

**HIGH COURT OF JAMMU & KASHMIR AND LADAKHAT
SRINAGAR**

Reserved on: 02.04.2025

Pronounced on: 15.05.2025

WP(C) No.2828/2023

CM no. 6749/2023

UT OF J&K AND OTHERS

...PETITIONER(S)

Through: Mr. Ilyas Nazir Laway, GA

Vs.

LATIEF KARIM & OTHERS

...RESPONDENT(S)

Through: Mr. N. A. Tabassum, Advocate.
Mr. Mohammad Idrees, Advocate.

CORAM:-

**HON'BLE MR. JUSTICE RAJNESH OSWAL, JUDGE
HON'BLE MR. JUSTICE MOHD. YOUSUF WANI, JUDGE**

JUDGMENT

Per OSWAL 'J'

1. The respondents pursuant to their selection as "Draftsman" were appointed as such, in the year 2007-08 in the pay scale of Rs.4,000-6,000 (pre-revised). After completion of eight years of service, the respondents were granted higher pay scale of Rs.5,150-8,300 (pre-revised). The respondents filed a writ petition bearing SWP No.1276/2008 pleading therein that they were entitled to pay scale of Rs.5,150-8,300 retrospectively i.e. with effect from the respective dates of their appointment. The writ petition was disposed of vide order dated 21.02.2014 and the appellants were directed to consider the claim of the

respondents in light of the judgment passed in case titled “**Sham Paul Randhawa vs. State & Ors**” reported in 2009 SLJ (II) 490. The case of the respondents was considered by the petitioners, but was rejected vide Government Order No.185-PW(R&B) of 2018 dated 22.03.2018.

2. Aggrieved of the aforesaid consideration order, the respondents challenged the same before the Central Administrative Tribunal (for short “Tribunal”) and the learned Tribunal vide order dated 26th May, 2023 allowed the claim of the respondents.

3. The petitioners have assailed the order dated 26th May, 2023 passed by the learned Tribunal, inter alia, on the following grounds:

- (I) That the petitioners have passed a speaking order after examining the case of the respondents in its entirety and the rule position. The respondents were appointed pursuant to the advertisement notification wherein a defined pay scale of Rs.4,000-6,000 was attached to the post.
- (II) That the case of the respondents is completely distinct and different from that of the petitioners in **Sham Paul Randhawa’s** case, as such, no relief could have been granted to them.
- (III) That the respondents were appointed in the pay scale of Rs.4,000-6,000 (pre-revised) and they accepted their appointment knowing fully the terms and conditions of service and Recruitment Rules governing the appointment of

Draftsman, therefore, the order impugned is not sustainable in the eyes of law.

4. The respondents have objected to the petition by submitting that they were appointed as “Draftsman” in the lower pay scale of Rs.4,000-6,000/ instead of Rs.5,150-8,300/, the pay scale attached to the post of “Draftsman” in the petitioner-department and in all other departments of the erstwhile State of J&K and, as such, they were entitled to pay scale of Rs.5,150-8,300/ retrospectively with effect from their respective dates of appointments and not to pay scale of Rs.4,000-6,000. It is further stated that the order dated 21.02.2014, by virtue of which the writ petition preferred by the respondents earlier was disposed of, was assailed by the petitioners in LPASW No.85/2016 but the same was dismissed by the Division Bench of this Court vide judgment dated 20.09.2016. Despite dismissal, the petitioners did not implement the order passed by the learned Writ Court and after four years, rejected claim of the petitioners vide Government Order No.185-PW(R&B) of 2018 dated 22.03.2018, which was assailed by the respondents before the learned Tribunal. The respondents have averred that it has been held by this Court that the petitioner department has itself violated the Recruitment Rules by picking and choosing their blue-eyed candidates and placing them in the higher pay scale of 5,150-8,300/ retrospectively from their initial dates of appointment and the judgment has been upheld by the Apex Court as well. The petitioner-department has even implemented various orders passed in similar cases. Against the order

passed in SWP No.1717/2009 titled “Gurvinder Singh & Ors. Vs. State of J&K in respect of some cases, LPA(SW) No.27 of 2017 was preferred but the same was dismissed by the Division Bench of this court. The judgment was challenged before the Hon’ble Supreme Court of India vide SLP (Dairy No.41169 of 2017) and the Hon’ble Supreme Court of India vide order dated 02.07.2018 dismissed the SLP. Besides, in another identical matter bearing SWP No. 1279/2013 titled “Sheikh Abdul Rashid & Ors. Vs. State”, the judgement dated 28.03.2014 passed by the learned Single Judge, was challenged before the Division Bench of this court, but the LPASW No. 84/2016 was dismissed vide order dated 14.02.2019. The order dated 14.02.2019 passed by the Division Bench of this , was assailed before Hon’ble Supreme Court of India through the medium of SLP (Civil Diary No. 39064/2019 but that too, was dismissed vide order dated 09.12.2019. It is also the stand of the respondents that once the department has placed other colleagues of the respondents in the higher pay scale of Rs.5,150-8,300/, therefore, the same pay scale cannot be denied to the respondents.

5. Heard and perused the record.

6. The only ground on which the petitioners are objecting to the claim of the respondents is that in the advertisement notice, the pay scale of Rs.4,000-6,000/ was mentioned and as the respondents had accepted the same, they cannot take a U-turn subsequently and claim higher pay scale.

7. The petitioners have not been able to demonstrate before this Court as to how the claim of the respondents is different vis-à-vis other Draftsmen who were granted relief by the Court by placing reliance upon the decision of the learned Single Judge in **Sham Paul Randhawa's** case. The learned Tribunal has arrived at a conclusion that the distinction attempted to be drawn between **Sham Paul Randhawa's** case and the case projected by the respondents, cannot be accepted, as they belong to the same cadre of Draftsman. The respondents have placed on record the judgment passed by this court in LPASW No.84/2016 dated 14.02.2019, whereby the appeal preferred by the petitioners was dismissed. The SLP preferred by the petitioners was also dismissed. The case of the respondents is squarely covered not only by the judgment of **Sham Paul Randhawa's** case but also the judgment passed by the Division Bench of this Court in LASW No.84/2016. Once the petitioners by complying the judgments in similar cases, have granted the benefit to the similarly situated Draftsmen, the same relief cannot be denied to the respondents.

8. In view of the above, we do not find any illegality or infirmity in the order impugned and any reason to show indulgence. This writ petition is found to be misconceived and is, accordingly, dismissed.

(MOHD. YOUSUF WANI)
JUDGE

(RAJNESH OSWAL)
JUDGE

Srinagar

15.05.2025

"Bhat Altaf-Secy"

Whether the order is reportable:

No