

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

Reserved on: 10.08.2026

Pronounced on: 21.08.2026

Uploaded on: 21.08.2026

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

WP(C) No.1311/2025

ZAINUL ABIDEEN RATHER

...PETITIONER(S)

Through: - Mr. M. A. Wani, Advocate.

Vs.

UT OF J&K AND ORS.

...RESPONDENT(S)

Through: - Mr. Hakim Aman Ali, Dy. AG.

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

JUDGMENT

1) The petitioner, through the medium of present petition, has challenged consideration order bearing No.JKSS-01 of 2023, dated 28.04.2023, passed by respondent No.3, whereby his claim for regularization as Headmaster has been rejected.

2) Briefly stated, case of the petitioner is that he was initially appointed as that PGT (Mathematics) in J&K Sainik School, Mansbal, with effect from 01.04.1986. It has been submitted that during the early 1990s, permanent staff of J&K Sainik School, Mansbal, abandoned their services because of militancy in the valley and the petitioner along

with three more permanent teaching staff members were persuaded by the school authorities not to leave the school and they were assured that they will be provided all the incentives and promotions in terms of the J&K Sainik School Mansbal Rules. It has been submitted that in terms of a decision taken by the Executive Committee of the school, the petitioner was placed in the selection grade vide order dated 26.08.1992 with effect from 27.12.1991.

3) It has been submitted that because the post of headmaster was lying vacant in the school since the year 1990, a proposal was moved by the then Principal, who happens to be the Member Secretary of the School Executive Committee, for appointment of the petitioner as in-charge headmaster till the post is filled up from suitable officer from defence forces. The proposal was placed before the Chief Secretary/Chairman School Executive Committee and the same was approved, whereafter the petitioner came to be appointed as in-charge headmaster vide order dated 18.08.1994.

4) The petitioner approached this Court by way of a writ petition bearing SWP No.2130/1997 for his confirmation as headmaster and an interim direction came to be passed by this Court on 20.05.1997, whereby the respondents were directed to maintain the present position of the petitioner

as Headmaster and it was further provided that if steps are taken to fill up the post, the petitioner will also be considered along with other candidates. The writ petition was finally disposed of by this Court on 08.04.2009 with a direction to the respondents to consider the case of the petitioner in terms of interim direction dated 20.05.1997, while keeping in view the fact that the petitioner is performing duties of headmaster right from the year 1994.

5) It has been submitted that the petitioner filed a contempt petition bearing No.302/2010 seeking implementation of the order dated 08.04.2009 passed in SWP No.2130/1997. The said contempt petition was disposed of by giving liberty to the petitioner to approach respondents for implementation of the judgment but when the respondents did not comply with the judgment, the petitioner filed another contempt petition bearing CCP(S) No.168/2022. It is during pendency of the said petition that the respondents placed on record the impugned consideration order whereby claim of the petitioner for regularization of his services as headmaster has been rejected.

6) The petitioner has challenged the impugned order on the grounds that he has worked as in-charge headmaster right from the year 1994 to December 2019, till his date of

retirement for more than 25 years without any break. It has been submitted that case of the petitioner was placed before the Executive Committee headed by the Chief Secretary in its 36th meeting held on 04.06.2018 and the Executive Committee agreed to regularize services of the petitioner as headmaster and forwarded his case for approval before the Board of Governors. It has been submitted that case of the petitioner was placed before the Board of Governors on 14.09.2020 for approval and the Board directed that the matter be referred to General Administration Department to examine the claim of the petitioner. It has been submitted that thereafter the Principal Sainik School, Mansbal, who has no authorization to pass any order of rejection, has issued the impugned order.

7) It has been submitted that as per Rule 6.1 of the Jammu and Kashmir Sainik School Mansbal Rules and Regulations and Staff Contributory Provident Fund Rules, all posts of the school on the establishment of the school, except those of Headmaster and Registrar, are to be filled up by the Principal with the approval of the Executive Committee. Thus, the Principal had no authority to reject the claim of the petitioner, as he is not the appointing authority for the post of Headmaster. It has been further contended that as per the eligibility conditions for filling up

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the post of Headmaster as given in Appendix-D to the minutes of the 4th meeting of the Board of Governors, there is no requirement of having a defence background for being appointed to the post of Headmaster. It has been submitted that the petitioner fulfils all other eligibility conditions laid down in Appendix-D (supra), therefore, it was not open to the respondents to reject claim of the petitioner.

8) The respondents have filed their objections to the writ petition. It has been submitted that pursuant to the directions passed by the Court in SWP No.2130/1997, the School Education Department vide Government Order No.833-Edu of 2013 dated 22.10.2013, rejected the claim of the petitioner on the ground that post of Headmaster should be manned by a person of the rank of Major or equivalent from Education Branch of Army, Navy or Air Force. It has been submitted that the petitioner was allowed to function only as In-charge Headmaster and because he is not from Army, Navy or Air Force background, as such, he does not meet the eligibility conditions.

9) It has been submitted that the matter was submitted to the Finance Department for further examination in coordination with the School Education Department. It has been further submitted that General Administration Department in compliance with the resolution of the Board

of Governors, vide UO No.GAD-ADM0II/446/2022-09-GAD, dated 29.03.2023, conveyed that the Department would examine the claim of the petitioner on the touchstone of rules on the subject and pass appropriate orders and file the compliance report. Accordingly, the claim of the petitioner was examined by the Principal Sainik School and rejected vide impugned order dated 28.04.2023.

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

11) The contentions of the petitioners for challenging the impugned consideration order are twofold. Firstly, that Principal, Sainik School, Mansbal, is not the competent authority to pass the impugned consideration order, and secondly, the claim of the respondents that the petitioner is not fulfilling the requisite eligibility conditions for holding the post of Headmaster is contrary to the rules.

12) The record shows that the issue with regard to regularization of services of the petitioner as Headmaster was discussed by the Executive Committee of Sanik School in its 36th meeting held on 04.06.2018. The Committee recommended regularization of the petitioner as Headmaster of the school with a recommendation to the Principal to place the matter before the Board of Governors

for approval. The matter was considered by the Board of Governors in its 16th meeting held on 14th of September, 2020. The Board decided that the matter be referred to the General Administration Department through Principal Secretary, School Education Department for decision. Accordingly, on the directions of the Board, the case was submitted to General Administration Department through Principal Secretary to the Government Education Department. The General Administration Department, vide UO dated 29.03.2023, tendered the advice to examine the claim of the petitioner on the touchstone of rules and decide the same accordingly.

13) Pursuant to aforesaid advice of the GAD, the Principal of the school, relying upon the resolution passed in the meeting of Board of Governors held on 24.10.1984, whereby it was resolved that the posts of Principal and Headmaster would be filled up from a suitable officer of Major or equivalent rank belonging to Education Branch in Army, Navy or Air Force on deputation basis and that only an officer of the rank of Major or equivalent only is eligible to hold the post of Headmaster, came to the conclusion that the petitioner is not eligible to be appointed for the post of Headmaster in terms of the rules of J&K Sainik School. On these grounds, the claim of the petitioner for regularization

was rejected by the Principal. It appears that the order impugned dated 28.04.2023 does not have the approval of either the Executive Committee or the Board of Governors.

14) As per clause 6.01 of J&K Sainik School Mansbal Rules and Regulations and Staff Contributory Provident Fund Rules, all posts on authorized establishment of the school, except those of Headmaster and Registrar, are to be filled up by the Principal by promotion or by direct recruitment, with the approval of Executive Committee. Thus, even the posts other than Headmaster and Registrar are to be filled up by Principal only with the approval of Executive Committee. As per the aforesaid Rules, the Executive Committee is vested with power to appoint staff excepting the Principal, meaning thereby that appointing authority of Headmaster is Executive Committee, whereas in respect of staff other than Headmaster and Registrar, the appointing authority is Principal with previous approval of the Executive Committee. In the face of this rule position, the Principal, who is not the appointing authority of the Headmaster, is not competent to either appoint a Headmaster or to regularize the services of a Teacher as Headmaster, that too without the approval of the Executive Committee. Once it is held that the Principal is not the competent authority to appoint a Headmaster, the Principal

can also not be a competent authority to reject the proposal for regularization of services of a Teacher as Headmaster.

15) In the instant case, although the matter with regard to regularization of services of the petitioner was placed before the Executive Committee and the Board of Governors, but the final decision was not taken by either of the two authorities. The Board of Governors resolved to have an opinion of the General Administrative Department. The said Department instead of tendering the opinion, left it to Principal of the school to deal with the matter in accordance with rules. It would have been proper for the Principal to tender his opinion after examining the rule position and place the matter before the Executive Committee, which is the competent authority to appoint a person to the post of Headmaster. At his level, it was not open to the Principal to reject the claim of the petitioner and issue the impugned consideration order.

16) For what has been discussed herein above, the writ petition is allowed and impugned order dated 28.04.2023 passed by respondent No.3 is set aside and a direction is issued to the said respondent to place the matter along with his opinion before the Executive Committee of the school for its consideration in accordance with the rules. Fresh consideration to the claim of the petitioner shall be

accorded by the respondents within a period of two months from the date of this judgment.

17) The record be returned to learned counsel for the respondents.

(Sanjay Dhar)
Judge

SRINAGAR

21.08.2026

“Dhat Altaj-Shergtary”

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

