HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

LPA 01/2026

Reserved on 17.11.2026
Pronounced on 25.11.2026
Uploaded on 26.11.2026

Whether the operative part or full judgment is pronounced: Full

..... appellant (s)

UT of Jammu and Kashmir and others

Through :- Mr. M. Younis Assisting counsel to Mr. Ab. Rashid Malik Sr. AAG

V/s

Showkat Ali Wani and others .....Respondent(s)

Through :- Mr. Shakeel Sarwar Advocate

Coram: HON'BLE MR. JUSTICE SANJEEV KUMAR, JUDGE
HON'BLE MR. JUSTICE MOHD YOUSUF WANI JUDGE

JUDGMENT

1 This intra-Court appeal, preferred by the appellants, is directed against an order and judgment dated 02.08.2024 passed by a learned Single Judge of this Court (hereinafter referred to as the "writ Court") in WP(C) No.683/2023, whereby the writ petition filed by the respondents herein was allowed and the impugned orders dated 27.02.2019 and 18.07.2019, to the extent they pertained to the respondents, were quashed. The appellants were directed to release arrears of salary in favour of the respondents for the period from December, 1999 to 26.10.2007, with interest @ 6% per annum in the event of failure to comply with the directions within the stipulated period.The appellants have also called in question the subsequent order dated 28.05.2025 passed in CM No.5105/2024, whereby the writ Court directed them to ascertain

the actual period for which the respondents had remained unpaid on account of winding up of the Jammu and Kashmir Cooperative Consumer Federation Limited (hereinafter referred to as "CONFED") and release the arrears accordingly.

2 The controversy arises out of the winding up of CONFED pursuant to Cabinet Decision dated 15.07.1999 and the consequent absorption of its employees in the Cooperative Department of the Government. The respondents, who were employees of CONFED, did not opt for the Golden Handshake Scheme but instead sought their adjustment in Government service in terms of the aforesaid Cabinet decision. They were ultimately absorbed in the Cooperative Department vide Government Order No.26-Coop of 2007 dated 26.10.2007.Out of the ten employees so absorbed, five employees approached this Court by way of SWP No.812/2008 seeking, inter alia, arrears of salary and other service benefits. The said writ petition was allowed vide judgment dated 22.04.2011. The said judgment was affirmed by the Division Bench in LPA No.202/2011 and the challenge laid before the Supreme Court also failed. The respondents herein also approached this Court by way of SWP No.1387/2008 seeking similar relief. The said writ petition came to be disposed of on 30.09.2016 in terms of the judgment dated 22.04.2011 passed in SWP No.812/2008. The writ Court recorded the stand of the appellants that the case of the respondents was similar and identical to that of the petitioners in SWP No.812/2008.Despite the aforesaid judgment, the appellants did not release the arrears of salary to the respondents. Their claim was rejected vide order dated 27.02.2019, compelling them to approach the writ Court again by way of WP(C) No.683/2023. The writ Court, upon consideration of the matter, allowed the said petition vide judgment dated 02.08.2024 and directed release

of arrears of salary in favour of the respondents. The subsequent order dated 28.05.2025 was passed to ensure that the arrears were confined to the actual period for which the respondents had remained unpaid.

3 Learned counsel for the appellants, while reiterating the grounds taken in the memorandum of appeal, would submit that the respondents are not entitled to salary for the period during which they admittedly did not discharge any duties either in CONFED or in the Government. It is contended that CONFED was an autonomous Cooperative Institution and no employer-employee relationship existed between the respondents and the Government prior to their absorption on 26.10.2007. Learned counsel would further submit that the subsequent order dated 28.05.2025 travels beyond the scope of Section 152 CPC and that the claim is otherwise barred by delay and laches.

4 *Per contra*, learned counsel for the respondents would submit that the controversy is squarely covered by the judgment dated 22.04.2011 passed in SWP No.812/2008, in terms of which their own writ petition, i.e., SWP No.1387/2008, was disposed of. It is contended that the appellants, having accepted the similarity of the two cases before the writ Court, cannot now deny the respondents the benefits extended to the petitioners in the former writ petition. Learned counsel would further submit that the order dated 28.05.2025 merely provides for verification of the actual period of non-payment and does not enlarge the relief granted by the writ Court.

5 We have heard learned counsel for the parties and perused the record.

6 The primary question that falls for our consideration is whether the respondents, whose writ petition was disposed of in terms of the judgment

passed in SWP No.812/2008, can be denied the benefits extended to the petitioners therein.In our considered opinion, the answer has to be in the negative.

7 A perusal of the record would show that the respondents and the petitioners in SWP No.812/2008 were employees of the same institution, and were ultimately absorbed in the Cooperative Department under the same Government order. More importantly, the writ petition filed by the respondents was disposed of in terms of the judgment passed in SWP No.812/2008 after recording the categorical stand of the appellants that both sets of employees were similarly situated. The said judgment dated 30.09.2016 passed in SWP No. 1387/2008 was never challenged by the appellants and, therefore, attained finality. The appellants cannot now be permitted to reopen the issue indirectly or take a stand contrary to the one accepted by them in the earlier proceedings.

8 It is also relevant to notice that the direction issued by this Court in the contempt proceedings arising out of SWP No.812/2008 for computation and release of arrears of salary for the period from December, 1998 to 26.10.2007 was upheld by the Supreme Court in Civil Appeal No.239 of 2022. The appellants have admittedly released the arrears to the employees concerned pursuant to the said directions.In these circumstances, the appellants cannot adopt different standards in respect of the respondents, who stand on the same footing. Article 14 of the Constitution of India does not permit such discriminatory treatment. Having accepted before the writ Court in SWP No.1387/2008 that the case of the respondents was identical to that of the petitioners in SWP No.812/2008, the appellants cannot now deny them the benefits flowing from the judgment passed in the latter case.

9 The argument of the appellants based on the principle of 'no work, no pay' is also without merit. The respondents were employees of CONFED whose services were affected by the decision of the Government to wind up the institution. The same decision contemplated their suitable adjustment in Government Departments. The respondents did not opt for the Golden Handshake Scheme and were ultimately absorbed pursuant to the very process initiated by the Government. They cannot be made to suffer for the delay in implementation of the Government's own decision. The plea of delay and laches is equally misconceived. The respondents had approached this Court as far back as in the year 2008 by filing SWP No.1387/2008. Their claim was adjudicated upon vide judgment dated 30.09.2016 and they again approached this Court in SWP No.1707/2018. The present proceedings were instituted upon rejection of their claim by the appellants. It is, therefore, not a case where the respondents remained dormant and raised a stale claim after an inordinate delay.

10 We may now advert to the challenge laid to the subsequent order dated 28.05.2025. The contention of the appellants is that the writ Court could not have issued fresh directions under Section 152 CPC.It is true that the power under Section 152 CPC is confined to correction of clerical or arithmetical errors and cannot be exercised to review or alter the substantive adjudication made by the Court. However, in the present case, the subsequent order does not enlarge the relief granted under the original judgment. On the contrary, it only directs the appellants to ascertain the actual period for which the respondents remained unpaid and release the arrears accordingly.We may, however, clarify that the respondents shall not be entitled to any double payment. The appellants shall examine the relevant service records, salary registers and other available

material to determine the actual period for which salary remained unpaid in respect of each respondent. Any amount already paid or released for the corresponding period shall be duly adjusted. The admissible arrears shall thereafter be released in favour of the respondents up to 26.10.2007, i.e., the date of their absorption in the Cooperative Department.

11 For the foregoing reasons, we find no merit in this appeal. The judgment dated 02.08.2024 passed by the writ Court in WP(C) No.683/2023 and the subsequent order dated 28S.05.2025 passed in CM No.5105/2024 are upheld, subject to the clarifications made hereinabove. The appeal is, accordingly, dismissed.

HIGH COURT JAMMU & KASHMIR AND LADAKH

(MOHD YOUSUF WANI) **(SANJEEV KUMAR)**
JUDGE **JUDGE**

Jammu
Sanjeev
25 .11.2026

Whether the order is speaking: Yes

Whether the order is reportable: Yes/No