

**IN THE HIGH COURT OF JAMMU & KASHMIR AND
LADAKH AT JAMMU**
(THROUGH VIRTUAL MODE)

CJ Court

**CCP(D) No.16/2025
In LPA No.96/2018**

JAGDISH KUMAR

...PETITIONER(S)

Through: - Mr. Abhimanyu Sharma, Advocate.

Vs.

SHANTMANU ADDITIONAL COMMISSIONER
SECRETARY TO GOVT. EDUCATION
DEPARTMENT, JAMMU AND ANOTHER

...RESPONDENT(S)

Through: - Mr. Raman Sharma, AAG.

**CORAM: HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE RAJNESH OSWAL, JUDGE**

ORDER

1. This petition has been filed by the petitioner for initiating contempt proceedings against the respondents for willful disobedience and non-compliance of the order dated 20.03.2019 passed in LPA No.96/2018.

2. It is stated that in terms of order dated 20.03.2019 passed in LPA No.96/2018, the respondents therein were directed to issue orders in favour of the appellants therein by treating their appointments as having been effected with effect from 06.07.2005 and further the appointments were to be considered only on notional basis without any

monetary benefits, except that the said period would be counted towards qualifying service with a view to entitle them to pay fixation and pension.

3. When the aforesaid judgment was not complied by the respondents, the petitioner along with others filed a contempt petition bearing CCP(D) 17/2020 titled "*Puran Chand and others vs. Sh. Naveen Kumar Choudhary & Ors*" and during the pendency of said contempt petition, order dated 12.03.2022 was issued by the respondent No.2 in respect of appointment of the petitioner as Class IV employee with effect from 06.07.2005, in alleged partial compliance to the judgment dated 20.03.2019.

4. On the basis of the statement made by learned counsel for the respondents that appropriate orders will be passed by the respondent No.2 to ensure that the service benefits emanating from judgment dated 20.03.2019 are actually granted to all the contempt petitioners, the proceedings in CCP(D) No.17/2020 were closed vide order dated 06.05.2022 with liberty to the petitioner(s) for revival of the contempt petition in case the benefits are not granted.

5. As the order dated 20.03.2019 was not complied, the contempt proceedings were revived in CCP(D) No.17/2020

vide order dated 22.11.2022 pursuant to the application filed by the petitioner. It is stated that the arrears on account of pay fixation were released in favour of the contempt petitioners by the respondents but so far as the pensionary benefits and issuance of pension payment orders are concerned, the same were released and issued in favour of the contempt petitioners who superannuated from service during the pendency of contempt petition(s) whereas in case of contempt petitioners who were still in service, the respondents continued to make deductions from the salary of the contempt petitioners for contribution towards the New Pension Scheme (NPS) introduced in the year 2010.

6. CCP(D) No.17/2020 along with connected contempt petitions came up for consideration on 30.05.2024 and it was observed that the respondents have complied with the judgment dated 20.03.2019 except for the issue relating to the in-service employees qua their contribution towards the New Pension Scheme, which can be dealt with by the Writ Court. The contempt proceedings were closed with liberty to the petitioner(s) to approach the respondents by submitting a detailed representation qua the issue of pensionary benefits and in case the petitioners were not

satisfied with the orders passed by the respondents, they were granted liberty of approaching this court again.

7. The grievance raised in the present contempt petition is that despite submission of detailed representation pursuant to order dated 30.05.2024, the respondents are still continuing with the deduction from the salary of the petitioner for contribution towards the New Pension Scheme. Precisely, the grievance of the petitioner is only in respect of applicability of the old pension scheme as he was granted the benefit of retrospective appointment from the year 2005 when the old pension scheme was in vogue.

8. The respondents have filed their response stating therein that in para (9) of the order dated 30.05.2024, it has been observed by the Court that *“in the present case, if this Court while sitting in the contempt jurisdiction has to explain how this authority has to be adopted for giving benefit qua the pension in respect of the serving employees, it would amount to further clarifying the order passed by the original Court, which in our view can be done by the writ court, and not by this Court”*. In fact, the stand of the respondents is that this contempt petition is not maintainable in view of the observations made by this Court in order dated 30.05.2024.

9. In nutshell, the respondents are objecting to the contempt proceedings by submitting that once the contempt proceedings were closed by this Court with an observation that in contempt proceedings the Court can neither add nor delete any direction to/from the original order, the non-compliance of which has been reported to the Court, so the remedy available to the petitioners is to seek clarification from the original court.

10. After having heard learned counsel for the parties and perusing the record, we find that in view of the categorical observations made by this Court in order dated 30.05.2024, it is not open to the petitioner to file fresh contempt proceedings against the respondents and the petitioner can seek clarification from the Court which passed the order, the non-compliance of which has been reported to this Court but at the same time we are not oblivious to the fact that in terms of order dated 30.05.2024, the petitioner along with other contempt petitioners were granted liberty to approach the respondents by way of a detailed representation as regards the issue of pensionary benefits and in case the petitioner(s) were not satisfied with the order so passed by the authorities, they were left free to approach this Court again.

11. In view of the above, we dispose of this contempt petition by permitting the petitioner to seek necessary clarification from the Court which passed the order dated 20.03.2019 and further direct the respondents to decide the representation stated to have been submitted by the petitioner in terms of order dated 30.05.2024.

(RAJNESH OSWAL)
JUDGE

(ARUN PALLI)
CHIEF JUSTICE

Srinagar
17.09.2025
“Bhat Altaf”

Whether the **Order** is speaking: **Yes**
Whether the **Order** is reportable: **No**

