HIGH COURT OF JAMMU& KASHMIR AND LADAKH
AT JAMMU

(Through Virtual Mode)

LPA 221/2019 c/w
RP 66/2019
CPSW 458/2017

Reserved On: 23.07.2025
Pronounced On:. 08.08.2025

State of J&K and Ors.

…Appellant(s)

Through: -
Mr. Vishal Bharti, Dy. AG.

V/s

Khem Raj

… Respondent(s)

Through: -
Ms. Anandita Thakur, Advocate.

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

JUDGMENT

Per Oswal-J:

CM No. 9095/2019 in RP No. 66/2019:

1. For the reasons stated in the application, the same is allowed and the delay in filing the review petition is condoned.

2. Application stands disposed of.

3. Review petition is taken up on board.

RP No. 66/2019

1. Notice, waived by Ms. Anandita Thakur on behalf of the respondent.

2. With the consent of the learned Counsel for the parties, this petition is taken up for final disposal.

3. The petitioners are seeking review of order dated 11.09.2019 passed in LPA (SW 222/2019), whereby the appeal preferred by the

petitioners has been dismissed on account of delay as well as on merits.

4. The review of the order dated 11.09.2019 is being sought on the ground that the respondent has never worked with the petitioners and judgment dated 05.10.2016 rendered by the learned Single Judge is against the law as well as the facts of the case.

5. A perusal of the review petition filed by the petitioners reveals that the petitioners have not demonstrated any cause warranting the review of order dated 11.09.2019 and rather the sole grievance projected by the petitioners in this review petitions is *qua* the judgment dated 05.10.2016 rendered by the learned Single Judge against which the petitioners had preferred an appeal, which was dismissed vide order dated 11.09.2019.

6. The review of the order/judgment is permissible when there is a mistake or error apparent on the face of record or where a new or important matter is discovered that was not available at the time when the matter was heard and considered. No such ground is either pleaded or argued before us.

7. Viewed thus, we find no reason to review the order dated 11.09.2019. Accordingly, this review petition is dismissed.

<u>LPA 221/2019:</u>

1. This *intra-court* appeal is directed against the orders dated 24.07.2019 and 30.08.2019 passed by the learned Single Judge in contempt petition bearing CPSW No. 458 of 2017.

2. It is stated that the respondent has never worked with the appellants since his disengagement in February, 2001 and the appellants filed the statement of facts in the contempt petition and also placed on record order dated 25.03.2017, but the learned Single Judge did not accept the same and, vide order impugned dated 24.07.2019, granted last opportunity to the appellants to come up with the formal order of regularization of the respondent in terms of judgment dated 05.10.2016 rendered by the learned writ court. Thereafter, vide another order dated 30.08.2019, the learned Single Judge granted last and final opportunity of two weeks to the appellants to comply the judgment dated 05.10.2016 failing which the salary of the appellant no. 1 was ordered to be stopped.

3. It is contended by the learned counsel for the Appellants that once order dated 25.03.2017 has been passed by the appellants in compliance to the judgment dated 05.10.2016, the learned Single Judge ought to have closed the contempt proceedings, but instead of doing so, the learned Single Judge has proceeded ahead with the contempt proceedings and has passed orders impugned in this appeal, which in fact supplement the judgment dated 05.10.2016.

4. *Per contra*, Ms. Anandita Thakur, learned counsel for the respondent, has argued that this appeal is not maintainable, as the learned Single Judge has only directed the Appellants to comply with the judgment dated 05.10.2016 and no new directions supplementing the basic judgment have been issued. She has further submitted that the learned writ, after recording the finding that the respondent was

engaged in 1993 and entitled to benefit of SRO 64 of 1994, had directed the appellants to take a decision with regard to the regularization of the respondent, but the appellants in utter disregard of the order dated 05.10.2006 passed the order dated 25.03.2017, thereby rejecting the claim of the respondent for regularization on same grounds as mentioned in the order dated 20.01.2006, which was quashed vide judgment dated 05.10.2016.

5. Heard learned counsel for the parties and perused the record.

6. The record depicts that the first writ petition bearing SWP No. 1009/2002 filed by the respondent was disposed of by the learned writ court vide order dated 10.06.2002, thereby directing the appellants to consider the case of the respondent for regularization of his service under the provisions of SRO 64 of 1994, as the respondent has continuously and uninterruptedly worked as Daily Rated Worker for a period of seven years. As the order dated 10.06.2002 was not complied with, the contempt petition bearing COA(S) 155/2005 came to be preferred by the respondent, wherein the appellants filed statement of facts along with the order dated 20.01.2006, whereby the claim of the respondent was rejected. The respondent assailed the order dated 20.01.2006 through the medium of writ petition bearing SWP NO. 281/2007, and the learned writ court after taking note of order dated 03.10.2002 passed by the Divisional Forest Officer, Social Forestry Division, Ramban, whereby the name of the respondent was directed to be included in the list of daily wagers, who were engaged prior to 31.01.1994 and

the report dated 29.03.2004 of the committee of 5 members, constituted for verification of date of engagement of the respondent, which held that respondent was engaged prior to imposition of ban i.e. 31.01.1994, disposed of the writ petition vide judgment dated 05.10.2016, by quashing the order dated 20.01.2006 and directed the Director, Social Forestry Department, Jammu to take a decision with regard to regularization of the respondent in terms of Rule 4, read with Rule 8 of SRO 64 of 1994, in the light of order dated 10.08.2021 passed by the Divisional Forest Officer, Social Forestry Division, Ramban, Order dated 10.06.2002 passed by the writ court in SWP No. 1009/2002, order dated 03.10.2002 passed by the DFO, Social Forestry Division, Ramban as well as the report dated 29.03.2004 within a period of two months from the date of receipt of certified copy of the order.

7. The learned Single Judge, in the order impugned dated 24.07.2019, has taken note of the finding recorded in the judgment dated 05.10.2016 that the respondent was engaged in the year-1993 and had successfully completed 07 years of service, while arriving at the conclusion that the statement of facts has failed to justify the action of the appellants.

8. We have examined the order dated 20.01.2006, which was assailed by the respondent in SWP No. 281/2007 and quashed by the learned writ Court vide judgment dated 05.10.2016. When the order dated 20.01.2006 and the order dated 25.03.2017, whereby the claim of the respondent for regularization has again been rejected by the

appellants are juxtaposed, we find that the claim of the respondent for regularization has been rejected on the grounds similar to the ones, mentioned in order dated 20.01.2006, which was earlier quashed by the learned writ Court vide judgment dated 05.10.2016. Once the grounds of rejection of the claim of the respondent for regularization, as mentioned in order dated 20.01.2006, did not find favour with the learned writ Court, resulting into the quashing of the same, the appellants could not have rejected the claim of the respondent on the identical grounds.

9. Further, the appellants have failed in the appeal preferred against the judgment dated 05.10.2016 rendered by the learned Writ Court in a writ petition preferred by the respondent and after having failed, the appellants cannot defeat the judgment of the learned Writ Court by negating the factual findings returned by the Writ Court by passing consideration order dated 25.03.2017.

10. In view of above, we do not agree with the contention of the appellants that the learned Single Judge by passing the orders impugned have supplemented the basic judgment dated 05.10.2016. In fact, the learned Single Judge has simply directed the appellants to comply with the judgment dated 05.10.2016. As such, this Court does not find any reason to show indulgence.

11. This appeal is found to be misconceived and the same is, accordingly, **dismissed**. Interim direction(s), if any subsisting as on date, shall stand vacated.

CPSW No. 458/2017:

1. This Contempt Petition be segregated and listed for consideration before the learned Single Judge as per roster.

2. Registry to place a copy of this order on each connected file.

(RAJNESH OSWAL)
JUDGE

(ARUN PALLI)
CHIEF JUSTICE

SRINAGAR
08.08.2025
"shoaib"

i. Whether the Judgment is approved for reporting? Yes/No.

HIGH COURT
JAMMU & KASHMIR AND LADAKH

KARAM CHAND
2025.08.08 11:18
I attest to the accuracy and
integrity of this document