

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

SWP No. 1338/2011

Pronounced on : 06.08.2026

Uploaded on : 10.08.2026

1. Prof. V, Sarup

S/O Sh. Sham Lal Sarup,
R/O H. No. 149, Sector No. 2 Extension
Vikas Nagar, Sarwal, Jammu.

2. Rita Wakloo

D/O Sh. H.L. Wakloo
W/O Dr. R.N. Koul
R/O H. No. 133 Sector 2 Pamposh
Colony, Janipur, Jammu.

3. Makhan Lal Koul

S/O Late P.N. Koul
R/O H. No. 54, Kasba House, Patoli,
Janipur, Jammu.

4. Shankar Nath Bhat

S/O Late Sarwanand Bhat
R/O H. No. 43 Neelam Colony
Toph Morh Paloura, Jammu.

....Petitioners

Through:-

Mr. Mohit Vaid, Advocate.

V/S

**1. State of Jammu & Kashmir through
Chief Secretary,
Civil Secretariat, Srinagar.**

**2. Commissioner/Secretary to Govt.,
Finance Department,
Civil Secretariat, Srinagar.**

**3. Commissioner/Secretary to Govt.,
Higher Education Department,
Civil Secretariat, Srinagar.**

**4. Managing Committee,
Gandhi Memorial College, Srinagar
C/O Gandhi Memorial College of
Education, Raipur, Bantalab, Jammu.**

.....Respondents

Through:-

Ms. Nisha Kangotra, AC vice
Mrs. Monika Kohli, Sr. AAG
Mr. Dewakar Sharma, Dy. AG.

CORAM: HON'BLE MR. JUSTICE M A CHOWDHARY, JUDGE

ORDER
06.08.2026

1. Petitioners, claiming to be migrant teaching/non-teaching staff of Gandhi Memorial College, Srinagar, some of whom either retired from service or on the verge of their retirement, alleging that the pensionary benefits viz. monthly pension, gratuity, leave encashment and commutation etc are being denied to them and seeking parity with the staff of Islamia College of Science and Commerce, Srinagar, have prayed for the following reliefs:

- (i) **Writ of mandamus, commanding the respondents to accord to the petitioners similar treatment as is being accorded to the employees of Islamia College of Science and Commerce, Srinagar in the matter of grant of pensionary benefits viz. monthly pension, gratuity, leave encashment, commutation etc.**
- (ii) **Writ of mandamus, commanding the respondents to pay to the petitioners the arrears of pension along with interest thereupon.**

2. Pursuant to notice, the respondents No. 1 to 3 filed their reply, asserting therein that the petitioners are not government employees and were employees of a college set up by Hindu Educational Society, Kashmir and the institution is controlled by a Managing Committee having its own rules and by-laws, as such, the employees thereof are entitled to service benefits from their employers, according to their applicable

rules and that the State Government provided aid to the extent of some salary component only to the private institution in accordance with the J&K Private Educational Institutions Grant-in-aid Rules, 1975, which is just a supplement to the private institutions' own resources and the onus lies on the private institutions to generate enough resources to take care of their liabilities, as such, the petitioners are not entitled to any relief from the Government as available to other government migrant employees as per Order No. 304-GR of 1990 dated 14.03.1990 wherein procedure was laid for drawal of pay of government employees, who migrated to various places outside the valley as a consequence of disturbed conditions.

- 3.** It is further averred that the migrant staff of private institutions approached this Court through SWP No. 908/1991 and other writ petitions wherein relief was sought for a direction to the government to pay them the salary and abide by the grant-in-aid rules and to continue to disburse the grant-in-aid to the colleges/schools to enable them to pay salary to the migrant staff, in the same manner, as was being disbursed to the staff of Islamia College. However, the Islamia College of Science and Commerce was radically different from rest of the private institutions, which is

controlled by the Government and has all traits and features of a Government College being run by a Governing Board headed by Chief Minister of the State; that the aforesaid writ petitions were disposed of on 19.03.1998 and the State filed appeals against the judgments, which were disposed of on 31.12.1999 whereby the impugned judgment was modified and pursuant to the orders passed in contempt petition No. 79/1998 arising out of LPAs, the Government released grant-in-aid in favour of Gandhi Memorial College, Srinagar vide Government Order No. 131/HE of 2002 dated 03.04.2002, which had satisfied the migrant staff of private institutions.

- 4.** It was next pleaded that the petitioners, more than a decade back, approached this Court through the medium of the present writ petition, alleging therein that by releasing the grant-in-aid the Government had held the private institutions at par with the employees of the Islamia College of Science and Commerce, Srinagar; that the claim of the petitioners was conceded by the Government pursuant to the interim order dated 07.07.2011 passed in CMP No. 1935/2011 filed with this writ petition and rejected vide Govt., Order No. 82/HE of 2012 dated 22.02.2012.

5. The respondents have also placed on record Government Order No. 82/HE of 2012 dated 22.02.2012 whereby the relief sought in the instant petition had been considered and rejected.
6. The petitioners after the rejection of their plea raised in this petition should have either amended the petition to incorporate a challenge to the Government Order dated 22.02.2012 or to file a fresh petition to assail the aforesaid Government Order, however, they did not choose either of the two options.
7. This petition, in view of a decision already taken by the Government in the year 2012, has, thus, been rendered infructuous without assailing the rejection order passed with regard to the plea raised in the petition.
8. Learned counsel for the petitioners, however, submits that the respondent No. 4-Hindu Educational Society, Kashmir had filed two other writ petitions-OWP No. 629/2002 and OWP No. 1164/2002, which were decided along with OWP No. 603/2002 by this Court vide judgment dated 09.05.2024 in the light of the minutes of the meeting held on 03.04.2024 by which the court cases were undertaken to be withdrawn besides some other decisions. The copy of the minutes of the meeting has been produced, which is taken on record.

- 9.** The meeting had taken place in the office of Principal Secretary, Higher Education Department with the officers of the Higher Education Department, Academic Advisors and President of the Hindu Educational Society, Kashmir, wherein, it was resolved that the issue of grant of pensionary benefits to the employees of the Gandhi Memorial College at par with the employees of the Islamia College shall be recommended to the Governing Board for consideration. As per the minutes of the meeting, the Governing Body for Gandhi Memorial College, Srinagar was constituted to be headed by HE Lieutenant Governor of UT of J&K as Chairman with President, Hindu Educational Society, Kashmir and Principal Secretary, Finance Department as two Co-Vice Chairmen besides Principal Secretary, Finance Department, Dean Academics and Dean College Development Council of Kashmir University, General Secretary, Hindu Educational Society, Kashmir, two academic Advisors and five members to be nominated by President Hindu Educational Society, Kashmir as members with Principal of Gandhi Memorial College as Member Secretary.
- 10.** Since Government has taken a decision for recommending the pensionary benefits, which is the relief sought in this petition, having all the petitioners

superannuated from service as per the submission of the learned counsel for the petitioners, the matter is now in the Court of the Governing Board of Gandhi Memorial College, Srinagar. It will be better for the petitioners to pursue the matter with regard to the pensionary benefits with the Governing Board to which the Committee has already recommended for consideration.

- 11.** In this view of the matter, this writ petition is **disposed of** with liberty to the petitioners to file a fresh petition in case the cause survives after decision taken by the Governing Board, with regard to the pensionary benefits of the petitioners.

(M A CHOWDHARY)
JUDGE

JAMMU
06.08.2026
Naresh/Secy.

Whether the order is speaking: **Yes**

Whether the order is reportable: **Yes**