No.55 as Assistant Registrar (Record) was totally against law and rules as assigning of job of Assistant Registrar (Record) amounts to his promotion as such. He also submitted that it is very unusual that in all the selection boards/committees constituted for the posts of I.T., Office Coordinators, Stenographers, Naib Qasids, Gardeners, and Sweepers the respondent No.55 performed as Member/Secretary Committee, hence, is responsible to all the illegal appointments particularly the appointments of Naib Qasids, Mali and Sweepers, hence, liable to be proceeded as per law.

The learned Advocate argued with vehemence that respondent No.35 Junaid Turk filed a written statement by pointed out certain illegalities in the appointment of Protocol Officer thus, in the light of written statement of respondent No.35 the legality and correctness of the appointment of Protocol Officer of the High Court of Azad Jammu & Kashmir is also required to be scrutinized as per law.

The learned Advocate claimed that promotions of High Court Officers vide notifications dated 15.08.2023

available at page 164 to 185 have been issued by relaxing the required length of service however, during pendency of writ petition their length of service has been completed.

The learned Advocate also claimed with rigor that only two posts of Naib Qasids were published but 12 persons have been appointed as Naib Qasids, similarly the appointments of Mali and Sweepers have been made in excess of advertised posts, thus, their appointments are illegal but they have not been impleaded in line of respondents as they are not office bearers, however, the Court can consider the legality of their appointments and the selection committee who appointed class-IV employees is liable to be taken to task. The learned Advocate also argued that appointments, promotions, transfers of private respondents as well as all other appointments, promotions and transfers in the High Court Establishment on the basis of Rules, 2023 and 2025 are anomalous and liable to be extinguished, hence, requested for the acceptance of the writ petitions.

The learned Advocate while referring to appointment of respondent No.14 submitted that at the time of advertisement of posts in 2020, respondent No.14 was

graduate and was not eligible even to apply for the post. He challenged the rules/qualification through a writ petition but failed, appeal before Supreme Court also remained unsuccessful but subsequently in the year 2025 through amendment in the rules the qualification for the relevant post was reduced from Master to Bachelor, he was appointed in spite of the fact that he could not apply in 2020 as he was lacking relevant qualification. The learned Advocate finally argued that all the orders despite filing applications by the petitioners have not been provided to the petitioners, hence, were not appended with the writ petition, however, the Court can scrutinize entire appointments and promotions.

In writ petition No.1298/2025 the learned Advocate raised a sole argument that the amendments in the rules 2020 vide notifications dated 21.07.2023 and 23.01.2025 are not sustainable because a bench of this Court in Service Appeal No.05/2017 titled Lala Shafique Ahmed vs. Competent Authority and others decided on 07.06.2024 suggested that for appointment and promotion to the posts of B-17 and above law graduation must be the required qualification and another bench of this Court also passed similar suggestions but unfortunately through the impugned

amendments the relevant qualification has been reduced and judgments of the Courts have not been pondered, hence, said amendments are liable to be declared as illegal so suitable amendments are necessary to be made in the relevant rules for betterment of the institution. The learned Advocate placed reliance on following case laws:-

1. 2019 SCR 301.
2. 2021 SCMR 1979.
3. 1999 SCR 404.
4. 1999 SCR 145.
5. 2001 SCR 45 & 97.
6. 2018 SCR 195.
7. 1993 PLC (CS) 297.
8. 2020 SCR 1 & 443.
9. 2024 SCR 348.
10. 2014 SCR 1104.
11. 2000 SCR 431 & 256.
12. 2000 SCR 139.
13. 2023 SCR 882.
14. 2023 SCR 30 & 1200.
15. 2016 SCR 1589.
16. 2002 SCR 158.
17. PLD 1994 AJK 26.
18. 2005 SCR 236.
19. 2003 SCR 351.
20. 2015 SCR 284.
21. 2005 SCMR 471.
22. 1996 SCMR 1349.
23. 1993 SCMR 1287.
24. 1997 ACMR 1043.
25. PLD 1997 S.C 835.
26. 2011 PLC C.S 658.
27. 2022 PLC C.S. 23.
28. PLD 1965 Supreme Court 106.
29. 2005 SCMR 186.
30. 2001 YLR 835.
31. 2000 YLR 295.

- 32. PLD 1971 Supreme Court 82.
- 33. PLD 2016 Supreme Court 961.
- 34. PLD 2024 Supreme Court 746.

STANCE TAKEN BY THE RESPONDENTS:

Barrister Maham Fadia, the learned counsel for respondent No.55 argued that a meeting of Judges of the High Court was convened on 13.08.2022 and some amendments in the relevant rules were proposed including framing of rules for the post of Assistant Registrar (record), hence, when a Judge of the Court has expressed his view in judges meeting then he cannot hear the same matter. She further argued that when a matter has been decided in Judges Meeting then it cannot be assailed through a writ petition. The learned Advocate contended that association of the answering respondent as Member of Committee was the sole prerogative of the authority and the answering respondent was bound to obey the order. She contended that answering respondent was serving as Senior Scale Stenographer B-17, who was promoted against the post of Assistant Registrar B-18 which became available due to the change of nomenclature of the post of Reader B-18 on the basis of his seniority, suitability and was just ordered to function as Assistant Registrar (Record), while referring to

notifications dated 10.01.2020 “PJ/1 & PJ/2” she contended that the same practice was previously followed in the High Court, hence, it cannot be held that at the time of promotion of answering respondent, the post of Assistant Registrar (Record) was not existed in the relevant rules. She also argued that she applied for certified copies of Judges Meetings and it was the prerogative of the competent authority to accept or reject the same, hence, baseless allegation has been leveled against her to manage the authority for issuance of copies of judges meetings. She submitted that under Article 47-A of the Azad Jammu & Kashmir Interim Constitution 1974, framing of rules is sole jurisdiction of the High Court subject to approval by the President of the State of Jammu & Kashmir and after approval the same have got the force of law, thus, the petitioners wrongly objected that the rules, 2023 and 2025 have the force of law from the date of its publication in the official gazette. She submitted that all the other institutions after framing of rules are bound to publish the same in official gazette and from the date of publication it got the force of law as the same is specifically mentioned in the relevant Acts of the institutions but no such stipulation has

been imposed on the Supreme Court and the High Court which frame rules under Article 47-A of the Constitution. The learned Advocate lastly argued that no illegality has been committed by the authority while promoting the answering respondent as Assistant Registrar, hence, the writ petition which has been filed with mala fide intention is liable to show the doors.

Raja Abrar Hussain, the learned counsel for respondent No.31 contended that petitioners had filed a writ petition by challenging rules, 2025 which was dismissed by this Court and during pendency of appeal before the Honourable Supreme Court the petitioners through an application also assailed the appointments of private respondents, however, the Supreme Court of Azad Jammu & Kashmir dismissed the writ petition by observing that matter has been attended in Judges Meeting thus, after the judgment of the Supreme Court the writ petition is not maintainable and matter can only be attended as was decided in the Judges Meeting. The learned Advocate further argued that the writ petition is badly hit by the principle of laches, as the petitioners No.2 and 3 participated in the test and interview, hence, were aware of appointments of private

respondents but filed the instant writ petition with unexplained delay of months. The learned counsel submitted that the captioned writ petition is a writ of quo-warranto as well as writ of certiorari and under law only an aggrieved person may file a writ of certiorari, the petitioners No.2 and 03 participated in the test and interview but could not attain merit position whereas petitioners No.1, 04 and 05 are not aggrieved as they did not applied for their appointments, hence, petitioners No.2 and 03 are estopped by the principle of acquiescence and estoppel whereas the writ petition to the extent of petitioners No.1, 04 and 05 is not maintainable as they are not aggrieved. He also submitted that under rules writ of quo-warranto can only be heard by a Judge when it has been made over to him by the Chief Justice. The learned counsel stated that answering respondent participated in the selection process which was conducted by two different committees as the written test was marked by a committee headed by a learned Judge of this Court, and obtained merit position, thus if there is any fault in the selection process the answering respondent cannot be penalized. He stated that answering respondent is a Law Graduate and remained extraordinary in whole of his educational carrier who also

obtained second position in the test and interview against two advertised posts. He submitted that the answering respondent has got no close relation with any member of the selection committee or even with the authority. He also submitted that there was no need of re-advertisement of the posts as the same were advertised as per law and for test and interview press release was uploaded on the website of the Azad Jammu & Kashmir High Court, consequently, hundreds of candidates applied for their appointments, appeared in the test and interview, hence, it cannot be claimed that as the press release was not published in any newspaper, so, the entire selection process is mala-fide and fishy. He contended that the press release was sent by the Azad Jammu & Kashmir High Court for publication, though he has admitted that said press release was not published in any newspaper. He also stated that the Azad Jammu & Kashmir High Court rules framed under Article 47-A of the Azad Jammu & Kashmir Interim Constitution, 1974, are not necessary to be published in the official gazette for having the force of law as they are framed only for High Court establishment and not for general public rather the rules framed for general public are necessary to be published. The

learned counsel also stated that posts were duly advertised hence, after amendment in the rules the same were not necessary to be re-advertised on this ground as well. While closing his arguments the learned Advocate contended that certified copies of appointment and promotion orders as well as other necessary documents have been obtained by the learned Advocates for private respondents and are intended to file counter writ petition against the other employees of the High Court as prior to the appointments of private respondents all the appointments in the High Court have been made from failed candidates in the test. The learned counsel placed his reliance on the following case laws:-

1. 2020 SCR 820.
2. 2004 SCR 298.
3. 2020 SCR 834.
4. 2024 SCR 348.
5. 2021 SCR 232.
6. 2012 PLC C.S. 795.
7. 2016 PLC C.S. 1054.
8. PLD 2004 Supreme Court 261.
9. 2019 SCR 331.
10. 1995 SCR 259.

Mr. Nasir Masood Mughal, the learned counsel for respondents No.41 and 42, vehemently argued that none of the relative of respondent No.42 was associated as member of committee and though brother of respondent

No.41 was member of selection committee, however, he did not award any number to respondent No.41, thus it cannot be claimed that the appointments of respondents No.41 and 42 have been made on the basis of any nepotism. The learned counsel submitted that the competent authority vide notification dated 24.11.2021 in exercise of the powers conferred by sub-rule (6) of rule 6 of the Azad Jammu & Kashmir High Court Establishment (Appointment and Conditions of Employment) Rules, 2020, constituted a committee for appointment by initial recruitment, transfer and promotion in grade B-1 to B-15 consisting of Registrar, Deputy Register (Admin) and Assistant Registrar (Record) whereas the brother of answering respondents was serving as Deputy Registrar (Admin), hence, rightly associated in the selection process but for fair and transparent selection did not award any mark to respondent No.41. The learned counsel submitted that vide notification dated 02.08.2022 the nomenclature of the post of Junior Clerk was changed as Office Coordinator, vide notification dated 20.03.2024 the post of Office Coordinator was upgraded from B-11 to B-14 and in order to meet the requirements a press release was uploaded on the website of the Azad Jammu & Kashmir High

Court. He contended that vide notification dated 23.01.2025 an amendment was effected in the Azad Jammu & Kashmir High Court Establishment (Appointment and Conditions of Employment) Rules, 2020, through which the waiting list was valid for 180 days from the date of meeting of the selection board and as two posts became available due to the promotion of Office Coordinators as Senior Office Coordinators B-16, hence, respondent No.41 was appointed from the waiting merit list, therefore, no illegality has been committed. He contended that non-publication of rules is the fault of authority for which the answering respondents cannot be penalized. The learned counsel claimed that respondents No.41 and 42 have been appointed after due process of law, in the light of their merit position, hence, their appointments cannot be declared void ab initio merely on the ground that their brother is serving as Deputy Registrar High Court or for the reason that rules were not published in the official gazette and that the posts were not re-advertised after amendment in the rules.

Ch. Ghulam Nabi, Advocate for respondent No.32, initially submitted that the writ petition is hit by the principle of laches as the appointment orders were issued on

24.01.2025 but the writ petition has been filed on 20.08.2025 after more than seven months. He contended that the Supreme Court of Azad Jammu & Kashmir has held in 2022 SCR 1088 that a writ petition can be filed within 90 days of the impugned order and delay of each day after 90 days of the order has to be explained but the petitioners have not explained the said delay in the writ petition. The learned counsel while relying upon 2013 SCR 34, 2014 SCR 134 and 2025 SCR 272 submitted that petitioner No.2 and 03 participated in the test and interview but could not attain merit position, hence, cannot challenge the selection process after remaining unsuccessful to get a favourable result. The learned counsel averred that answering respondent cannot be penalized for the fault of authority. In this regard he has placed his reliance on 2025 SCR 304, he pressed into service that answering respondent has been promoted as IT Assistant B-16 and Web Programmer B-17 on the basis of his seniority as no other person senior to him in the seniority was fulfilling the required qualification and no length of service was required for promotion as such, hence, question of relaxation of length of service for promotion in favour of answering respondent does not arise. The learned counsel on

Court query failed to justify two rapid promotions of answering respondent just in one day. He also stated that answering respondent was serving in IT since 2019 as IT Assistant B-16 on contract basis, hence, was fulfilling the required qualification before his appointment on contract basis. The learned counsel also stated that the petitioners have not assailed the promotion of answering respondent as Web Programmer, thus the writ petition also entails dismissal on this point as well. He placed reliance on following case laws:-

1. 2022 SCR 1088.
2. 2013 SCR 34.
3. 2014 SCR 134.
4. 2025 SCR 272.
5. 2025 SCR 304.

Ch. Amjad Ali, learned counsel for respondent No.14 vehemently argued that the Hon'ble Supreme Court of Azad Jammu & Kashmir has declared the appointment of answering respondent valid as has been made after due process of law vide its judgment dated 20.06.2025, hence, this Court cannot pass any observation regarding legality and validity of appointment of answering respondent. The learned counsel stated that petitioners No.2 and 03 participated in the test and interview but failed, hence, under

law could not file the instant writ petition and petitioner No.1, 04 and 05 are the proxy litigants who are practicing lawyer. He also stated that petitioners No.1, 4 and 5 has filed another writ petition and sought quota for appointment in the High Court for practicing lawyers but failed, hence, assailed the appointments of private respondents as proxy litigants. The learned counsel also stated that the Supreme Court of Azad Jammu & Kashmir has held in the judgment dated 20.06.2025 that the authority can adopt any mode for appointment and as the NTS has repealed, thus conduction of test or interview through internal selection committee was quite justified and no question can be raised on the selection process through internal selection committee after the judgment of the Supreme Court. The learned counsel submitted that the copy of rules was obtained by the petitioners on 30.04.2025, applied for copies of appointment orders of the private respondents on 30.06.2025 whereas the selection process was conducted in the month of January 2025, the petitioners remained mum for more than six months, hence, the writ petition is hit by the principle of laches. The learned counsel further submitted that under section 23 of the General Clauses Act, there is no restriction

on the publication of amendments in the rules which were previously published. The learned counsel stated that amendment in the rules is the prerogative of the authority, hence, it cannot be attributed that any amendment has been made for the benefit of answering respondent. He stated that under Article 31 of the Azad Jammu & Kashmir Interim Constitution 1974, the rules from the date of promulgation have got the force of law. He submitted that writ of certiorari can be filed only by an aggrieved person, however, the petitioners are not aggrieved from the appointments of answering respondents as petitioners No.2 and 03 failed to attain merit position whereas petitioners No.1, 04 and 05 did not apply for their appointments. The learned counsel argued that the amendments in the rules have been effected in light of Judges Meeting. He contended that a writ of quowarranto can only be filed with bona-fide intention for the supremacy of law which is lacking in the instant case. He stated that matter to the extent of answering respondent falls within the ambit of past and closed transaction, hence, cannot be reopened. He placed his reliance on following case laws:-

1. PLD 1969 SC 42, PLD.

2. 1993 SC (AJ&K) 12.
3. 2016 SCR 960.
4. 2023 SCR 840.
5. 2024 SCR 545.
6. 2017 SCR 1380.
7. 2014 SCR 13.

Mr. Shahid Ali Awan, the learned counsel for respondents No.23, 24, 26 to 28, 45 and 49 to 52, vehemently argued that for the appointment in IT department the Competent Authority vide notification dated 16.01.2025 has constituted a selection board consisting of Registrar High Court, Expert IT department, Assistant Registrar (Record) and though the written test was conducted by the selection board in absence of Expert Member but in the interview the expert member was also associated and the association of expert in the written test was not necessary. He contended that under rule 13 of the Public Service Commission Procedure Rules, a merit list is valid for 180 days whereas a merit list prepared under the Teachers Recruitment Policy 2017, remains valid for one year, thus in case of two different opinions, the law has to be interpreted in the manner which is more beneficent to the public at large. He contended that the appointment of answering respondents as IT Assistants have been made on

the basis of their merit position and neither any relative of answering respondents was member of selection committee nor they have any relation with the authority. He contended that copy of the rules was sent to the relevant quarters for publication in the official gazette, hence, non-publication can be attributed to the relevant quarters not to the official or private respondents. The learned counsel submitted that the best method has been adopted for publication of press release by uploading the same on the website of the Azad Jammu & Kashmir High Court as in the present era the people get information through advanced social media and seldom read newspapers. The learned counsel stated that in the light of judgment of the Hon'ble Supreme Court reported as 2016 SCR 960 a writ of certiorari can be filed only by an aggrieved person and where the appointment of a person is assailed the same would be deemed as writ of certiorari. The learned counsel contended that if there is any fault in the selection process that can be attributed to the authority and the answering respondents cannot be penalized for such fault. In this regard the learned counsel placed reliance on 2024 SCR 248. The learned counsel submitted that formation of committee for the post of Stenographer B-16 was quite in

accordance with law and the respondents were fully eligible who have been appointed in the light of their merit position, hence, no illegality has been committed. The learned counsel contended that question of facts have been raised in the writ petition which cannot be resolved in exercise of writ petition. The learned counsel also stated that as per decision of the Judges meeting the concerned District Judges of the Subordinate Judiciary were directed to conduct test of the Stenographers for ascertaining their ability in the shorthand and typing, thus the writ petition in presence of decision of the judges meeting is not maintainable. He also frankly offered to arrange the test of all stenographers by this Court in order to reach at a just decision. He has placed his reliance on 2023 SCR 106, 2021 SCR 232 and 2024 SCR 348.

Mr. Sajid Hussain Abbasi, the learned counsel for NTS intimated the Court that according to MoU signed between the NTS and the High Court on 16th July, 2020 the posts were advertised through NTS, applications were received and scrutinized resultantly 2686 candidates were declared eligible for written test however, the High Court vide e.mail dated 17.01.2023 suggested to postpone the NTS

test subject to later intimation but till date the matter as per record of NTS is pending and even not withdrawn.

Mr. Najam-ul-Hassan Aftab Alvi, the learned counsel for respondent No.22 primarily contended with vehemence that appointment order of answering respondent by the Competent Authority is an administrative order which under the Azad Jammu & Kashmir Interim Constitution, 1974 is immune from challenging through writ of quo warranto and writ of certiorari can be filed only by an aggrieved person but petitioners No.1, 4 & 5 are not aggrieved in the eye of law as they did not participate in the test and interview whereas petitioners No.2 and 3 participated in the test and interview for their appointments but failed, hence, cannot challenge the selection process. The learned Advocate further argued that answering respondent is not holding a public office rather is a subordinate employee, hence, the writ of quo-warranto is also not sustainable on this ground as well. The learned Advocate claimed that under the Azad Jammu & Kashmir High Court Establishment (Appointment and Conditions of Service) Rules, 2020 no specific provision of associating expert member in the selection committee is available, hence, guidance can be taken from General Rules

of Azad Jammu & Kashmir Public Service Commission Procedure rules, which postulates that an expert member can be associated at the time of interview, hence, non-association of expert member during written test is not fatal rather justified. The learned Advocate finally contended that answering respondent has been appointed after due process of law, in accordance with his merit position, thus, the instant writ petition entails to turn into ashes. He placed his reliance on following case laws:-

1. PLD 2021 Supreme Court 391.
2. 2014 PLC (C.S) 256.
3. 2010 SCMR 632.
4. PLD 1978 S C (A J & K) 161.
5. 2022 SCR 1133.
6. 2024 PLC (C.S.) 1103.
7. 1999 SCR 402.
8. PLD 2023 Supreme Court 371.

Mr. Muhammad Ali Ashraf, the learned counsel for respondent No.54 zealously argued that amendment in the Azad Jammu & Kashmir High Court Establishment (Terms and Conditions of Employment) Rules, 2020 vide notification dated 21.07.2023 has been given retrospective effect from 30.08.2022, hence, the stance taken by the petitioners that permanent promotion of answering respondent as Secretary to Chief Justice has been done prior to the amendment in the

rules, 2020 is negated from the relevant record, the petitioners have assailed the promotion of the answering respondent as Secretary to Chief Justice and transfer as Additional Registrar but petitioners were never eligible to be appointed as Secretary to Chief Justice or Additional Registrar, hence, are not aggrieved from the promotion/transfer of the answering respondent. He further contended that as the promotion and transfer of answering respondent have been assailed, hence, the writ petition to the extent of answering respondent is a writ of certiorari, which can only be filed by an aggrieved person and as the answering respondent is holding the post of Additional Registrar (Admin) thus, under rules was not required to be a Law Graduate, hence, the promotion and transfer of answering respondent is quite in consonance with law, thus, writ petition carries no legs to stand. The learned Advocate also contended that petitioners appended several other notifications with the writ petition but not challenged, hence, just targeted answering respondent with malice intention. He placed reliance on following case laws:-

1. 2007 CLD 1092.
2. 2000 SCMR 367.
3. PLD 2007 Supreme Court 369.

4. PLD 1978 Lahore 53.
5. PLD 1959 (W.P) Lahore 883.
6. 2016 PLC C.S. 1054.
7. 2024 PLC C.S. 1097.
8. PLD 2020 Sind 85.
9. PLJ 2013 Supreme Court AJK 344.
10. 2021 SCR 225.

Mr. Abdul Rasheed Abbasi, the learned counsel for respondents No.12, 15, 16, 18 to 20 and 29 zealously argued that answering respondents, fulfilled the required qualification and were eligible to be appointed, applied for their appointments in pursuance of advertisement issued in 2021, obtained merit position, hence, have been appointed in the light of their merit position without taking any benefit from the subsequent amendments in the rules, 2020. The learned Advocate contended that under Rule 6(11) of the amended rules, 2025 the merit list was valid for 180 days, hence, appointment on availability of the post from waiting merit list is also justified. He claimed that writ petition is also not maintainable on following technical grounds (a) petitioners have approached this Court with sullied hands, (b) the petitioners suppressed material facts from the Court, (c) they are also stopped by their conduct to file the instant writ petition as when the petitioners felt that earlier writ petition is not likely to be succeeded they filed second writ petition

by concealing the institution of earlier writ petition (d) an advocate cannot file a writ petition in representative capacity without prior permission of the Court (e) writ petition is hit by laches. He stated that it is well settled now that High Court may adopt any mode for appointment, thus, withdrawal of posts from NTS is not fatal that too, after repeal of Third Party Act by the Government. He submitted that as the instant matter was required to be attended by the Judges Meeting as per verdict of the Supreme Court, hence, writ petition before the decision of the Judges meeting is not maintainable. He further submitted that petitioners failed to point out any violation of law or relevant rules, so, the instant writ petition entails dismissal on this ground as well. He placed reliance on following case laws:-

1. 2023 SCR 625.
2. 2018 SCR 1220.
3. 2024 SCR 348.
4. 2023 SCR 505.
5. 1984 PLC 89.
6. PLD 1991 Lah. 256.
7. 1987 MLD 1252.
8. 1981 CLC 1641.
9. 1981 PLC 1997.
10. 2019 SCR 985.
11. 1987 SCMR 367.
12. 2014 SCR 258.
13. 2018 SCR 592.
14. 2018 SCR 1220.
15. 2017 SCR 1380.

16. 2014 SCR 109.
17. 2023 SCR 625.
18. 2021 SCR 1.
19. 2013 SCR 172.
20. PLD 2024 Supreme Court 663.
21. 2012 SCMR 2180.
22. 2012 SCMR 930.
23. 1995 SCR 359.
24. 2022 SCR 1088.

Mr. Khalid Bashir Mughal, the learned counsel for respondent No.21 stated that his client was appointed after due process of law in the light of his merit position without taking any benefit from the subsequent amendment in the rules as he was eligible for appointment in 2020 who accordingly applied for his appointment and was inducted. He contended that there is no illegality in the formation of selection committee as the same was constituted on 16.01.2025 before conducting test and interview rather is in accordance with law. He alleged that as Third Party Act was repealed, hence, conducting test through internal selection committee of the High Court is also justified. He claimed that for reaching at a just conclusion, that whether the question papers for the post in the I.T. Department were made in accordance with requirements of the posts or not the question papers can be summoned.

Raja Sajjad Ahmed Khan, the learned counsel for class four employees stated that neither his clients have been made party in the case, nor their appointments have been assailed and they filed application under Rule 37 of the Azad Jammu & Kashmir High Court Procedure Rules, 1984 as their appointment orders were suspended by the Court. He also stated that most of his clients were already serving in the High Court since long on temporary basis and were confirmed after due process of law. He further submitted that answering respondent No.53 was appointed in the Lower Judiciary in the year 2015 and on the basis of suitability and fitness has been promoted to the High Court of Azad Jammu & Kashmir as Senior Scale Stenographer as the same procedure was following in the High Court. He contended that petitioners are not aggrieved from the promotion of answering respondent.

He also argued that respondents No.13, 17 and 25 being qualified applied for their appointments in pursuance of the advertisement issued through NTS, after attaining merit position were appointed, hence, their appointments are liable to be sustained.

M/s Sagheer Javed & Hashaam Anjam Khan, the learned counsel for respondent No.74 argued that their client was serving in the High Court of Azad Jammu & Kashmir as Server Room Attendant B-1 on temporary basis since 2019, after test and interview he was appointed as such on permanent basis and the post of Server Room Attendant B-1 was upgraded to B-5. He stated that on availability of the post he was promoted as Stenographer B-16 in the light of recommendations of selection committee, hence, no illegality has been committed by the official respondents.

Syed Zulqarnain Raza Naqvi, the learned counsel for respondents No.30, 33, 34, 36, 38 contended that prayer clauses of writ petition are self contradictory, hence, the claimed prayer cannot be granted to the petitioners. He also stated that through writ petition appointments of more than 74 persons have been assailed, however, under law through a writ petition appointment of only one person can be challenged thus, 74 separate writs should have been filed. He also stated that respondent No.30 was subsequently promoted but his promotion has not been assailed despite knowledge by the petitioners, hence, writ petition entails

dismissal on this ground as well. He placed reliance on 2023 SCR 505, 2022 SCR 430, 2021 SCR 225 and 2024 SCR 719.

Raja Shujahat Ali Khan, learned counsel for respondents No.43, 44, 47 and 48 submitted that total 5 posts of stenographers were advertised and his clients obtained merit position, hence, were appointed, thus, to their extent no illegality has been committed. He also endorsed that stenographers appointed through impugned orders may be summoned to judge their skill of shorthand and typing as per requirement of relevant rules.

AAG appeared on behalf of respondents No.1 to 10 stated at bar that written statement filed on behalf of respondents No.1 to 10 may be treated as their written arguments.

I have heard the learned counsel for the parties and perused the record of the case with utmost care and caution.

COURT OBSERVATIONS AND THE RELEVANT LAWS:-

REGARDING LEGAL OBJECTIONS OF RESPONDENTS.

Before discussing merits of the case, I would like to resolve the legal objections raised by the learned counsel for the respondents. The objection raised by Barrister

Maham Fadia, learned counsel for respondent No.55 that rules have been framed in Judges Meeting and being a member of Judges Meeting and signatory of framed rules, cannot hear this case is concerned, it may be stated that as per the prime stance taken by the petitioners, rules framed in the light of Judges Meeting in the year 2023 and 2025 but were not published in official gazette till appointments and promotions of private respondents, hence, at the time of appointments of private respondents were not holding the force of law so, the question of competency of hearing in case of signatory of the Judges Meeting to frame rules, 2023 and 2025 is not involved in the captioned cases, thus, there is no embargo on me to hear the captioned cases.

Furthermore, under section 53 of the Azad Jammu & Kashmir Courts and Laws Code of 1949, a Judge of the High Court shall not be debarred from hearing and deciding the case notwithstanding the fact that he heard it in a Full Bench. Section 53 of the Code is reproduced as under:-

“53. Saving jurisdiction of High Court.- Notwithstanding anything provided in any enactment to the contrary no Judge of the High Court sitting in a Full Bench thereof, shall, by reason of his having decided or otherwise dealt with any case, be debarred from hearing and deciding the case.”

The question as to whether a Judge is competent to hear a case in respect of which he has expressed his opinion in the capacity as Judge or otherwise was attended by the Supreme Court of Azad Jammu & Kashmir in a case reported as 1999 MLD 160, while relying upon plethora of judgments of the superior courts, observed that a Judge is not disqualified to hear a case merely on the ground that he has already expressed his opinion in a capacity as Judge or otherwise. The relevant observations recorded in para 12 of the judgment are reproduced as under:-

“The moot point in the instant case is as to whether the present members of the Bench are disqualified to hear this appeal because they have dealt with some of the points while answering President’s Reference No.1 of 1998. It may be stated that it is well settled principle of law that a Judge is not disqualified from hearing a cause merely because he has expressed his opinion earlier in the capacity as Judge or otherwise.”

It is also pertinent to mention here that though earlier in Judges Meeting it was decided that under the Chairmanship of my learned brother Mr. Justice Sardar Muhammad Ejaz Khan a committee shall be constituted to inquire into the appointments of private respondents one by one and in pursuance of the said meeting letters were also

issued to the concerned Judges of the subordinate Courts but on filing of the writ petition by the petitioners the decision of the Judges Meeting was kept pending through a subsequent Judges Meeting on the ground that as the appointments of private respondents have been called in question, thus, the Court cannot become a tool to strengthen the case of the petitioners, hence, on this ground too, there is no bar to this Court to hear and decide the captioned cases as per law, so the supra argument is repelled.

The next objection raised by the learned counsel for the respondents that the writ petitions are hit by the principle of laches, hence, liable to be send away, has also got no plausible substance. No doubt, the Supreme Court of Azad Jammu & Kashmir has held in 2022 SCR 1088 that a writ petition can be filed to assail an order within a span of 90 days, however, a perusal of record reveals that earlier in a writ petition titled Taimoor Qayyom and others, petitioners, herein, filed a writ petition through which they have assailed the advertisement on several grounds which was disposed of by the Hon'ble Supreme Court vide its judgment dated 02.07.2025 on the ground that advertisement issued by the High Court has been withdrawn but during the pendency of

the said list the official respondents issued appointment orders of private respondents though astonishingly neither merit lists of successful candidates for the posts of Office Coordinator, Stenographer and in I.T. Department nor appointments orders were uploaded on the website of the High Court rather whole results were kept secret, hence, it cannot be presumed from any stretch of imagination that the petitioners or the general public was aware of the impugned appointments, particularly in a situation when the appointment and promotion notifications of private respondents were not published in official gazette which was a necessary requirement of law, therefore, the stance taken by the petitioners that as soon as they got the knowledge regarding impugned appointments and promotions, they applied for certified copies of the same on 19.05.2025 and on providing the same by the official respondents on 30.06.2025, they filed the writ petition on 20.08.2025 which is a justified reason to meet the element of delay, so writ petitions, after excluding the period consumed in obtaining certified copies of impugned appointments and promotions, are well within time from the date of knowledge of the petitioners.

Furthermore, the doctrine of laches being not a rule of universal application rather has to be applied to the facts and circumstances of each case. The writ jurisdiction can be exercised to revoke a continuous wrong even after passage of several years whereas in some cases even delay of few days may disentitle the petitioner from an equitable relief. Reliance in this regard may be placed on 2014 SCR 291 and 2018 SCR 195. As some grave anomalies have been pointed out in the appointments and promotions of private respondents working in the institution which is expected to administer justice to the whole State, hence, this argument is overruled.

The argument advanced by the learned counsel for respondents that as the Supreme Court of Azad Jammu & Kashmir in Civil PLA No.206/2025 titled Tamoor Qayum and others vs. Competent Authority and others decided on 02.07.2025 has held that matter to the extent of appointments of private respondents is scheduled to be taken up in the meeting of Judges' Council, thus, the same cannot be decided in writ petition, has also got no essence because the Hon'ble Supreme Court has not issued any direction to decide the matter in Judges Meeting rather

disposed of the case pending before it on the ground that Judges meeting is scheduled to attend such questions, hence, the argument is also trashed.

So far as the objection raised by the learned counsel for the respondents that the writ petitions have been filed with mala fide intention, hence, not sustainable, has also got no credible spirit because the petitioners had filed a writ petition and challenged an advertisement which was decided by the Hon'ble Supreme Court on the ground that advertisement was withdrawn while captioned writ petition No.1298/2025 through which rules have been assailed is also awaiting disposal, hence, the petitioners are constantly making efforts to ensure eradication of illegalities and the supremacy of law for last several months, therefore, the writ petitions cannot be declared as an outcome of mala-fide or proxy litigation.

Moreso, in writ of quo warranto the petitioner is mere a relater/informer and if it is established that the holder of a public office has not been validly appointed/promoted then it is the duty of the Court to get the public office vacated as a usurper cannot be protected merely on technical grounds. Once the writ of quo warranto

is filed the burden shifts upon the holder of the office to justify his post. Reliance may be placed on 2020 SCR 1.

The objection raised by the learned counsel for respondent No.22 that an order passed by Chief Justice of the High Court is immune from challenging through a writ petition, has also got no water to carry for the reason that any administrative order of the Chief Justice of a High Court can be assailed through a constitutional petition and only a judicial order of the Chief Justice cannot be assailed through a writ petition, as has been held in PLD 2016 S.C. 961. The relevant observations recorded at page 983 is as under:-

“We for the aforesaid reasons conclude that the provisions of article 199(5) would bar a writ against a High Court if the issue is relatable to judicial order or judgment; whereas a writ may lie against an administrative/consultative/executive order passed by the Chief Justice or the Administration Committee, involving any violation of the rules, framed under article 208, causing infringement of the fundamental rights of the citizens.”

It has been held by the superior Courts in plethora of judgments that appointment against a post through colourable exercise of law without following due process of law or by violating merit position is an infringement of the fundamental rights of general public, hence, anyone from the

general public may assail the same through a constitutional petition. As due to the illegal appointments without following the due process of law and sine providing general public a right of fair and square competition, their rights were infringed, hence, such appointments cannot be termed to be immune from challenging even if done by the Chief Justice of High Court specifically when the same are administrative, executive or consultative, however, it is beyond doubt that an order passed by the Chief Justice or Judge of a High Court while exercising their judicial powers cannot be assailed by filing a writ petition. As the impugned orders have been passed on the recommendations of selection committees and the legality of the selection committees is also a question which entails to be resolved, hence, not exempted to assault.

Another objection elevated by Syed Zulqarnain Raza Naqvi, Advocate that single writ of quo warranto against more than one persons is not sustainable rather separate writ petitions should have been filed against each private respondent, is misconceived and not more than a humour because following are the uses of article 'a' in English language:-

- (i) Before singular countable nouns starting with a consonant sound;
- (ii) To refer to something non-specific or general;
- (iii) To introduce something for the first time;
- (iv) With jobs and descriptions;
- (v) Before words starting with a vowel sound that is pronounced like a consonant;
- (vi) To indicate a rate or quality.

Thus, the use of article 'a' in Article 44 of the Azad Jammu & Kashmir Interim Constitution, 1974 before word 'person' does not indicate that writ can only be filed against a single person rather it has been used to refer something non-specific or general as the basic purpose of writ of quo warranto is to intimate the Court regarding unlawful holding of a public office by a person and in the writ of quo warranto the responsibility of the Court is more concerned and serious as compared to the other writ petitions because after filing the writ of quo warranto the burden shifts to the usurper to prove the validity of holding his post, hence, filing of separate writ petitions against private respondents was not necessary rather being informers the petitioners have performed their responsibility.

Another objection raised by the learned counsel for the respondents that the petitioners filed writ of quo warranto as well as writ of certiorari whereas writ of

certiorari can be filed by an aggrieved person but the petitioners are not aggrieved, hence, the instant writ petition is liable to be dishonoured on this sole ground, has also got no substance because the captioned writ petitions are the writ of quo warranto as the petitioners have not sought any relief for themselves, thus, the argument is overruled as being misconceived. Furthermore, the appointments of private respondents have been assailed for having been made on the basis of nepotism and favouritism by violating the merit position, thus, it cannot be held that as the petitioners No.2 and 3 failed to attain the merit position, hence, cannot challenge the selection process. This question can be raised where the appointments are made in the light of merit position but despite that a failed candidate challenges the selection process on the basis of any flaw in the constitution of selection board/committee or any other legal infirmity or irregularity in the selection process, so this argument, particularly when they do not seek their induction, also carries no legs to stand.

Adverting to the other stance taken by the learned counsel for the respondents that amendments were effected in the Azad Jammu & Kashmir High Court

Establishment (Appointment and Conditions of Employment) Rules, 2020 vide notifications dated 21.07.2023 and 23.01.2025 but the same were not required to be published in official gazette rather got the force of law in the light of Article 47-A of the Interim Constitution, 1974, hence, all the appointments/promotions in the light of the amended rules are just in line, nexus and consonance with law is concerned, it may be stated that under Rule 112 (H) of the Azad Jammu & Kashmir High Court Procedure Rules, 1984 the rules will have the force of law when published. The relevant rule is reproduced as under:-

“112 (h) rules which, when published, will have the force of law.”

Hence, in view of the blatant visibility in the relevant statute it cannot be observed that rules were not required to be published in official gazette. It is also relevant to mark that after amendment in the rules a right in favour of general public is accrued or infringed because all the appointments are liable to be made from the general public and not only within the institution, hence, any amendment in the Azad Jammu & Kashmir High Court Establishment (Appointment and Conditions of Employment) Rules, 2020

which regulates the services of the High Court establishment cannot be declared as rules for specific persons. A rule can only get the force of law from the date of its publication in official gazette as has been held by the Hon'ble Supreme Court of Azad Jammu & Kashmir in 2002 SCR 158. The relevant observations recorded at page 167 are reproduced as under:-

“11. The next question is about the publication of the rules in official gazette. The original rules, as said earlier were made with the prior approval of the Government and stood published in the official gazette. Therefore, any change in these rules should be effected in the same manner. Even otherwise any law including rules having the force of law which are related to the rights and obligations of the citizens must be made known to them.

In *Muhammad Tariq Khan vs. The State and another* [1997 SCR 318] the following principle has been laid down by this Court:-

“.....The purpose clearly is that before a law is applied to the citizens it must be made known to them a law has been made which creates rights and obligations. This may be done by beating of drum or by wide publicity which covers all population or any other method of wide publicity.”

(Underlining is ours)

12. As these rules are related to the rights and obligations of the employees of the Corporation which is established by the Government and is supervised by it and its rules are framed with the approval of the

Government, therefore it is held that any amendment in the rules like original rules shall be published in official gazette.”

Similar observations have been recorded by the Hon’ble Supreme Court of Azad Jammu & Kashmir in 2016 SCR 1589 and at page 1596 of the judgment held as follows:-

“According to the law, there is no cavil that such like rules take effect from the date of publication in the official gazette in absence of any express retrospective effect.”

This view finds further support from 2005 SCR 236, 2015 SCR 284. Thus, the argument advanced by the learned counsel for the respondents that publication of rules was not sine qua non, is hereby repelled.

The argument advanced by the learned counsel for respondent No.14 that as the Supreme Court of Azad Jammu & Kashmir has declared the selection process for the posts in IT wing of the Azad Jammu & Kashmir fair & transparent, thus this Court cannot judge the legality of said selection process has got no substance because the Hon’ble Supreme Court of Azad Jammu & Kashmir in Civil PLA No.364/2025 titled Arslan Zia Vs. Appointing Authority and others; decided on 20.06.2025 has observed that contract appointment and permanent appointment of respondent

No.14, herein, cannot be revisited being never challenged by anybody but now the petitioners have assailed the appointment of respondent No.14 thus, it cannot be observed that the matter has been decided by the Hon'ble Supreme Court and has attained finality. Furthermore, the principle of *obiter dicta* is also attracted because in the judgment relied upon by the learned counsel for respondent No.14 the appointment of respondent No.14 was not the question to be decided rather decision of this Court whereby the writ petition filed by respondent No.14 was not allowed to be withdrawn and that order of this Court was assailed before the Hon'ble Supreme Court, so the observation of the Hon'ble Supreme Court as claimed by respondent No.14 are not to that extent, hence, the legality and correctness of the appointment order of respondent No.14 can be judged by this Court after it has been challenged as observed by the Hon'ble Apex Court. This point was also resolved in the admission order but the same was not assailed before the Hon'ble Apex Court, hence, attained finality, thus this argument is repelled.

The objection raised by Raja Abrar Hussain, the learned counsel for respondent No.31 that writ of quo warranto cannot be entertained by a Judge of the High Court until is entrusted by the Hon'ble Chief Justice is also misconceived because the writ petition was filed during summer vacations on 20.08.2025 and was entertained as vacation judge. It also appears from the record that in the light of order passed by me dated 02.09.2025 the writ petition No.2141/2025 was placed before the Hon'ble Chief Justice for constitution of bench and the Hon'ble Chief Justice made over both the captioned writ petitions to this bench vide order dated 02.09.2025, hence, the objection is repelled.

Raja Shujahat Ali Khan, Advocate for respondents filed an application under Rule 16 of the Azad Jammu & Kashmir High Court Procedure Rules, 1984, for constitution of Larger Bench/Full Bench in the captioned cases on 11.10.2025, however, prior to filing of the said application on 11.10.2025 arguments on behalf of petitioners and respondents No.14, 23, 24, 26 to 28, 31, 32, 41, 42, 45, 49 to 52 have already been heard, thus the application was at

belated stage. It is also pertinent to mention here that constitution of bench is the prerogative of the Hon'ble Chief Justice or the bench may refer it to the Honourable Chief Justice, thus, the application should have been filed before the Hon'ble Chief Justice not before this bench, hence, was also incompetent. Furthermore, though the application was filed for reconstitution of bench but was not pressed as after that Raja Shujahat Ali Khan, Advocate also argued the case on behalf of respondents No.43, 44, 46 to 48, hence, is rejected.

MERITS OF THE CASE;

Turning to the merits of the case, it has been observed that there are four separate sets of appointments, so I would like to discuss legality and validity of every set of appointments distinctly.

The first set of appointments is in I.T. Department of High Court. A perusal of record portrays that vide advertisement annexure PC available at page 26 of the writ petition No.2141/2025 different posts for IT wing of the High Court of Azad Jammu & Kashmir were advertised for appointment through NTS. Under rule 6(9) of the Azad Jammu & Kashmir High Court Establishment (Appointment

and Conditions of Employment) Rules, 2020, the High Court may engage a credible National Testing Service for initial recruitment to ensure transparent induction, thus apparently the engaging of NTS for initial recruitment was under the said provision of law, hence, appointments through internal selection committees of the High Court without assigning any reason to withdraw selection through NTS is on the face of record a malevolence which cannot be simply declared as justified, transparent or merely for the reason that Third Party Act was repelled in 2023 before completion of selection process by the NTS, so the argument advanced by the learned counsel for the respondents that as Third Party Act has repelled, hence, selection process was rightly conducted by internal selection committee of the High Court of Azad Jammu & Kashmir is overruled.

Moreso, MoU was signed between the High Court of Azad Jammu & Kashmir and NTS. Clause 1(i) of MoU is as follows:-

“This MoU shall remain valid from the date of signing, until and unless revoked by either party by serving 30 days advance notice. However, any projects under progress, at the time of revoking, shall be completed by

NTS according to the agreed work plan of the project.”

In pursuance of the said MoU the posts were advertised through NTS and official respondents without revoking MoU by serving 30 days advance notice, selected the candidates through internal selection committees. As stated in the tenure of the MoU, reproduced hereinabove even at the time of revoking MoU the projects under progress were liable to be completed by NTS, thus, selection on the posts advertised through NTS by internal recruitment selection committee is blatant violation of the conditions of MoU signed between the High Court and NTS, which ipso facto reveals the barefaced ill will of the official respondents.

Record further exposed that the Competent Authority vide notification dated 16.01.2025 constituted a committee consisting of Registrar of the High Court as Chairman, expert in IT as Member and Assistant Registrar (Record) as Member/Secretary, thus it was enjoined upon the official respondents to engage an expert to conduct the written test as well.

Under rule 6(5 & 6) of the Azad Jammu & Kashmir High Court Establishment (Appointment and Conditions of

Employment) Rules, 2020, the Competent Authority may constitute a committee/board for making selection to all posts which shall consist of three or more members, hence, any selection committee/board less than three members is sheer violation of rule supra. For ready reference Rule 6(5 & 6) of the Azad Jammu & Kashmir High Court Establishment (Appointment and Conditions of Employment) Rules, 2020, is reproduced as under:-

“6(5) There shall be one or more Selection Boards, for making selection to all posts in grade 16 and above. Each such board shall consist of three or more members, to be nominated by the Chief Justice, from time to time. The senior amongst the members shall be the Chairman.

(6) There shall be one or more Selection Committees, for making selection for appointment to all posts in grade 15 and below. Each such committee shall consist of three or more members, to be nominated by the Chief Justice, from time to time. The senior amongst the members shall be Chairman.”

It is also pertinent to mention here that in the Azad Jammu & Kashmir High Court Establishment (Appointment and Conditions of Employment) Rules, 2020 it is not specified that whether at the time of interview or selection of candidates for appointment to any post one or

more specialists can be associated or not? but in this regard guidance can be taken from AJ&K Public Service Commission (Procedure) Rules, 1994 which are general in nature and can be followed in absence of any specific provision in special rules. Rule 10 of Rules, 1994 portrays that quorum for the meeting of the Commission shall be three members including Chairman and the Commission may at the time of interview associate one or more specialists for assessing the suitability of the candidates in the relevant field. Rule 10 of the Rules, 1994 is reproduced as follows:-

“10(1) The quorum for the meeting of the Commission shall be three members including the Chairman.

(2) Candidates for all posts in BS-18 and above shall be interviewed by the full Commission.

(3) The Commission may at the time of interview or selection of candidates for appointment to any post, associate one or more specialists for assessing the knowledge, ability and suitability of the candidates in the relevant field.”

A glance perusal of Rule 6(5 & 6) of the Azad Jammu & Kashmir High Court Establishment (Appointment and Conditions of Employment) Rules, 2020, makes it very much palpable that though the Chief Justice of the High

Court may constitute one or more selection committees/boards for selection process but every committee/board must not be less than three members including Chairman and after taking guidance from the AJ&K Public Service Commission (Procedure) Rules, 1994 it can be observed that an expert/specialist may be associated at the time of interview, hence, the very constitution of committee by the competent authority for the posts in I.T. Department was violative of rule 6(5&6) of the Rules, 2020, therefore, recommendations of such illegitimate committee are of no legal value.

As stated earlier the committee constituted by the Competent Authority was consisting of three members including expert in IT department, thus the written test conducted by only two members without associating IT specialist is a flagrant illegality which turned the whole selection process anomalous as being an incomplete selection committee. Therefore, in such state of affairs the argument advanced by the learned counsel for the respondents that in this regard guidance can be taken from the General Rules of Azad Jammu & Kashmir Public Service

Commission has got no nexus because such argument could have the force of law if the committee was constituted by the Competent Authority consisting of other three members and an expert in IT was associated during interview to assess the knowledge, ability and suitability of candidates in the relevant field, for transparent selection process as is prescribed in the AJ&K Public Service Commission (Procedure) Rules. It is also evident from the record that only ten posts of IT Assistant B-16 were advertised but 14 appointments have been made against 10 advertised posts which turned the whole appointments process into an illegitimate pursuit. The record further disclosed that an amendment has been effected in the Azad Jammu & Kashmir High Court Establishment (Appointment and Conditions of Employment) Rules, 2020, through notification dated 21.07.2023 qua the qualification for the post of Network Administrator B-17 was reduced from Master Degree to Bachelor degree. Though the authority is competent to amend any rule for the betterment and smooth functioning of the institution but reduction in required qualification cannot be declared as a betterment for the department. It is also relevant to mark that amendment in the rules through

notification dated 21.07.2023 was made in the Judges meeting, however, I am aware of the fact that reducing the required qualification for any post was not proposed in the Judges meeting nor every page of the proposed draft was signed by the Judges coram, hence, the reduction of the qualification is not in accordance with the decision of Judges meeting rather the same appears to give benefit to a person who was not qualified for appointment at the time of advertisement (Annexure PC) and he also filed a writ petition before this Court that was dismissed which was maintained by the Hon'ble Supreme Court but very graciously after the judgment of the Honourable Supreme Court the qualification was reduced, he was allowed to participate in the process and was appointed which is a sheer malign of the official respondents.

It is also relevant to note that respondent No.14 was disqualified at the time of last date of submissions of the applications but subsequently the required qualification was reduced and through a press release dated 31.12.2024 the date for submissions of the application was extended till 15.01.2025 but the said press release was not published in

any newspaper which fact is even admitted by the learned counsel for the respondents and the authority did not pay any heed to assure its publication in any newspaper. Though it is claimed that said press release was uploaded on the website of the High Court but the website of the High Court was controlled by the same contract employee who took benefit of the same, which fact also makes the whole selection process disgraceful. Even otherwise a press release cannot be a substitute of the advertisement in the newspaper as provided in Rule 17 of the Azad Jammu & Kashmir Civil Servants (Appointment and Conditions of Service) Rules, 1977 as the said manner of publication has not been determined by the Govt. through any legislation, hence, even for this sole reason the selection process is liable to be turned down. It is also relevant to mark that press release through which the date of submission of the applications was extended till 15.01.2025 was issued on 31.12.2024 but just after one day of issuance of press release dated 31.12.2014 another press release was issued on 01.01.2025 qua schedule for written statement against the posts in I.T. Department from the candidates who applied in pursuance of the advertisement published through NTS was

announced from 17.01.2025 to 25.01.2025. As per the contents of said press release the roll number slips of the candidates were already uploaded on the website. It also depicts from record that after said press release dated 31.12.2024, only the candidates who were subsequently appointed applied and as per record even not a single application was received in the High Court, which is ipso facto enough to hold that the press release relied upon by the respondents was neither published in any newspaper nor uploading on the website of High Court before expiry of given date for submissions of applications rather press release appears to have been prepared just to allow the candidates already intended to be appointed, in order to give them a passage to participate in the selection process who could not apply in pursuance of advertisement issued through NTS in the year 2020 or their applications were rejected by NTS for any fault, hence, such glaring illegalities and irregularities make the whole selection process erroneous, so not sustainable.

In I.T. Wing of the High Court appointment orders were issued from grade B-16 to B-18 but it is very strange

that no Judge of the High Court has been associated in any Selection Board. Previously it was the practice of the High Court that Selection Boards/Committees were constituted consisting of one or more sitting Judges of the High Court even for the posts of BPS-1, as evident from notifications dated 27.09.2003, 24.07.2006 and 19.04.2011 available in the Azad Jammu & Kashmir High Court Manual, 2013, hence, non-association of any sitting Judge of the High Court in all the selection Boards/Committees for the posts of B-14 to B-18 is itself a serious concern floating on the surface of record.

It is also relevant to highlight that record also exposed that through a notification No.1847-51/Admin/HC/2023 dated 27.01.2023 a Selection Board consisting of Chief Justice, High Court as Chairman, Mr. Justice Sardar Liaqat Hussain, Judge High Court as Member and Registrar High Court of Azad Jammu & Kashmir as Member/Secretary for making recommendations for appointment by initial recruitment, transfer and promotion, in grade BS-16 and above, was constituted though the same was not published in extraordinary gazette but surprisingly without recalling said Selection Board, another Selection

Board under the Chairmanship of Registrar of this Court for initial appointments in grade BS-16 and above was constituted, which also speaks the lack of transparency in the appointments.

As observed earlier the written test was conducted by an incomplete committee constituted by the Competent Authority was unlawful, hence, all the appointments on the recommendations of the said incomplete committee are coram-non-judice and for other illegalities mentioned in the preceding paragraphs are ab-initio-void, which, does not create any legal right in favour of the appointees rather a valid recommendation by a legally constituted committee can be claimed as an accrued right and not otherwise.

The second set of appointments is the Office Coordinators B-14. A perusal of advertisement annexure PC reveals that 09 posts of Junior Clerks B-11 were advertised on open merit through NTS. Before the selection process the posts of Junior Clerks were re-designated as Office Coordinator and were upgraded from B-11 to B-14. As per the Azad Jammu & Kashmir High Court Establishment (Appointment and Conditions of Employment) Rules, 2020,

the appointing authority for the post of Junior Clerk is the Registrar of the High Court. The Chief Justice of the High Court constituted committee for the posts of Junior Clerk re-designated as Office Coordinator B-14 consisting of Registrar High Court as Chairman, Deputy Registrar as Member and Assistant Registrar (Record) as Member/Selection, hence, the constitution of committee for the post of Office Coordinator was also illegal because an appointing authority cannot perform as Chairman of the selection committee as no one should recommend anything to himself to be done. The selection Board/Committee is in fact an authority to conduct test as per requirements, prepare merit list of successful candidates and then may send recommendations of successful candidates to the appointing authority which means the competent authority to pass an order and that authority may accept or reject the recommendations, as has been held in 2008 SCR 230. Relevant observations recorded at page 243 are reproduced as under:-

“We may also add it here that the Selection Board or the Selection Committee is in fact a substitute of the Public Service Commission which all are basically recommendatory bodies, whose recommendations may or

may not be accepted by the competent authority.”

In view of the above reproduced dictum of the Honourable Supreme Court, it can safely be concluded that an appointing/competent authority cannot perform as Chairman of the Selection Board/Committee because the same would mean to send recommendations to himself, hence, in such situation the question of acceptance or rejection of recommendations by the Board/Committee not only shrouded in mystery but tantamount to become a Judge of his own cause, while it is an axiomatic precept of law that no one can be a judge of his own cause.

As stated before that the withdrawal of the posts from the NTS without assigning any reason is on the face of record an unjust, unfair and non-transparent selection through internal selection committee of the High Court consisting of the subordinates to the authority.

The record also complaints that some of the appointed private respondents as Office Coordinator were not qualified to apply because at the relevant time they were lacking the required qualification, even some of them were underage who have been allowed to participate in the

selection process through a press release which was not published in any newspaper and that bitter fact is even admitted by the respondents during the course of arguments by their counsel. The said press release was issued on 31.12.2024 qua the reduced qualification for the post of Network Administrator was inserted in the advertisement dated 30.07.2020 only to the extent of posts of I.T. Department the date of filing fresh applications was extended till 15.01.2025 and not to the extent of other cadre posts, but despite that, application of Danish Manzoor respondent No.37, who passed his graduation in 2023 was entertained inspite of the fact that any fresh application for the posts of other cadres was not entertain-able thus, such selection process cannot be declared valid or transparent. It is also apparent from the record that under the Chairmanship of Mr. Justice Mian Arif Hussain, Judge High Court of Azad Jammu & Kashmir a committee was constituted vide order dated 02.12.2024 for marking of MCQs papers, however, the merit list prepared by such committee headed by the learned Judge of this Court is not available in the record. The record is also mute that whether before or after creation of posts any financial concurrence

was obtained from the Finance Department which is sine qua non for creation of a post, while the Registrar of this Court during hearing of case titled Taimoor Qayyum and others vs. Competent Authority & others by the Hon'ble Supreme Court of Azad Jammu & Kashmir, on Court query responded that the posts were created from savings without seeking separate concurrence, hence, the very creation of the posts without financial concurrence from the Finance Department is unlawful, thus, when a foundation is illegal the superstructure has got no option except to fall.

It is also relevant to mark that the post of Office Coordinator B-14 were never advertised rather the posts of Junior Clerks B-11 were advertised, hence, in case of change of nomenclature and up gradation of the posts it was indispensable to re-advertise the posts, so that all the desirous candidates could join and compete but non-re-advertisement of the posts by the authority and making of appointments against the posts which were never advertised also turned the whole process of appointments as dubious, suspicious and a mockery. Furthermore, the advertisement was published in 2020 but the selection process could not be

initiated, till the year 2024 for one reason or the other, therefore, it was also the requirement of the such situation that the posts should be re-advertised for an apparent transparency, hence, such grave illegality turned the whole selection process unlawful, unjust and unfair.

I have also summoned the relevant record of written test which unfortunately reveals that neither question papers were properly marked nor marks have been awarded for typing test in Urdu and English whereas the topper in the merit list typed just 28 words of English in three minutes while the requirement was 25 wpm. Similarly the candidate at serial No.2 of the merit list astonishingly resolved 100% questions of math that too, without any rough work, which is unbelievable for a prudent mind and the same like position has been found in the cases of other selected candidates which is an enormous question mark on the transparency and legitimacy of test.

As far as the case of respondent No.53 Raja Amir Asghar is concerned, under the Azad Jammu & Kashmir High Court Establishment (Appointment and Conditions of Employment) Rules, 2020, 40% quota was available for the

post of Senior Scale Stenographer for promotion from amongst the members of the Lower Courts Establishment in B-16 on the basis of suitability and fitness through selection on merit. As per the seniority list of the Stenographers B-16 of the Subordinate Judiciary of Azad Jammu & Kashmir issued vide notification dated 22.11.2023 respondent No.53 was placed at serial No.43, thus the promotion of respondent No.53 by crossing all 42 candidates ahead to him sine following the process of any test to judge his suitability is seems to be an outcome of pick and choose which is against the norms of justice. The petitioners also leveled serious allegations that appointments and promotions of the private respondents have been made through nepotism which is very indecorous and inappropriate for the institution which is expected to dispense justice to the general public. It is even not denied by respondent No.53 that he is brother in law of Deputy Registrar of the High Court as well as real brother of another Deputy Registrar of this Court, hence, his promotion by superseding 42 employees ahead to him in the seniority list is a blunt and loud pick and choose by the Authority which cannot be allowed to exist in any manner, whereas in the written statement filed on behalf official respondents

No.1 to 10 the relationship of private respondents has not been denied in specific manner rather simply stated that “relates to the Court” which is beyond understanding and amounts to an admission.

So far as the promotion of respondent 54 Liaqat Ali Mir as Secretary to Chief Justice on permanent basis is concerned, under the Azad Jammu & Kashmir High Court Establishment (Appointment and Conditions of Employment) Rules, 2020, the post of Secretary to Chief Justice was discretionary one. Though through subsequent amendment vide notification dated 21.07.2023 it has been illuminated that the said post can be stuffed on permanent basis by promotion from amongst members of the High Court Establishment B-19 having required qualification but as stated earlier at the time of permanent induction of respondent No.54 the said rules have got no force of law being not published in official gazette and as per certificate issued by the official publisher annexed by the petitioners, these were not even received for publication till 07.05.2025, thus the permanent promotion of respondent No.54 vide notification dated 15.08.2023 w.e.f. 30.08.2022 is void ab

initio. The argument advanced by the learned counsel for respondent No.54 that the amendment in the rules vide notification dated 21.07.2023 was given retrospective effect from 30.08.2022, hence, the promotion of respondent No.54 cannot be declared unlawful has also got no soul because as stated earlier at the time of issuance of promotion notification of respondent No.54 as Secretary to Chief Justice the amendment in the rules vide notification dated 21.07.2023 was not published in official gazette, hence, would be deemed non-existent. Record depicts that respondent No.54 was transferred from the post of Secretary to Chief Justice as Additional Registrar vide notification dated 16.11.2024 which is also against the law on the ground that the promotion of the respondent No.54 was not valid as stated above because his promotion as Secretary to Chief Justice on the basis of which he was transferred as Additional Registrar was coram-non-judice. Furthermore, under the existing rules the post of Additional Registrar could have been filled in only by transfer of Additional District and Sessions Judge or by promotion from amongst Deputy Register B-19. It is also amazing and beyond understanding that respondent No.54 was assigned the duties of Additional

Registrar (Judicial) despite the fact that he did not fulfill the qualification for said post as not being Law Graduate till date. It is also relevant to indicate that though under rule 17 of the Azad Jammu & Kashmir High Court Establishment (Appointment and Conditions of Employment) Rules, 2020, the Chief Justice may deal with the case of any employee in such manner as may appear to him to be just and equitable but such rule cannot be applied where specific rules are available for promotion/appointment and if any transfer/promotion for the betterment of the department is necessary then the same can be ordered in view of the Judges meeting under rule 112-K of the Azad Jammu & Kashmir High Court Procedure Rules, 1984.

As far as the case of respondent No.55 Raja Yasir Irshad is concerned, the allegation leveled against him by the petitioners, he was serving as Senior Scale Stenographer B-17 and was promoted as Assistant Registrar (Record) despite the fact that no rules for the post of Assistant Registrar (Record) were in existence rather for the first time the same were provided in the appendix of the Azad Jammu & Kashmir High Court Establishment (Appointment and Conditions of

Employment) Rules, 2020, in 2023, hence, his promotion to an Assistant Registrar (Record) is not sustainable. The learned counsel for the respondent No.55 argued that his client was promoted as Assistant Registrar and was only assigned the duty of Assistant Registrar (Record) by following previous practice. Though, the argument of the learned counsel for the respondent No.55 is correct that the private respondent No.55 was promoted as Assistant Registrar, however, the very assigning of duty to him as Assistant Registrar (Record) when it is an admitted fact that at the time of promotion of respondent No.55 as Assistant Registrar (Record) the rules for the post of Assistant Registrar (Record) were neither framed nor such post was existed in appendix of the relevant rules, hence, the promotion of respondent No.55 as Assistant Registrar (Record) vide notification dated 30.07.2020 in absence of any rule for the said post is coram-non-judice, hence, not sustainable.

So far the case of respondent No.74 Siraj Umar is concerned, he was appointed as Server Room Attendant B-01, the post of Server Room Attendant B-01 was up-gradated to B-03 vide notification dated 20.03.2024 but then

promoted as Stenographer B-16 by mentioning his grade as B-05. A corrigendum dated 12.03.2025 also appears to have been issued by the signature of Deputy Registrar but the same does not seem to be issued with the approval of the Competent Authority because the up gradation of B-1 to B-3 was done in the light of decision made in Judges meeting on 20.03.2024 and record reveals that in the Judges meeting of 20.03.2024 the post of B-1 was decided to be up gradated to B-03 whereas the posts of B-3 were upgraded to B-5, so, the corrigendum dated 22.03.2025 is totally against the decision of Judges meeting dated 20.03.2024 thus entails an inquiry whether the same has been issued with the approval of the Competent Authority or not? Furthermore, the post of Stenographer B-16 was not available in the Azad Jammu & Kashmir High Court Establishment (Appointment and Conditions of Employment) Rules, 2020, was created vide notification dated 23.01.2025 which could be filled in by promotion from amongst members of the High Court Establishment in B-5 to B-15 who possesses the qualification of shorthand and typing as per column 7, on the basis of selection on merit, so, the proper procedure to act upon such rules was firstly to consider the members of the High

Court establishment serving as Office Coordinator B-14 and in case of non-availability, the next lower grade should be considered but promotion of respondent No.74 from originally B-03 to B-16 by superseding all the members of the High Court of Azad Jammu & Kashmir establishment serving in B-06 to B-15 is also not only a question mark but a glaring pick and choose by the Authority, hence, not sustainable. Moreover, no test has been conducted by the Authority to judge the suitability of eligible members of the High Court, thus despite the fact that the promotion could have been made on the basis of selection but picking of a junior candidate by superseding many of the senior members of the High Court establishment without conducting any competitive examination is a glaring colourable exercise of power which cannot be justified from any stretch of imagination. It is also relevant to note that in view of the offer tendered by the learned counsel for stenographers appointed through initial recruitment, a test of shorthand and typing of the stenographers including respondent No.74 was conducted but respondent No.74 has been found unaware of the shorthand, hence, his promotion as stenographer without having the knowledge of shorthand

and typing was unjust, therefore, not sustainable. The said record is also made part of this file.

It also reflects from the record that some rapid promotions of the private respondents have been ordered as respondent No.32 has got his order of promotion from B-14 to B-16 on officiating basis on 01.01.2025 and was confirmed as such vide notification dated 24.01.2025 with effect from 01.01.2025 (date of his officiating promotion) and then from B-16 to B-17 on the same day which is a proof of the fact that no working papers were presented before the concerned selection board rather promotion has been effected on the basis of favouritism.

Another set of appointments is the matter of stenographers, as per record total five posts were advertised but 10 appointment orders were issued which is a clear violation of dictum laid down by the Supreme Court of Azad Jammu & Kashmir in 2016 SCR 1253. The Board constituted for the selection of stenographers vide notification dated 03.01.2025 is also an illegal act of the authority because District Judges of the concerned district were necessary to be associated as Member of Selection Board but such necessary

requirement has not been fulfilled. As serious allegation was leveled by the petitioners that merit list for the posts of stenographers has been prepared incorrectly, unfairly and unjustly by the selection committee and only blue eyed were listed at the top of merit list. While controverting this stance of the petitioners, Mr. Shahid Ali Awan, the learned counsel for respondent No.43 suggested that a test of stenographers may be conducted and Raja Shujahat Ali Khan, the learned counsel for respondents No.43, 44, 47 & 48 also agreed to this suggestion, whereupon a test of stenographers was conducted in my Chamber on 16.10.2025, but only one Faisal Habib Mughal could qualify the same as per requirements of relevant rules whereas two others Said Umer Khalid and Umar Mushtaq could pick the dictation in shorthand and composed the same about 80% in the given time, while all other 8 candidates were found unaware of the shorthand, which fact has made it very much clear that selection for the posts of stenographers was not transparent rather non-qualified persons have been appointed by violating merit. The papers of test conducted in the chamber are made part of the file for perusal. For safe administration of justice, the other private respondents appointed in the I.T. department

and Office Coordinators were also summoned to Judge their eligibility but they blatantly refused to give any test rather objected and presented some case laws that re-examination cannot be conducted from the selected candidates, hence their request was allowed for the reason that the test was not scheduled to be conducted to appoint person rather only purpose was to accept the offer in order to ascertain the transparency of the selection process just for safer administration of justice.

The petitioners primarily pressed into service that appointment and promotions orders of the private respondents have been issued on the basis of nepotism, favouritism from amongst relatives and friends of Members of Selection Committees and Authority and in this regard they have referred the appointments of respondents No.41 and 43 who are the real brothers of Raja Nadeem Ahmed Deputy Registrar High Court who also performed as a member of the committee for the posts of Office Coordinator B-14. Similarly, the learned counsel for the petitioners stated that the other selected members are also the relatives, kith and kin of friends of the members of selection committee as well as Authority and that in all the selection committees one

respondent No.55 has been found as Member/Secretary of the committee who allegedly managed the appointments and promotions of favourites of members of the committee as well as authority. The Supreme Court of Pakistan in 2024 SCMR 2034 has observed that appointment of relative of a committee member or authority is illegal. This question requires a comprehensive inquiry, so in this regard I would like to refer the matter to the Hon'ble Chief Justice High Court of Azad Jammu & Kashmir for constitution of an inquiry committee headed by a Judge of this Court for detailed report within a reasonable time, if any of the close relative of any member of the committee/hierarchy of the officers of the High Court Establishment/Judicial Officer is found to be involved in the said dubious appointments, the proceedings of mis-conduct, dishonesty and misuse of powers shall be initiated against the concerned persons.

It is also relevant to note that respondent No.35 filed written statement and pointed out some illegalities in the appointment of Protocol Officer of this Court. As the petitioners neither assailed the basic appointment order of Protocol Officer nor made him party but prayed that a detailed inquiry may be conducted regarding illegal

appointments in the High Court, thus without giving any observation, the matter to the extent of initial appointment of Protocol Officer is also referred to the Hon'ble Chief Justice for constitution of committee to probe into the appointment of Protocol Officer under the Chairmanship of a Judge of this Court and pass an appropriate order in the light of report of the inquiry committee within a reasonable time.

The Superior Courts have consistently held that appointments against posts in the public sector are expected to be made strictly in consonance with the applicable rules, regulations and sine any discrimination but in a transparent manner based on the process that is palpably, tangibly fair and within the parameters of its applicable rules. The appointment made in a non-transparent manner or in violation of the law offends the fundamental rights of the general public. The superior Courts have emphasized that due diligence must be observed while making appointments in order to adhere a fair and transparent selection process to ensure good governance. It is inevitable to observe that a highest standards of diligence, transparency and probity in selecting a person for a post is liable to be observed. It has

been held that a public authority possessed with powers under the relevant laws should only use it to advance the public good. The superior Courts have further stressed that choosing persons for public service was not just providing a job and the consequent livelihood to the one in need but a sacred trust to be discharged by the ones charged with it, honestly, fairly, in a just and transparent manner to the best interest of the public at large. The individuals so selected are to be paid not out of the private pockets of the ones who appointing them but by the people through the public exchequer hence, not picking the best as public servants is not only a gross breach of the public trust but also an offence against the public who had the inherent right to be served by the best. Reliance may be placed on 2014 SCMR 949, 2013 SCMR 1159, PLD 2012 S.C. 132 and 2006 SCMR 1876.

In my considered view a high Court is amongst the sacred establishments that stands as a beacon of justice. It is amongst the eminent establishments that are entrusted by the nations with the shoulder crushing reasonability of dispensing justice. It goes without saying, that all the employees of high Court establishment from bottom to top

play a pivotal role in dispensation of justice to the general public and perform function as parts of body of the judges, hence if appointments in High Court are made in colourful exercise of power or through bypassing the transparent process of recruitment provided under the rules, it will have far reaching undulate effects on the public at large. If the torch bearers of justice are permitted to make appointments by overlooking merits, the sanctity of the judicial system will be in peril. The exercise of power in a manner that results in depriving meritorious citizens from the opportunity of competing for public offices is a sheer violation of the fundamental rights.

As far as the case of Class IV employees is concerned, the learned counsel for the petitioners during the course of arguments stated at bar that he is not desirous to rescind the appointments of Class IV employees, hence, were not made party in the case nor their appointments were challenged as they do not hold a public office, however, the committee who committed such grave illegalities is liable to be taken to task. In this regard the observations have also been passed in the preceding paragraphs that the Hon'ble

Chief Justice shall constitute a special committee to inquire into the in hand matter and the concerned who committed such grave illegalities while appointing class IV employees either by selecting their relatives or in any other manner shall be liable to proceed for mis-conduct and misuse of authority.

It is also necessary to mention that Judicial Service Tribunal of the High Court consisting of two sitting Judges of this Court in a judgment rendered in Service Appeal No.05/2017 titled Lala Shafique Ahmed Vs. Competent Authority and others decided on 07.06.2024 has recommended to amend the rules regulating the services of employees of the High Court by stipulating minimum qualification of law graduate for promotion/appointment to B-17 and above but said recommendations of the Tribunal have not been complied with, hence, the authority is directed to arrange a necessary correction in the relevant rules by inserting required qualification as Law Graduates for all the posts in B-17 and above, till then no further promotion/appointment shall be made and all the employees shall be provided an equal right of promotion in next higher grade. It is also liable to be observed that all the rules for

appointments, promotions and selections of post in the High Court of Azad Jammu & Kashmir are required to be revisited for the better functioning of the institution and to restore the trust of the general public because rules are always expected to frame for the betterment of the institutions and system and not to oblige the individuals.

It is also relevant to note that Mr. Khalid Bashir Mughal, Advocate placed on record certain documents out of which some are official correspondence/noting. Under law even issuance of the certified copy of the same is not permissible to be issued by the Authority but surprisingly the copies placed on record of official correspondence are Photostat, hence, apparently have been publicized dishonestly by any official/officer of the High Court, which is a big question mark that as to whether the secret record of the High Court is in safe hands and who are responsible to publicize such official notes, this fact also requires a detailed inquiry, hence, the matter to this extent is also referred to the Hon'ble Chief Justice to proceed further for the purpose of an inquiry in this regard under the chairmanship of a sitting Judge of this Court.

So far as the other writ petition No.1298/2025 is concerned, in the preceding paragraphs it has been suggested that the competent authority shall make necessary correction in the relevant rules for betterment and smooth functioning of the institution, hence, no further direction in this regard is required. Moreover when the said rules were not published in the official gazette hence, has got no force of law as observed earlier, hence, no further deliberation is required in this regard. The case laws relied upon by the learned counsel for the respondents are of divergent facts hence, not applicable in the instant matter.

Before parting with the case, it is relevant to mark that the former Chief Justices and Judges of the Hon'ble Supreme Court and High Court have always got a great admiration, respect, esteem and honour after their retirement. The retired Chief Justices and the Judges deserve more respect as they served for the betterment of all the segments of the State, their precedents are always followed as a guidance for the sitting Judges in such scenario the retired Chief Justices and Judges always receive enormous everlasting glory and dignity due to their memorable services

in the institution and also avail great admiration alongwith benefits after their retirement, thus, also expected to behave and act which may cause further enhancement to their esteem and never expected to do an act which may disgrace or degrade the institution that has extended an immense pride and gleam to them but on 09.10.2025 at about 12:15 pm when the captioned cases were fixed for hearing, the former Chief Justice of this Court Mr. Sadaqat Hussain Raja, who performed as authority while appointing/promoting private respondents, approached the office of the Registrar of this Court, shouted upon Registrar and other staff of this Court, used abusive language and gestures for the Hon'ble Chief Justice and Judges of this Court including one of my personal staff member in order to interfere and just to influence the process of the Court hearing of the instant case, hence, such act cannot be ignored as being regrettable.

Before leaving the judgment, I extend my sincere appreciation to the Senior Private Secretary (Muhammad Nadeem Khan) for his outstanding dedication, hard work, attention and consistent efforts in coordinating and

compiling essential materials as instrumental in ensuring the timely and effective completion of this judgment.

(underlining shall not be considered for the purpose of reporting.)

CONCLUSION:-

The pith and substance of the above detailed debate is, the writ petitions are accepted and disposed of in the following manner:-

- (i) Appointments of private respondents in I.T. Department of High Court as well as Office Coordinators are hereby extinguished.
- (ii) The appointments of private respondents as stenographers are hereby annulled.
- (iii) The promotion of private respondent No.53 as Senior Scale Stenographer is hereby recalled.
- (iv) Permanent promotion of private respondent No.54 as Secretary to Chief Justice and transfer as Additional Registrar are declared coram-non-judice.
- (v) Promotion of respondent No.55 as Assistant Registrar (Record) is declared as void, hence, revoked.
- (vi) Promotion of respondent No.74 as Stenographer is declared as anomalous, hence, call off.
- (vii) A copy of the judgment shall be placed before the Hon'ble Chief Justice for its implementation with regard to the constitution of the Inquiry Committees in different matters mentioned in the preceding paragraphs and in case the involvement of any

employee of this Court is established then it comes within the ambit of misconduct, dishonesty, misuse of powers shall pass an appropriate orders which should be exemplary to restore the confidence of general public on this sacred institution. The directions shall be implemented within a span of 90 days from the date of this judgment positively.

Muzaffarabad;
23.10.2025.

JUSTICE

(Approved for Reporting)

JUSTICE