

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

Reserved on: 28.10.2025
Pronounced on 06.11.2025
Uploaded on: 06.11.2025

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

CJ Court:

LPA No. 236/2025 and
LPA No. 246/2025

Tariq Ahmad Wani
Salim Mushtaq Sheikh

...Petitioner(s)/Appellant(s)

Through: Mr. B. A. Bashir, Sr. Advocate with
Ms. Falak Bashir, Advocate

v/s

Sanjay Verma and others
Sanjay Verma and others
Through: None.

.... Respondent(s)

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

JUDGMENT

PER OSWAL J.

1. In these *intra* court appeals, common judgment has been assailed by the appellants, as such, both the appeals are being disposed of by this common judgment. The relevant facts for the consideration of the case projected by the appellants are extracted from LPA No. 236/2025.
2. The appellants being aggrieved of the judgment dated 18.07.2025 passed by the learned Single Judge in three connected contempt petitions bearing CCP(S) No. 462/2021, CCP(S) No. 111/2021 and CCP(S) No. 39/2022, have challenged the same through these intra-court appeals.

3. Mr. B. A. Bashir, learned Senior Counsel appearing for the appellants has vehemently argued that the learned Single Judge, while closing the contempt proceedings in the aforesaid contempt petitions in terms of impugned judgment dated 18.07.2025, has not taken into consideration that the right of the appellants stood accrued and crystallized in the year 2009 itself, but the learned Single Judge by taking into consideration the stand of the respondents that the seniority list of 2014 underwent change and the seniority of the petitioners-appellants herein is maintained District-wise and the appellant Tariq Ahmed Wani figures at serial No. 70 of the combined seniority list of District Cadre Srinagar, closed the contempt proceedings erroneously. In fact, the learned Single Judge was to examine as to whether the respondents had complied with the judgment dated 11.09.2018 rendered in SWP No. 2305/2017 and judgment dated 20.07.2018 rendered in SWP No. 132/2017 or not. He has further argued that even juniors to the appellants have been promoted with retrospective effect from 2009 and the appellants are also entitled to the same treatment. In support of his submissions, he has placed reliance upon the judgment of the Hon'ble Supreme Court of India in **Ajay Kumar Bhalla & ors. vs. Prakash Kumar Dixt**, 2024INSC 575.
4. Heard learned counsel for the appellants and perused the record of contempt petitions.
5. The record depicts that the writ petitions preferred by the appellants were disposed of in terms of the following directions:
 - (i) The respondents are directed to consider the case of the petitioners for promotion against the post of Forest Guards along with other eligible employees in tune with

the mandate of the relevant recruitment rules as detailed out in the body of the order.

- (ii) Consideration shall be affected and decision taken within a period of two months from the date certified copy of the order is served upon the respondents.

6. The appellants filed the contempt petitions by complaining that the respondents complied with the Writ Court's judgment by granting retrospective promotions to other similarly situated employees but denied the same benefit to the appellants. They contend that the respondents violated the rights of the Ministerial Cadre employees (to which the appellants belong) by promoting Executive Cadre employees in excess of the sanctioned quota.
7. The respondents took a stand that in pursuance of the Government Order No. 198-FST of 2012 dated 25.04.2012, a detailed Circular was issued on 09.05.2014, whereunder it was directed that the cadre management of Class-IV employees shall henceforth be looked after by the respective Conservator of Forests in accordance with the J&K Forest (Subordinate Service) Recruitment Rules, 1991, read with amendment made vide SRO 84 of 2003. It was further asserted that the seniority of Class-IV employees was maintained District-wise in accordance with Rule 22 of the Jammu and Kashmir Civil Services Decentralization and Recruitment Rules, 2010 and as per the instructions conveyed by the Finance Department vide No. FD-Code/119/2021-03-1044 dated 28.10.2021, a combined seniority list of Class-IV employees was to be maintained in terms of Rule 24(1) of the J&K Civil Services (Classification, Control and Appeal) Rules, 1956. Thereafter, process of re-designation of

Helpers in the existing hierarchies of the Forest Department was initiated in terms of Government Order dated 03.09.2008 and the re-designation of Helpers was ordered vide order dated 19.08.2015 followed by Government Order dated 02.02.2016, due to which, the seniority of Class-IV employees of the Department underwent change. It was stated that the Government vide SO 133 dated 29.03.2022 re-designated all Class IV officials as multitasking staff (MTS) and common seniority list was being maintained District-wise. The appellant-Tariq Ahmed Wani falls in District Cadre, Srinagar.

8. The learned Single Judge, after taking note of the stand of the respondents, arrived at a conclusion that only direction from the learned Writ Court was to consider the cases of the petitioners-appellants herein in accordance with rules and there was no positive direction from the learned Writ Court to the respondents to promote the appellants in accordance with the seniority list of 2014. After recording this finding, the learned Single Judge closed the contempt proceedings leaving the appellants free to avail the appropriate remedy as available under law.
9. Direction of the learned Writ Court as extracted above, is only to the extent of considering the case of the petitioners-appellants herein for promotion against the post of Forest Guards along with other eligible employees in tune with the mandate of the relevant Recruitment Rules. It is evident that the grievance of the appellants is in respect of District wise seniority list due to inclusion of Helpers in the same, that according to respondents was done in pursuance of earlier orders as mentioned above. The order of the respondents may or may not be erroneous, but it is not

within the domain of Court exercising its contempt jurisdiction to examine the validity of the order and consider the claim of the appellants for retrospective promotion on the analogy of the other similarly situated employees. In this context, it is deemed proper to take note of the judgment of the Hon'ble Supreme Court of India in *J.S. Parihar v. Ganpat Duggar*, (1996) 6 SCC 291, wherein it has been observed as under:

“6. The question then is whether the Division Bench was right in setting aside the direction issued by the learned Single Judge to redraw the seniority list. It is contended by Mr S.K. Jain, the learned counsel appearing for the appellant, that unless the learned Judge goes into the correctness of the decision taken by the Government in preparation of the seniority list in the light of the law laid down by three Benches, the learned Judge cannot come to a conclusion whether or not the respondent had wilfully or deliberately disobeyed the orders of the Court as defined under Section 2(b) of the Act. Therefore, the learned Single Judge of the High Court necessarily has to go into the merits of that question. We do not find that the contention is well founded. It is seen that, admittedly, the respondents had prepared the seniority list on 2-7-1991. Subsequently promotions came to be made. The question is whether seniority list is open to review in the contempt proceedings to find out whether it is in conformity with the directions issued by the earlier Benches. It is seen that once there is an order passed by the Government on the basis of the directions issued by the court, there arises a fresh cause of action to seek redressal in an appropriate forum. The preparation of the seniority list may be wrong or may be right or may or may not be in conformity with the directions. But that would be a fresh cause of action for the aggrieved party to avail of the opportunity of judicial review. But that cannot be considered to be the wilful violation of the order. After re-exercising the judicial review in contempt proceedings, a fresh direction by the learned Single Judge cannot be given to redraw the seniority list. In other words, the learned Judge was exercising the jurisdiction to consider the matter on merits in the contempt proceedings. It would not be permissible under Section 12 of the Act. Therefore, the Division Bench has exercised the power under Section 18 of the Rajasthan High Court Ordinance being a judgment or order of the Single Judge; the Division Bench corrected the mistake committed by the learned Single Judge. Therefore, it may not be necessary for the State to file an appeal in this Court against the judgment of the learned Single Judge when the matter was already seized of the Division Bench.”

(emphasis added)

The judgment (supra) has been quoted with approval in **Midnapore Peoples' Coop. Bank Ltd. v. Chunilal Nanda, (2006) 5 SCC 399.**

10. The learned Single Judge has not made any observation *qua* the merits of the claims of the parties and has rather left the appellants free to seek the redressal of their grievance(s), if any, through the medium of any other remedy available to them but not in the contempt proceedings. Should any vested or accrued right of the appellants have been violated by the respondents' action or should the appellants have been discriminated as compared to other similarly situated employees, they may pursue the appropriate remedy available under law, as observed by the learned Single Judge at time of closing the contempt proceedings. Furthermore, the judgment relied upon by the learned counsel is in applicable to the present facts and circumstances.
11. We are in prefect agreement with the reasons assigned by the learned Single Judge while closing the contempt proceedings. Accordingly, we do not find any merit in these *intra-court* appeals, as such, the same are dismissed.
12. Copy of the judgment be placed on the record of connected LPA.

(RAJNESH OSWAL)
JUDGE

(ARUN PALLI)
CHIEF JUSTICE

JAMMU:
06.11.2025
Rakesh PS

Whether the judgment is speaking:	Yes/No
Whether the judgment is reportable:	Yes/No