

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

CM(8076/2024) IN LPA 348/2024

UNION TERRITORY OF J AND ...Petitioner/Appellant(s)
K AND ORS.

Through: Mr. Ilyas Nazir Laway, Advocate

Vs.

SHAHNAWAZ AHMAD

...Respondent(s)

Through: Mr. Mian Tufail, Advocate

CORAM:

HON'BLE MR. JUSTICE SANJEEV KUMAR, JUDGE.
HON'BLE MR. JUSTICE SANJAY PARIHAR, JUDGE.

ORDER
22.07.2025

CM No. 8076/2024:-

There is a delay of 311 days in preferring this appeal. In view of the concession given by the learned counsel for the respondent, the delay is condoned.

LPA No. 348/2024:-

1. In this intra-Court appeal, the appellants have called in question an order and judgment dated 08-12-2023 passed by the learned Single Judge of this Court ["the writ Court"] in SWP No. 2334/2011 titled "**Shahnawaz Ahmad vs. State of J&K and Ors.**" whereby the writ Court has allowed the writ petition of respondents and directed the appellants herein to release the grade of Rs. 5700-10100 attached to the post of Sanitary Inspector with effect from 16-10-2002.

2. The impugned judgment is challenged on multiple grounds. However, before we advert to the grounds urged by the learned counsel appearing for the appellants, we deem it appropriate to notice few facts which are germane to the disposal of this appeal.
3. On 08-07-2002, the respondent was appointed as Sanitary Supervisor in the Notified Area Committee, Shopian, on consolidated wages of Rs. 1500/- per month w.e.f., 01-07-2002, subject to confirmation from the Director, Urban Local Bodies, Srinagar. The Director, Urban Local Bodies, Srinagar vide order No. DLB/Estt./NF/396 of 2002 dated 16-10-2002 accorded sanction to the regularization of the services of consolidated paid workers, and, in the same order regularized the services of the respondent as Sanitary Inspector in the then pay scale of Rs. 4000-6000.
4. The respondent approached the writ Court by way of SWP No. 2334/2011, seeking *inter alia* a direction to the appellants herein to release the pay scale of Rs. 5700-10100, being the pay scale attached to the post of Sanitary Inspector. It was the grievance of the respondent that though the post of Sanitary Inspector under the Government of Jammu and Kashmir carried a pay scale of Rs. 5700-10100, yet the respondent was discriminated and was placed in the lower pay scale of Rs. 4000-6000. The higher pay scale of Sanitary Inspector was claimed by the respondent on the analogy of some similarly situated Sanitary Inspectors, who were granted the higher pay scale with the intervention of this Court.

5. The respondent also pleaded that in the year 2008, the Government framed Jammu and Kashmir Urban Local Body Institutions (Management) Services Recruitment Rules, 2008, ["Rules of 2008"] and, in the Schedule-II of the said rules, the post of Sanitary Inspector was shown carrying a single pay scale of Rs. 5700-10100. It was thus pleaded by the respondent before the writ Court that after the issuance of the Rules of 2008 vide SRO No. 417 dated 08-12-2008, the respondent was entitled to be placed in the grade which was attached to the post of Sanitary Inspector indicated in Schedule-II of the said rules.

6. The writ Court considered the rival contentions and having gone through the record came to the conclusion that the respondent was entitled to higher pay scale of Sanitary Inspector right from the date his services were regularized. The writ Court, accordingly, allowed the petition of the respondent in terms of the judgment impugned in this appeal.

7. Having heard learned counsel for the parties and perused the material on record, we are of the considered opinion that the prayer of the respondent seeking his placement in the pay scale of Rs. 5700-10100 attached to the post of Sanitary Inspector indicated in the Schedule-II of the Rules of 2008 deserves to be granted. It needs no clarification that prior to the promulgation of statutory Rules of 2008, there were no rules in the Directorate of Urban Local Body and the recruitments were being made at the whims of the officers at the helm of affairs. Sometimes, the rules of other organizations like Municipal Councils and Municipal

Committees were borrowed and sometimes no rules were followed. It is in this era, the respondent also came to be regularized as Sanitary Inspector in the year 2002. In the absence of any specific pay scale prescribed for the post prior to the issuance of Rules of 2008, the appellants granted a pay scale of Rs. 4000-6000 to the respondent. This was not resented to or objected to by the respondent.

8. However, after the issuance of Rules of 2008, a higher pay scale of Rs. 5700-10100 came to be prescribed for the post of Sanitary Inspector. This prescription was statutory in nature and, therefore, binding on the authorities. Ordinarily and without the respondent having approached the Court, the appellants should have given the benefit of higher pay scale to the respondent w.e.f. coming into force of the Rules of 2008, but the same did not happen. This made the respondent to knock the doors of this Court.

9. Be that as it may, this fact cannot be denied that after the issuance of Rules of 2008, there is only a single pay scale for the post of Sanitary Inspector i.e. Rs. 5700-10100 (pre-revised) and, respondent, who was in position on the date of coming into force of Rules of 2008, was entitled to be placed in the aforesaid pay scale forthwith. The respondent has, therefore, illegally and arbitrarily denied the benefits of statutory rules.

10. During the course of arguments, the learned counsel for the respondent also fairly conceded that the respondent would feel satisfied if his prayer for grant of higher pay scale is considered,

with effect from the date of coming into operation of the Rules of 2008.

11. For the foregoing reasons, the appeal preferred by the appellants is partly allowed. The respondent is held entitled to be placed in the grade of Rs. 5700-10100 (pre-revised) with effect from the date of coming into operation of the Rules of 2008 with all consequential benefits. The judgment of the writ Court is modified to the aforesaid extent.

12. Let the appellants comply with the judgment, work out and pay the arrears and refix the salary of respondent within a period of three months from the date a copy of this order/judgment is served upon the appellants.

13. *Disposed of.*

(SANJAY PARIHAR)
JUDGE

(SANJEEV KUMAR)
JUDGE

SRINAGAR:

22.07.2025

Akshil Dev

Whether the order is reportable/speaking? Yes/No