

(2014) 12 J&K CK 0016

In the Jammu And Kashmir High Court

Case No : SWP No. 437/2014 and CMP No. 618/2014

Tarsem Kumar Arora and Others

APPELLANT

Vs

State of JandK and Others

RESPONDENT

Date of Decision : 29-12-2014

Acts Referred:

Citation : (2015) 1 JKJ 330

Hon'ble Judges : Ali Mohd. Magrey, J.

Bench : Single Bench

Advocate : Sunil Sethi, Sr. Advocate and Veena Gupta, Advocate, for the Appellant; Ravinder Sharma, A.A.G., for the Respondent

Final Decision : Allowed

Judgement

Ali Mohd. Magrey, J.â?"The petitioners, who are working as Secretaries, attached with the Chief Justice and the Judges of the High Court of

Jammu and Kashmir, have filed this writ petition seeking, to put it in the simplistic terms, a writ of Mandamus to command the respondents to

extend to them the benefits envisaged by the provisions of SRO 386 of 2008 dated 01.12.2008 [Refer 2008 (8) JKS JK-176] for their counter

parts working in the Civil Secretariat of the State. In view of the response filed on behalf of the respondent No. 2, i.e., the Secretary to

Government, Department of Law, Justice and Parliamentary Affairs, J & K, I feel it unnecessary to reproduce the detailed pleadings of the writ

petition; instead, it would suffice to mention their specific case.

2. Way back in 1992, in Mohan Lal Hakim v. State of J & K, 1994 KLJ 179 : JKJ Soft JKJ/3024, it was held that the PAs of the Judges of the

High Court of Jammu and Kashmir were entitled to be treated identically with the

PAs working in the Civil Secretariat, attached with Ministers and Ministers of State in the State of Jammu and Kashmir. The grievance of the PAs attached with the Chief Justice and Judges of the High Court in that case was that, whereas the Government had created higher posts of Private Secretaries for the PAs attached with the Ministers and Ministers of State and promoted such PAs on these higher posts, the said benefit had been denied to the PAs attached with the Chief Justice and Judges of the High Court, though, for purposes of protocol, status and other benefits, the Judges of the High Court were equivalent to the Ministers. That

writ petition was allowed with the following direction:

That the respondents shall grant and accord to the petitioners the pay-scales and other benefits which were paid to the erstwhile PAs and now

Private Secretaries of the Ministers (Advisors) and Ministers of State, with effect from the date the petitioners were appointed as PAs of the High

Court Judges with all consequential benefits of arrears of pay, increment dues etc.

The judgment in Mohan Lal Hakim v. State of J & K (supra) was upheld by the Division Bench as well as the Supreme Court and, consequently, it

was implemented and the PAs working in the High Court were accorded the same benefit, in that, posts in identical pay scales were created for

them in the High Court as well and they were designated as Private Secretaries as the PAs working in the Civil Secretariat.

3. Subsequent thereto, some new developments have taken place resulting in a severe disparity in the avenues of progression in service between

the members of this particular cadre working in the High Court and their counterparts working in the Civil Secretariat. This is so because of what

follows.

4. The Government vide SRO 386 dated 01.12.2008 promulgated the Jammu and Kashmir Administrative Service Rules, 2008 (hereinafter, for

short, the KAS Rules). The method of recruitment to the Service is prescribed in Rule 6 thereof, which is extracted below:

6. Method of recruitment to the service:- After the commencement of these rules, the recruitment to the service shall be made in the following

manner, namely:

(a) by a competitive examination to the junior scale posts of the service;

(b) by promotion to the time scale of the service from amongst the members of the following departmental services holding pay scales of Rs. 7500-

12000 or any other higher grade in that service:-

As is evident from a reading of the clause (xv) of sub-rule (b) of Rule 6 of the KAS Rules, the cadre of the Private Secretaries working in the Civil

Secretariat has been included in the list of feeding services for induction into the Kashmir Administrative Service.

5. Rule 5 of the aforesaid Rules provides the pay scales of the Service. It states that the Service shall have the following scales of pay, namely:

- i) Junior scale of Rs. 7500-12000
- ii) Time scale of Rs. 10000-15200
- iii) Selection Grade of Rs. 12000-16500
- iv) Special Scale of Rs. 14300-18300
- v) Super Time Scale of Rs. 18400-22400.

The Private Secretaries hold the pay scale of Rs. 7500-12000. In terms of sub-rule (b) of Rule 6, they are entitled to be inducted into the Kashmir

Administrative Service in the time scale of pay of Rs. 10000-15200. Once they are so inducted, they have an avenue available to them to rise upto

the Super Time Scale of Rs. 18400-22400.

6. As against this, pursuant to reorganization sanctioned in 2008 by the Government, that too, after a protracted litigation, with respect to the staff

of the High Court, the petitioners, who were holding the posts of Private Secretaries, have been provided the promotional avenue of Secretaries in

the pay scale equivalent to the Time Scale of Rs. 10000-15200 available in the Kashmir Administrative Service and two posts of Joint Registrars

equivalent to the Selection Grade of Rs. 12000-16500. However, there is no scale of pay available in the High Court for the Secretaries equivalent

to the other two stages of progression envisaged in the Kashmir Administrative Service, viz., the Special Scale of Rs. 14300-18300 or Super Time

Scale of Rs. 18400-22400, for their counter parts working in the Civil Secretariat.

7. Aggrieved by the imbalance in the avenues of progression in service that has thus been allowed to creep in between the two sets of employees

working under the same State--one working in the Civil Secretariat and the other in the High Court--the High Court Personal Staff Association,

which includes the petitioners, made a representation to the Registrar General of the High Court to take necessary steps to remove the disparity, as pin pointed above.

8. The Registrar General, working under the directions of the Chief Justice, by his communication No. 4303/GS dated 28.05.2012, forwarded the representation of the High Court Personal Staff Association to respondent No. 2 with recommendation that benefit similar to that available to the officers of the State Administrative Service under SRO 386 of 2008 be extended to the officers of the High Court also. Since the grievance of the petitioners was not redressed, the petitioners have filed this writ petition with the following prayers:

It is, therefore, most respectfully prayed that this Hon'ble Court may be pleased enough to issue a writ, order or direction in the nature of:

1/ Mandamus commanding upon the respondents to implement the provisions of SRO 386 of 2008 dated 1.12.2008, so far as it relates to grant of pay scales in terms of Rule 5 and grant the same benefit in favour of the petitioners category as has been done in favour of their counter parts working in the Civil Secretariat.

2/ Mandamus directing the respondents to grant and accord the category of the petitioners, the benefit of promotion/release of next higher pay scale of Rs. 12000-16500/-, with a provision of release of next higher pay scales of Rs. 14300-18300/- and Rs. 18400-22400/- in terms of aforementioned SRO with all consequential benefits from the date they are entitled to the same depending upon the length of their service.

3/ Mandamus commanding the respondents in particular respondent No. 3, to recommend the case of the petitioners category to respondent-State for release of the aforementioned grades in the percentage as provided in Rule 5 of the Rules of 2008 or any other guiding factor keeping in view the strength of officers in the petitioners category as also taking upon itself the matter regarding allotment of designation to the officers of petitioners category to be placed in the next higher grades with a further direction to implement the SRO aforementioned in regard to the services covered under it by incorporating the same in the rules guiding the service conditions of the petitioners category.

4/ Mandamus commanding upon the respondents to consider and treat the

services of the petitioners category as one of the feeding service for induction into KAS, as has been done in favour of their counter parts working in the Civil Secretariat in terms of the aforementioned SRO.

Any other writ, order or direction, which this Hon'ble Court may deem fit under the facts and circumstances of the case may also be passed in

favour of the petitioners, with imposition of heavy costs up on the respondents for unnecessarily dragging the petitioners to litigation time and again

for an issue which stands already concluded by the Hon'ble Apex Court.

9. On 07.03.2014, when this petition came up for consideration before a Coordinate Bench of this Court, Mr. Gagan Basotra, learned Sr. AAG,

appearing for the respondent-State was directed to file an affidavit of respondent No. 2, the Secretary to Government, Department of Law, Justice

and Parliamentary Affairs, Government of J & K, indicating therein the steps taken on the recommendations dated 28.05.2012 made by the

Registrar General of the High Court. Pursuant to the aforesaid Court order, the Assistant Legal Remembrancer, Department of Law, Justice and

Parliamentary Affairs, filed an affidavit, inter alia, stating therein that the matter has been taken up with the General Administration Department and

Finance Department vide letter dated 19.06.2013.

10. However, when the matter again came up before the Court on 18.07.2014, it was not satisfied with the response so filed. Consequently and

thereupon, Mr. Basotra, learned Senior AAG, assured the Court that he will take up the matter not only with respondent No. 2 but with General

Administration Department also, and file a comprehensive report. Thereafter, the compliance report to order dated 18.07.2014 was filed on

31.07.2014.

11. A perusal of the compliance report so filed reveals that respondent No. 2 had, in fact, taken up the matter with the General Administration

Department and that the General Administration Department, vide its DO No. GAD(L)F-150/2014/632 dated 24.07.2014, addressed to

respondent No. 2, had suggested the course of action to be adopted to redress the grievances of the petitioners. Respondent No. 2, on his part,

had addressed communication No. LD(Lit)2014/18-HC/Law dated 28.07.2014 to the Registrar General of the High Court for formulating a draft

scheme for the personal staff of the High Court in order to better their promotion

avenues similar to the one available to the State Government

employees under KAS rules. The aforesaid two communications have been appended as annexures ""A"" and ""B"" with the report so filed on behalf

of respondent No. 2 before the Court. I deem it appropriate to quote the contents of these communications hereunder:

DO No. GAD(L)F-150/2014/632 dated 24.07.2014 addressed by Public Law Officer, General Administration Department to the Secretary to

Government, Department of Law, Justice and Parliamentary Affairs:

Secretary to Government, Department of Law, Justice and Parliamentary Affairs may kindly refer to his O.M. No. LD (Lit) 2014/18-HC/Law

dated 22.07.2014 regarding the aforetitled subject matter. In this connection, the undersigned is directed to inform that the matter has been

examined in the General Administration Department by reference to relevant recruitment rules governing the recruitment of the staff in the Hon'ble

High Court and the service conditions of the petitioners and the members of the Jammu and Kashmir Administrative Service Rules, 2008, issued

under Section 124 of the State Constitution, as also provisions of Section 108 of the State Constitution. It may be stated that on inclusion of a

service in the list of feeding services to KAS, all posts carrying the pay scale of Rs. 15600-39100 with grade pay of Rs. 6600 and above become

part of KAS Cadre and the officers irrespective of the feeding category to which they originally belong are posted against these posts. The natural

corollary is that against the posts of Secretaries attached with Hon'ble Judges, as also the Joint Registrars, any KAS officer can be posted.

Similarly, the petitioners including others borne on the cadre of Secretaries and Joint Registrars can be posted against any of the KAS Cadre

posts, which proposition may not at all be workable. Therefore, because of many other reasons, the contention of the petitioners that their services

may be included as one of the feeding service in KAS is misdirected and misconceived. In case the service of the petitioners is included as one of

the feeding services to KAS, the entire Administrative control of the service will shift to the Government which will be in contrast to the scheme as

enshrined in the existing recruitment rules notified under Section 108 of the State Constitution.

As regards the representation preferred by the Personal Staff Association of

Hon'ble Court, forwarded by the Registrar General on 28.05.2012, the Department may consider the same as per its own wisdom based on the inputs provided by Registrar General. The scheme once formulated in the shape of draft recruitment rules, General Administration Department shall furnish its comments as may be required.

It is, accordingly, requested to kindly contest the writ petition on aforesaid lines on behalf of official respondents.

Communication No. LD (Lit) 2014/18-HC/Law dated 28.07.2014 addressed by Secretary to Government, Department of Law, Justice and

Parliamentary Affairs, J & K, to the Registrar General, High Court, Srinagar:

Kindly refer your communication No. 1066/GS dated 23.04.2013 followed by communication No. 4303/GS dated 28.05.2013 regarding the

subject cited above. The matter was taken up with General Administration Department, which is the Administrative Department of Kashmir

Administrative Service and the GAD vide its letter No. GAD(L) F-150/2014/632 dated 24.07.2014 has informed that the application of Jammu

and Kashmir Administrative Service Rules 2008 to the staff of Hon'ble High Court and inclusion of the officers of the High Court as feeding service

to KAS would not be a workable proposition because by doing so, the KAS cadre officers and the staff of the High Court would become inter-

transferable. Besides by doing so, the entire administrative control of the High Court services will shift to the Government which will be against the

principles of independence of judiciary and separation of judiciary from executive, thus, offending section 108 of the Jammu and Kashmir

Constitution. General Administration Department has further informed that so far as representation of personal staff of Hon'ble High Court is

concerned a separate scheme can be formulated by the Hon'ble High Court in the shape of recruitment rules so as to provide better chances of

promotion to the personal staff of the Hon'ble High Court on the pattern and similar to the avenues available to State Government Officers under

Kashmir Administrative Service Rules. The copy of the communication dated 24.07.2014 of General Administration Department is enclosed for

ready reference.

It is, accordingly, requested that a draft scheme may kindly be formulated for the personal staff of the Hon'ble High Court in order to better their

promotion avenues similar to the one available to the State Government employees under KAS rules and sent to this department for consideration of the Government.

(Underlining supplied)

12. It also needs to be observed here that in the compliance report submitted before the Court on 31.07.2014, respondent No. 2 in its concluding paragraph thereof has stated as under:

5. That as and when a proposal, as requested from Registrar General is received by the department, the same will be placed before the Govt. in

consultation with Finance and General Administration Department

13. In view of the aforesaid developments having taken place in the interregnum, brought on record by none other than respondent No. 2, the

learned counsels for the parties were heard and I have considered the matter.

14. It is not known what action was taken by the Registrar General pursuant to the aforesaid communication dated 28.07.2014 addressed to him

by respondent No. 2. Nonetheless, it becomes axiomatic from the compliance report so submitted by respondent No. 2 and the two

communications appended therewith, that the Government both in the Law Department and in the General Administration Department have

conceded not only the genuineness of the claim of the High Court Personal Staff Association but their right thereto as well. The contest is

expressed only to the extent that the Personal Staff of the High Court cannot be included as a feeding service to the Kashmir Administrative

Service, and, I must say, rightly so. The Government having made the concession way back in July 2014, it is unfortunate that the matter seems to

have remained unattended at the administrative level, may be because of the catastrophic deluge in the Valley in the recent past. Resultantly,

nothing has been brought on record of this petition as to any steps taken by the Registrar General in this regard.

15. Be that as it may, it is seen that, whereas the General Administration Department vide its DO dated 24.07.2014 addressed to respondent No.

2 has suggested formulation of a scheme in the shape of draft recruitment rules so as to extend identical benefits to the members of the Personal

Staff Association of the High Court as envisaged by the KAS Rules, respondent No. 2, vide his communication dated 28.07.2014, has requested

the Registrar General of the High Court to formulate a draft scheme for such staff of the High Court in order to better their promotional avenues

similar to the one available to the State Government employees under the KAS rules. Again, in the compliance report submitted by respondent

No. 2 before the Court on 31.07.2014, it has been stated that as and when the proposal, as requested, is received from the Registrar General, the

same will be placed before the Government in consultation with the Finance and General Administration Department.

16. The matter relating to maintenance of parity between the petitioners' cadre and their counter parts working under the Government in the Civil

Secretariat concerning their service benefits, especially their emoluments/scales of pay etc., is not *res Integra* and has been settled once for ever in

Mohan Lal Hakim v. State of J & K (supra). The question is whether for purposes of extending the benefit of release of the scales of pay

envisaged by Rule 5 of SRO 386 of 2008 dated 01.12.2008, i.e., the KAS Rules to the petitioners' cadre it is imperative to amend the Rules, and

whether there is really the need of formulating any scheme in that behalf?

17. The answer to the first part of the question lies in the judgment in *Mohan Lal Hakim v. State of J & K (supra)* and the fact that all the

promotional avenues made available to these Members of the High Court Stall have been effectuated only after they had to resort to litigation. This

is borne out by the averments made by the petitioners in paragraphs 7 to 16 of the writ petition. It would be befitting to give a brief resume of this

vital aspect of the matter *ad seriatim* hereunder.

i) The writ petition, SWP No. 987/1991, *Mohan Lal Hakim v. State of J & K* was filed by the PAs/Senior Scale Stenographers of the High Court

seeking the benefit of higher pay scale of Rs. 1900-3200 with designation as Private Secretaries as was granted to their counter parts working in

the Civil Secretariat attached with Ministers and Ministers of State. As already mentioned, this writ petition was allowed with direction to the

respondents to grant and accord to the petitioners therein the pay scales and other benefits which were paid to the PAs of the Ministers from the

date the petitioners had been appointed as PAs. This judgment was upheld by the Supreme Court and implemented. No amendment in the rules

was either sought for or made before extending the benefit to the petitioners

therein. At the cost of repetition, it is observed that in the aforesaid case it was held that the PAs of the Judges of the High Court of Jammu and Kashmir were entitled to be treated identically with the PAs working in the Civil Secretariat, attached with Ministers and Ministers of State in the State of Jammu and Kashmir for purposes of payment of emoluments;

ii) In the year 1998, when the benefit of next high grade to the extent of 25% of the cadre strength of the Private Secretaries working in the Civil Secretariat was released in their favour with designation as Principal Private Secretaries, the concerned staff of the High Court filed writ petition, SWP No. 295/98, titled Raghbir Lal Kohli v. State of J & K, seeking identical benefit. The writ petition was allowed by Court in terms of judgment dated 07.04.2000. After dismissal of the appeal preferred by the State Government, the said judgment was implemented, again without insisting upon amendment of the Rules.

iii) In the year 2003 further benefit of promotion in the next higher scale of Rs. 10000-15200 was granted to the Principal Private Secretaries working in the Civil Secretariat. For extension of the said benefit, the concerned staff of the High Court had again to file a writ petition, SWP No. 762/2003, titled Raghbir Lal Kohli v. State of J & K 2006 (2) JKJ 193 [HC]. This petition, too, was allowed by judgment dated 17.03.2006 granting the benefit of grade of Rs. 10000-15200 to the concerned staff members of the High Court. The Letters Patent Appeal and the SLP filed by the State against the judgment so rendered in the aforesaid petition were dismissed. The judgment was ultimately implemented, again without amending the rules or insisting thereon.

It is thus historically established that amendment to rules governing the High Court staff has neither been pressed as the condition precedent nor insisted upon at any stage to bring the concerned staff of the High Court at par with their counter parts working in the Civil Secretariat. In fact, the import of the judgment in Mohan Lal Hakim v. State of J & K (supra) is that the parity between the two has to be maintained all through. This answers the first part of the question that for purposes of extending the benefit of release of the scales of pay envisaged by Rule 5 of SRO 386 of 2008 dated 01.12.2008, i.e., the KAS Rules, to the petitioners' cadre it is not imperative to amend the Rules governing the petitioners' cadre.

Based on the historicity as detailed above, it is, accordingly, so held.

18. Now, coming to the second part of the question, i.e., whether there is really the need of formulating any separate scheme in this regard, one

needs to go to the relevant provisions of the SRO. The KAS Rules make it evident that the specified percentage of the posts of a single

nomenclature can be placed in different scales of pay without there being any necessity of changing the nomenclature/designation of the post and

such scales of pay can be released only on the fulfillment of the conditions prescribed by the said Rules. Reference in this connection may be made

to sub-rule (3) of Rule 15 providing for appointment to the service in the time scale. It says that all appointments shall be made to the service and

not against any specific post included in the cadre of service. Rule 5 of the KAS Rules provides the pay scales of the Service. It is quoted

hereunder:

5. Pay scales of the Service

(1) The service shall have the following scales of pay, namely:

(i) Junior scale of Rs. 7500-12000

(ii) Time scale of Rs. 10000-15200

(iii) Selection Grade of Rs. 12000-16500

(iv) Special Scale of Rs. 14300-18300

(v) Super Time Scale of Rs. 18400-22400.

(2) Twenty percent of the total number of senior cadre posts as indicated at (A) of Schedule (I) shall be in the special scale out of which ten posts

shall be in the super time scale.

(3) Thirty percent of the total number of the senior cadre posts as indicated at (A) of schedule (I) shall be in the selection grade.

19. The class of the members of the High Court Personal Staff Association, with which we are concerned here, i.e., the petitioners, is already

working in the time scale of Rs. 10000-15200 provided in clause (ii) of sub-rule (1) of Rule 5 of the KAS Rules. In terms of clause (iii) of sub-rule

(1) of Rule 5 of the said Rules, the scale that follows next is 'Selection Grade of Rs. 12000-16500'. Sub-rule (3) of Rule 5 of the Rules provides

that 30% of the total number of the senior cadre posts as indicated at (A) of Schedule (I) shall be in the selection grade. Though there is no such

senior cadre post available in the High Court, but in context of the High Court, the same would be relatable to the sanctioned strength of the

Hon'ble Judges of the High Court, including Hon'ble the Chief Justice. This is so because the senior cadre posts indicated at (A) of schedule (I)

appended to the Rules begin from Secretaries to Government. The Judge of the High Court being equivalent to a Minister in status, protocol and

other benefits (vide Mohan Lal Hakim v. State of J & K), the office attached to each Judge of the High Court is a Secretariat in the same manner

as a Minister has a Secretariat under him. It is to be borne in mind that the Judges of the High Court also function as Administrative Judges with

respect to Districts assigned to them by the Lord Chief Justice. Presently, the High Court has as many posts of Secretaries available as the

sanctioned strength of the Hon'ble Judges, including Hon'ble the Chief Justice, i.e., fourteen. As a necessary corollary, the number of senior cadre

posts would be relatable to the number of Secretariats/offices working under and attached to the Judges of the High Court which, as said above, is

fourteen.

20. Now, in terms of Sub-rule (3) of Rule 5 of the KAS Rules, 30% of such posts would have to be in the selection grade of Rs. 12000-16500.

The Judge strength of the High Court being fourteen, 30% of 14 would come to 4 posts. Therefore, as per the scheme of the KAS Rules, there

have to be four posts of Secretaries in the Selection Grade of Rs. 12000-16500 above the Time 'scale of Rs. 10000-15200 as envisaged by Rule

5(1)(iii) read with Rule 5(3) of the KAS Rules.

21. The next is the Special Scale of Rs. 14300-18300 provided under clause (iv) of Sub-Rule (1) of Rule 5. In this connection, sub-rule (2) of

Rule 5 says that Twenty percent of the total number of senior cadre posts as indicated at (A) of Schedule (I) shall be in the special scale out of

which ten posts shall be in the Super Time Scale. Twenty percent of 14 posts would come to 2.8 posts (i.e., equivalent to three posts); meaning

thereby 3 posts of the Secretaries in terms of the Rules have to be in the Special Scale of Rs. 14300-18300.

22. The next is the Super Time Scale of Rs. 18400-22400. Sub-rule (2) of Rule 5 says that Twenty percent of the total number of senior cadre

posts as indicated at (A) of Schedule (I) shall be in the special scale out of which

ten posts shall be in the Super Time scale. The percentage of this particular category would have to be calculated on the basis of the total number of posts indicated at (A) in Schedule I of the KAS Rules. The total number of senior cadre posts at "A" in schedule I appended to the Rules is 408. 20% of 408 posts come to $81.6 = 82$ posts. Ten posts out of 82 would come to 12% thereof. That means out of the total number of posts placed in Special Scale of Rs. 14300-18300, 12% posts have to be in the Super Time Scale. In the instant case, the total number of posts which are entitled to be placed in the Special Scale, as indicated above, come to 3 posts. 12% of 3 posts come to less than half a post. Meaning thereby that, in terms of sub-rule (2) of Rule 5, the Super Time Scale would not be available to the petitioner's cadre in the High Court.

23. During the course of arguments, the Court was apprised that there are already two posts designated as Joint Registrar in the same scale of pay as the Selection Grade of Rs. 12000-16500 provided in Rule 5(1)(iii) of the KAS Rules. This would mean that there is a deficiency of only two posts in the said scale of pay.

24. It is thus seen that the KAS Rules by themselves provide the scheme talked about by the Law Department in its communication dated 28.07.2014 addressed to the Registrar General. I think, it was, therefore, unnecessary to require the Registrar General to frame any scheme in this regard; the Government could have itself done the needful on the basis of the scheme of the KAS Rules read with the decisions already rendered by the Courts in various writ petitions referred to hereinabove, more so in view of the fact that the petitioners' cadre stands already granted the Time Scale envisaged by the KAS Rules, and the two other pay scales could be released in continuation to the earlier Government order whereby these posts had been created by adding a proviso thereto.

25. Summarizing what has been discussed above in context of the reliefs prayed for in this petition, the petitioners' cadre is held entitled to:

i) in all four posts of Secretaries in the Selection Grade of Rs. 12000-16500 above the Time scale of Rs. 10000-15200 as envisaged by Rule 5(1)

(iii) read with Rule 5(3) of the KAS Rules. Since two posts designated as Joint Registrars in the said scale of pay stand already sanctioned for

promotion of the members of the said cadre, this leaves the deficiency of 2 posts

in the said scale;

ii) three posts of the Secretaries in the Special Scale of Rs. 14300-18300 as envisaged by Rule 5(1)(iv) read with Rule 5(2) of the KAS Rules;

iii) However, in terms of the Rule 5(1)(v) read with the second part of Rule 5(2), the petitioner's cadre is held not to be entitled to any post in the

Super Time Scale of Rs. 18400-22400.

26. Coming to the reliefs prayed for by the petitioners in this writ petition, as regards the prayer for treating their cadre as feeding service for

induction into KAS, the same being ex facie antithetical to the constitutional scheme of things, it cannot be granted.

27. As regards the designation of the posts, the issue stands decided in Mohan Lal Hakim v. State of J & K (supra) that no direction can be issued

for designation or re-designation of any post.

28. In so far as the main relief prayed for by the petitioners is concerned since respondent No. 2 has referred the matter back to the Registrar

General for formulating a scheme, I think, it would be appropriate to require the Registrar General of the High Court to formulate the requisite

scheme keeping in view the discussions and observations made together with what has been held in this judgment hereinabove, and forward the

same to respondent No. 2 within a period often days from today. In the event the Registrar General feels that nothing more is required to be done

than what has been discussed, observed and held in this judgment, he would be free to forward a copy of this judgment under the cover of his

communication to respondent No. 2 for doing the needful. The respondents shall, thereafter consider the matter and take a decision thereon within

a period of one month from the date of receipt of such communication from the Registrar General, in light of the concessions already made in the

two communications.

29. This writ petition is, accordingly/allowed and disposed of in terms of the above together with the connected CMPs.

30. No order as to costs. The Registrar Judicial is directed to forthwith send a true copy of this judgment giving the full cause title of the case in the

same manner as a certified copy of judgment is issued, to the Registrar General for his compliance.