

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

CCP(S) No. 310/2023 in
SWP No. 21/2009
CM No. 6854/2025

Shashikala

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

Through :- Mr. Sahil Koul, Advocate
V/s

Alok Kumar and others

....Respondent(s)

Through :- Ms. Chetna Manhas, Assisting Counsel vice
Ms. Monika Kohli, Sr.AAG (Sr. Advocate)

Coram: HON'BLE MR. JUSTICE WASIM SADIQ NARGAL, JUDGE

ORDER
05.08.2026

1. The instant contempt petition arises out of an order/judgment dated 22.03.2017 passed by the learned writ Court in SWP No. 21/2009. The record reveals that when the matter was listed before this Court on 22.07.2026, the Court has expressed serious concern that the order/judgment passed by the learned writ Court way back on 22.03.2017 has not been complied with despite lapse of more than nine years as the respondents were under a legal obligation to have passed a reasoned and speaking order within the time granted by the Court.
2. The record further reveals that the respondents, although, have filed various compliance reports/statements of facts from time to time, but the mandate contained in the judgment dated 22.03.2017 was not implemented in its entirety and in the aforesaid backdrop, the learned

counsel for the respondents sought one week's further time to place on record the complete compliance of the judgment.

3. Learned counsel for the respondents submits that in compliance to the order/judgment dated 22.07.2026, fresh compliance report has been filed before the Registry yesterday, however the same is not traceable. Learned counsel for the respondents has also furnished to the Court a copy of the said fresh compliance report, which is taken on record. Along with the fresh compliance report the respondents have also placed on record the detailed consideration order bearing No. 276 of 2026 dated 04.08.2026, a perusal whereof, reveals that the claim of the petitioner has been examined and considered in detail in light of the judgment dated 22.03.2017 passed by the learned writ Court in SWP No. 21/2009 and being found devoid of any merit, rejected the same for the reasons stated in the aforesaid detailed order of consideration.
4. The direction passed by the learned writ Court which is the subject matter of the instant contempt petition was to the extent of issuing a direction to the respondents to accord consideration to the benefit of notional seniority to the petitioner, with effect from the date when the other candidates were given seniority.
5. While parting with the aforesaid order/judgment, the learned writ Court also directed that with a view to maintain parity, the competent authority was directed to decide the issue bearing in mind the decision of this Court dated 09.12.2016 passed in SWP No. 2011/2013 in case titled "*Sushma Sharma &ors. vs. State of J&K & anr.*", by way of a speaking order.

6. I have perused the detailed order of consideration which has been placed on record by the respondents while filing the fresh compliance report.

7. Before proceeding further in the matter, it would be apt to reproduce the direction passed by this Court in SWP No. 2011/2013 titled “*Sushma Sharma &ors. vs. State of J&K & anr.*”, vide order dated 09.12.2016.

“In view of the preceding analysis, it deem it appropriate to dispose of the writ petition with the direction to the respondents to accord the benefit of notional seniority to petitioners w.e.f the date when other candidates, who responded to the advertisement notice issued in the year 1996 were given seniority. Needless to state that the afore said notional seniority, which may be granted to the petitioners shall be taken into account by the respondent for the purpose of fixation of pay as well as benefits of promotion. With the aforesaid directions, the writ petition is disposed of along with connected MP(s).”

8. The respondents, while passing the detailed consideration order, have specifically observed that the said judgment/order which was required to be considered while passing the detailed consideration order in favour of the petitioner, was challenged by the respondents before the Hon’ble Division Bench by filing LPASW No. 201/2017, which was dismissed on 07.12.2017 and thereafter, a Special Leave Petition bearing SLP(Civil) Diary No. 38894/2018 was also preferred which also met the same fate on 28.01.2019. Pursuant thereto, the Department also filed a Review Petition bearing No. 1095/2019 which was also dismissed by virtue of the order dated 09.07.2019.

9. Thereafter, consequent upon the dismissal of the Letters Patent Appeal as well as Special Leave petition and the Review Petition, the Government vide Order No. 88-Edu of 2020 dated 20.03.2023, accorded sanction for grant of notional seniority to the petitioner, at par with her counterparts for the purpose of fixation of pay, without payment of arrears, however, the said order stipulated that the benefit arising out of the aforesaid judgments would be confined exclusively to the petitioner therein and shall not, in any manner, be treated as a precedent for any other similar matters, if any pending in the Department.
10. Since the relief granted in the aforesaid petition was confined to the rights of the petitioner only as the relevant stipulation which was incorporated in the said order was with a clear intention of restricting the applicability of the said order to the peculiar facts and circumstances of the petitioner only, therefore, the respondents while rejecting the case of the petitioner have observed that the said benefit cannot be claimed by the petitioner as a matter of right and in the aforesaid backdrop the case of the petitioner was rejected.
11. Thus, this Court, after perusing the order of consideration and the stand taken by the respondents, is of the view that the order/judgment passed by the learned writ Court stands complied with as the consideration in terms of the aforesaid order/judgment has been accorded. Therefore, no fruitful purpose would be served by keeping this contempt petition alive as the order/judgment passed by the learned writ Court stands complied with. Accordingly, the proceedings

in the instant contempt petition are closed. Rule, if any, shall stand discharged.

- 12.** However, dismissal of the instant contempt petition shall not come in the way of the petitioner to agitate her cause afresh by way of appropriate proceedings, challenging the aforesaid order, if so advised.

(Wasim Sadiq Nargal)
Judge

Jammu:
05.08.2026
Pawan Angotra

