

IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

Reserved on: 01.07.2025
Pronounced on: 07.07.2025

RP No. 50/2025 in
CCP (D) No. 6/2024

1. Er. Sheikh Mohammad Hussain,
Aged about 69 years,
S/o Late Sheikh Abdul Rehman
R/o 11 Rambagh Extension, Srinagar.
2. Er. Farooq Ahmad Wani,
Aged about 71 years,
S/o Mohammad Sultan Wani,
R/o 07, Green Lane Rajbagh, Srinagar.
3. Er. Lalit Kumar Mengi
Aged about 80 years,
S/o Late Dr. M. L. Mengi,
R/o 22/8 Trikuta Nagar, Jammu.
4. Er. Kewal Krishan Puri,
Aged about 76 years,
S/o Lt. Ch. Kanshi Nath Puri
R/o H. No. 156, Sector 5 Trikuta Nagar Jammu.
5. Er. Alok Mengi,
Aged about 67 years,
S/o Sh. B. N. Mengi
R/o 92/1, Channi Himmat Jammu.
6. Er. Om Kumar Chadgal
Aged about 68 years,
S/o Late Sh. Sansar Chand
R/o 24-A East Extension Friends Colony,
Trikuta Nagar, Jammu.
7. Er. Puran Bharat Gandhi,
Aged about 68 years,
S/o Late Sh. Kesar Singh Gandhi,
R/o 429/4 Channi Himmat Jammu.
8. Er. Ishtiyag Ahmad Hamal,
Aged about 67 years,
S/o Kh. Ghulam Rasool Hamal,
R/o 11/2 Hyderpora (Janipur) Jammu.
9. Er. Predhman Krishen Zalpuri
Aged about 77 Years,
S/o Late Sh Gobind Joo Zalpuri
R/o 64/8 Trikuta Nagar Jammu
10. Er. Mohammad Amin Nowshahri
Aged about 75 years,
S/o Haji Ghulam Mohammad Nowshahri
R/o 7-New Colony Nigeen Hazratbal Srinagar
11. Er. Bharat Bhushan Gupta,
Aged about 75 years,

S/o Late Sh Prem Nath
R/o H.No.05, Adrash Enclave, Opp Sector-I,
Trikuta Nagar Jammu.

12. Er. Mushtaq Ahmed Lone, Aged about 67 years,
S/o Late Kh Ghulam Qadir Lone
R/o Gogji Bagh Srinagar near Amar Singh College,
Gate No 2
13. Er. Khalid Muzafar, Aged about 69 years,
S/o Gulam Mohamad Mir
R/o 33 Gogji Bagh Srinagar
14. Er Virinder Kumar Malhotra, Aged about 74 Years,
S/o Late Shri Lakshmi Chandra Malhotra
R/o Sector 2 House No. 5, Trikuta Nagar Jammu.
15. Er Molvi Manzoor Ahmad, Aged about 77 years,
S/o Late Molvi Ghulam Rasool
R/o H. No 85, New Colony Nigeen Srinagar
16. Er Narayan Mengi, Aged about 69 years,
S/o Late Shri B N Mengi
R/o H N0 74, Sector-I, Trikuta Nagar Jammu
17. Er. Riaz Ahmad Kamili, Aged about 73 years,
S/o Mir Habib Ullah Kamili
R/o Sanat Nagar Srinagar
18. Er. Vinay Kumar Kotwal, Aged about 76 years,
S/o Late Hans Raj Kotwal
R/o H. No 403/3 Ext Vasant Vihar
Trikuta Nagar Jammu.
19. Er. Ehsan Ul Haq Fazili, Aged about 76 years,
S/o Ghulam Rasool Fazili
R/o 56-Gogji Bagh Srinagar
20. Er. Ravinder Kumar Rekhi, Aged about 77 years,
S/o Late Sh M R Rekhi
R/o 43, Sector -5, Trikuta Nagar Jammu
21. Er. Ashwani Kumar Sharma, Aged about 68 years,
S/o Late Sh Hukum Chand
R/o H. No. 55, Adarsh Enclave, Trikuta Nagar,
Jammu.
22. Er. Iqbal Ahmed Shahmiri, Aged about 77 years,
S/o Late M.A Shahmiri
R/o Chaman, Bazulla Srinagar.
23. Er. Hem Chander Jerath, Aged about 66 years,
S/o Late Sh. B.N Jerath
R/o H. No 95, Sector-S, Channi Himmat Jammu.
24. Er. Braj Bhushan Sharma, Aged about 71 years,
S/o Lt Sh Padam Nabh Sharma
R/o 278, Sec-2, Channi Himmat, Jammu.
25. Er. Zahoor Ahmad Chat Aged about 68 years,
S/o Ghulam Qadir Chat

R/o Budshah Colony Sanat Nagar Srinagar

26. Er Jang Bahadur Singh Johar, Aged about 75 years,
S/o S. Budh Singh Johar
R/o 2/7, Trikuta Nagar Jammu

27. Er Naresh Kumar, Aged about 66 Years,
S/o Sh Kailash Chander
R/o Lane 5- Down, Greater Kailash Colony
Jammu.

28. Er Om Prakash Dubey, Aged about 68 years,
S/o Late Sh S C Dubey
R/o 441/4, Channi Himmat Jammu

29. Er. Arun Sharma, Aged about 73 years,
S/o Sh B. D Mal Sharma
R/o H. No 16, Sector 5-A, Trikuta Nagar

Petitioner(s)

Through: Mr R. A. Jan, Sr. Adv. with Mr. Irshad Ahmad, Adv.

Vs.

1. Mr. Atal Dulloo,
Chief Secretary to Government,
Civil Secretariat,
Jammu/Srinagar.
2. Shri Santosh Vadya,
Principal Secretary to Government,
Finance Department,
Civil Secretariat,
Jammu/Srinagar.
3. Shri Sanjeev Verma,
Commissioner/Secretary to Government,
General Administration Department,
Civil Secretariat, Jammu/Srinagar.
4. Shri Bhupinder Kumar, Secretary to Government,
PWD R&B Department,
Civil Secretariat,
Jammu/Srinagar.

...Respondent(s)

Through:

CORAM:

HON'BLE MR. JUSTICE SANJEEV KUMAR, JUDGE

HON'BLE MR. JUSTICE SANJAY PARIHAR, JUDGE

J U D G M E N T

Per Sanjeev Kumar

1. This review petition by the petitioners is directed against our order dated 23rd May 2025 passed in CCP (D) No. 6/2024 titled Sheikh

Mohammad Hussain & Ors. vs. Atal Dulloo & Ors. whereby we dismissed a contempt petition filed by the petitioners to initiate contempt proceedings against the respondents.

2. The judgment passed by this Court is sought to be recalled in the exercise of review jurisdiction primarily on the ground that the judgment passed by the Hon'ble Supreme Court in the case of **Kanishk Sinha & Anr. vs. State of West Bengal & Anr.** [Special Leave Petition (Criminal) Nos. 8609-8514 of 2024], decided on 27th February 2025 could not be brought to the notice of the Court at the time of consideration of the contempt petition.
3. It is argued by Mr. Jan, learned counsel appearing for the review petitioners that in the judgment (supra), the Hon'ble Supreme Court has reiterated the legal position with regard to prospective ruling. It is argued that the Supreme Court has now firmly held that the judgment of the Court shall always be retrospective in nature unless the judgment itself specifically states that the judgment will operate prospectively. It is thus argued that this Court erroneously accepted the plea of the respondents that the benefit of the judgment passed by the Division Bench dated 10th August 2023 in WP (C) No. 1722/2021 was prospective in nature.
4. Mr. Jan, therefore, argued that had this Court taken note of the law laid down in **Kanishk Sinha** (supra), this Court would not have accepted the plea of the respondents. Mr. Jan also pointed out some other infirmities in the judgment passed by us and urged that the order dated 23rd May 2025 be reviewed.
5. Having heard learned counsel for the review petitioners and perused the entire record, we are of the view that the legal position reiterated by the Hon'ble Supreme Court in **Kanishk Sinha** is unexceptionable. It is trite law that the judgment passed by a court is always retrospective unless the judgment itself specifically states that the same shall operate prospectively. We, however, fail to understand as to how this position of law if it had been brought to our notice during the consideration of the contempt petition would have changed our order passed on 23rd May 2025.

6. In the contempt petition, we were called upon to consider as to whether the judgment passed by the Division Bench of this Court dated 10th August 2023 in WP (C) No. 1722/2021 was complied with by the respondents or not. We took note of the compliance report submitted by the respondents and were of the view that there was substantial compliance of the judgment.
7. We have set out para 14 of the judgment dated 10th August 2023 in para 2 of the order sought to be reviewed. The direction of the Division Bench to the respondents was to undertake an exercise as early as possible preferably within a period of three months to provide pay scale to the cadre of Chief Engineers higher than the one given to the Superintending Engineers. It was further directed that if any of the petitioners were found entitled to the benefit of higher pay scale, the same would be granted to them. Respondents, accordingly, took an exercise for revising the pay scale of Chief Engineers and issued S.O 83 of 2025 amending the relevant recruitment rules and revising the pay scales of Chief Engineers and above. The S.O 83 of 2025 was though issued on 8th April 2025, but the same was given effect from 7th August 2024. All the incumbents holding the post of Chief Engineers and above w.e.f. 7th August 2024 were given the benefit of higher pay scales. The similar contention raised by learned counsel for the petitioners that the benefit of S.O 83 of 2025 ought to be given with retrospective effect was considered and rejected by us which is reflected in para 6 of the order.
8. On conspectus of the facts of the case and the compliance reported by the respondents, we were of the view that with the issuance of S.O 83 of 2025, the judgment passed by the Division Bench dated 10th August 2023 stood complied and, accordingly, we closed the contempt proceedings giving liberty to the petitioners to call in question S.O 83 of 2025, if they were so aggrieved.
9. We fail to understand as to how and in what context we were called upon to decide the question of the judgment passed by the Division Bench being retrospective or prospective in nature. The operative portion of the judgment reproduced in para 2 does not leave any manner of doubt that three months' time was granted to the

Government to undertake an exercise of providing higher pay scale to the Chief Engineers than the one given to the Superintending Engineers. Necessarily, the exercise consisted of amending the statutory recruitment rules and providing the new pay scale for the post of Chief Engineer and above and this was done by the respondents and, accordingly, relevant S.O amending the relevant recruitment rules was issued. Strictly speaking in the contempt jurisdiction, we were only called upon to ensure that the judgment passed by this Court was implemented by the respondents in letter and spirit and could not have gone beyond what was provided in the judgment by undertaking interpretative process as suggested by Mr Jan.

10. For all these reasons, we do not find any error apparent on the face of record necessitating the recall of our judgment. The view which we have taken may not be acceptable to the petitioners and they have their remedies in law. However, the invocation of review jurisdiction in the given facts and circumstances and for the reasons stated hereinabove, is totally misconceived.
11. This review petition is found to be without any merit and the same is accordingly dismissed.

(SANJAY PARIHAR)
JUDGE

(SANJEEV KUMAR)
JUDGE

SRINAGAR:
07.07.2025
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Whether approved for reporting? Yes/No