HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

LPA 61/2026
LPA 65/2026
LPA 66/2026
LPA 73/2026

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

UT of Jammu and Kashmir and ors
UT of Jammu and Kashmir and others
UT of Jammu and Kashmir and others
UT of Jammu and Kashmir and ors

..... appellant (s)

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

V/s

Ghulam Nabi Dar and others
Ghulam Jeelani Haqaq and another
Ghulam Mohd Peer and others
Ali Mohd Bhat

.....Respondent(s)

Through :- Mr. Saqib Shabir Advocate in LPA No. 61/2026
Mr. Shakeel Sarwar Advocate in LPA No. 66/2026
Mr. Nissar Ahmad Bhat Advocate in LPA No. 65/2026 & LPA No. 73/2026

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

JUDGMENT

Sanjeev Kumar J

LPA 65/2026, LPA 66/2026 & LPA 73/2026

1 These intra-Court appeals, preferred by the appellants, are directed against a common judgment and order dated 26.12.2025 passed by a learned Single Judge of this Court ["writ Court"] in WP(C) No.1689/2023, WP(C) No.1011/2023 and WP(C) No.2551/2023, whereby the writ petitions filed by the respondents herein have been allowed and the impugned orders dated 18.07.2018, 27.02.2019/18.07.2019 and 21.09.2022 have been quashed. The appellants have also been directed to determine the exact period for which the salary of the respondents remained unpaid on account of winding up of the Jammu and Kashmir Cooperative Consumer Federation Limited (for short, 'CONFED') and to release the arrears of salary upto the date of their absorption in different Government departments.

2 The controversy arising in these appeals relates to the entitlement of the erstwhile employees of CONFED, who were subsequently absorbed in different Government departments pursuant to the decision of the Government to wind up the Federation, to claim salary for the intervening period between the winding up of the Federation and their eventual absorption.

Brief facts

3 The facts giving rise to the present appeals, shorn of unnecessary details, are that the respondents were employees of the erstwhile CONFED, which was ordered to be wound up pursuant to Cabinet Decision No.109/12 dated 15.07.1999. While taking the decision to wind up the Federation, the Government also decided that its employees would be suitably adjusted. The

concerned department was, accordingly, required to formulate and submit a detailed proposal in that regard. Subsequently, another Cabinet decision was taken on 24.04.2002, whereby it was decided that the Golden Handshake Scheme for the employees of Cooperative Institutions would be financed from the sale of their assets and that no Government funding would be made available for the said purpose. The Divisional Commissioners of Jammu and Kashmir were, accordingly, asked to evaluate the assets of the Apex Cooperative Institutions and submit their reports to the Government.

4 It appears that a number of erstwhile employees of CONFED, who were not inclined to accept the Golden Handshake Scheme and instead insisted upon their adjustment in Government service, approached this Court by way of SWP No.1839/1999 titled *Mohammad Yousuf Magray & Ors. v. State & Ors.* The said writ petition was disposed of vide judgment dated 30.09.2005, directing the Government to implement Cabinet Decision No.109/12 dated 15.07.1999 and constitute a Committee to examine the suitability of the employees for their permanent adjustment in Government departments. The Committee was required to consider their qualifications and other eligibility conditions and, wherever found suitable, offer them posts commensurate with their qualifications and the pay scales they were holding in CONFED. Those found unsuitable were to be offered the benefit of the Golden Handshake Scheme. The aforesaid judgment was challenged by the Government in LPA No.294/2005. The appeal was disposed of on 08.05.2006 with a direction that the report of the Committee constituted in compliance with the judgment of the Writ Court be placed before the Cabinet within the stipulated period. In the meantime, ten erstwhile employees of CONFED, including the petitioner No.1 and the husband of petitioner No.2 in WP(C)

No.1011/2023, came to be adjusted in the Cooperative Department against the posts of Junior Supervisors/Sub-Auditors in terms of Government Order No.26-COOP of 2007 dated 26.10.2007. Out of these ten employees, five approached this Court by filing SWP No.812/2008, claiming, inter alia, arrears of salary for the period commencing from August 1999 till their permanent absorption in the Cooperative Department. The remaining five employees, including the petitioners in WP(C) No.1011/2023, also filed SWP No.1387/2008 seeking substantially the similar reliefs.SWP No.812/2008 came to be allowed vide judgment dated 22.04.2011. The respondents therein i.e the Government was directed to place the writ petitioners of SWP No. 812/2008 in the grades in which they were working in CONFED, release annual increments in the said pay scales and pay the arrears accruing to them consequent upon such placement. They were also held entitled to have their services rendered in CONFED counted towards their total period of service for the purpose of time-bound promotions and pensionary benefits after their permanent absorption. There was no direction to the Government to treat the absorption of the writ petitioners retrospectively from August 1999 and pay them arrears from such date. The prayer for payment of arrears from August 1999 till the permanent absorption of the writ petitioners in the year 2007 was not granted. The judgment dated 22.04.2011 was assailed by the Government in LPA No.202/2011. The Division Bench, vide judgment dated 06.08.2015, dismissed the appeal, holding that the service rendered by the employees in the Federation did not stand obliterated merely because the Government had taken a decision to wind up the Federation. The Division Bench further observed that the decision to wind up the Federation was supplemented by the assurance extended to its employees that they would be suitably adjusted commensurate with their status, pay scales and career progression. The challenge laid to the

judgment of the Division Bench before the Supreme Court in SLP(C) No.17801/2016 also failed and SLP was dismissed on 26.09.2016.

5 Despite the aforesaid adjudication, the question of payment of arrears of salary remained unresolved, compelling the beneficiaries of SWP No.812/2008 to initiate contempt proceedings. In CPSW No.718/2017, this Court, vide order dated 29.05.2019, specifically directed the respondents to compute and release the arrears of salary admissible to the petitioners upon their placement in the grades held by them in CONFED, with effect from December 1998 to 26.10.2007, within the stipulated period. This was obviously contrary to the directions contained in the judgment dated 22.04.2011 passed in SWP No.812/2008. The petitioners therein had not even claimed arrears of salary with effect from December 1998. Their specific prayer, which was never allowed by this Court, was for release of arrears with effect from August 1999, i.e., after the Cabinet decision dated 15.07.1999. Be that as it may, the Contempt Court, while interpreting the judgment passed in SWP No.812/2008, read into it a direction for payment of arrears with effect from December 1998, despite the fact that as per judgment dated 22.04.2011 passed in SWP No. 812/2008, the grant of pay scale, annual increments and arrears were to be from the date of absorption, i.e., 26.10.2007. Be that as it is, the directions issued by the Contempt Court came to be upheld by the Supreme Court while dismissing the Civil Appeal No.239/2022 vide its order dated 25.08.2022. Accordingly, the appellants were directed to release the arrears to the respondents in terms of the directions issued by this Court. The contempt proceedings were thereafter closed upon compliance with the said directions.

6 It is in the backdrop of the aforesaid litigation, the present appeals are required to be considered.

7 In WP(C) No.1689/2023, the petitioners, who were erstwhile employees of CONFED, came to be absorbed in the J&K Secretariat Subordinate Services against available Class-IV posts with effect from 12.11.2010. They had earlier instituted SWP No.1205/2011 seeking similar service and monetary benefits as had been granted to the petitioners in SWP No.812/2008. The writ Court, vide judgment dated 10.02.2016, allowed the said writ petition by extending to the petitioners the same benefits as had been granted in SWP No. 812/2008. The challenge laid by the Government to the said judgment in LPA No.131/2016 also failed. Pursuant to the aforesaid judgment, the Government issued Order No. 35-GAD of 2018 dated 04.01.2018, purportedly giving effect to the directions contained therein. However, vide a subsequent order dated 18.07.2018, the intervening period from 16.07.1999 to 11.11.2010 was treated as on duty on notional basis only for the purpose of counting the same towards pensionary benefits, without releasing the corresponding arrears of salary. In WP(C) No.1011/2023, petitioner No.1 and the husband of petitioner No.2 were adjusted in the Cooperative Department in terms of Government Order No.26-COOP of 2007 dated 26.10.2007. They joined the department on 28.01.2008. As noticed hereinabove, they had filed SWP No.1387/2008 seeking relief similar to the one granted in SWP No.812/2008. The said writ petition was disposed of on 30.09.2016 in terms of the judgment dated 22.04.2011 passed in SWP No.812/2008, as upheld in LPA No.202/2011.The Government thereafter issued Order No.69-Adm of 2016 dated 28.11.2016, according approval for implementation of the judgment in SWP No.812/2008 in respect of the petitioners of SWP No.1387/2008 as well. However, the claim for arrears of salary for the intervening period was subsequently rejected vide order No.RCS/LS/13 dated 27.02.2019. The respondents also assailed the order dated

18.07.2019, whereby the intervening period was treated as duty on notional basis.In WP(C) No.2551/2023, the petitioner, another erstwhile employee of CONFED, was absorbed in the Labour and Employment Department against a Class-IV post in terms of order dated 02.12.2010. He had earlier filed SWP No.2571/2011, which was disposed of on 13.02.2014 in the light of the judgment dated 22.04.2011 passed in SWP No.812/2008, subject to the applicability thereof to his case. The review petition filed by the respondents against the said order was also dismissed on 29.03.2016.The Government subsequently issued Order No.17-L&E dated 23.02.2018, sanctioning the release of annual increments and pay arrears in favour of thirteen persons, including the petitioner. However, vide order dated 21.09.2022, the intervening period from 15.07.1999 to 22.11.2010 was treated as duty on notional basis only for the purpose of pensionary benefits.

8 Aggrieved of the aforesaid orders, the respondents approached the Writ Court by way of three writ petitions. The Writ court, after considering the previous judgments and the orders passed in their favour, concluded that the respondents were similarly situated with the petitioners in SWP No.812/2008 and could not be denied the same treatment. The Writ Court, accordingly, allowed the writ petitions in terms of the impugned judgment.

Grounds of challenge

9 The appellants have assailed the judgment of the writ Court, primarily, on the ground that it failed to appreciate the true import of Rule 13(1) of SRO 233 of 1988. It is contended that an employee of a Cooperative Society is deemed to retire on the date the Society ceases to function and, therefore, upon winding up of CONFED in the year 1999, the respondents stood statutorily

retired. No employer-employee relationship survived thereafter so as to entitle them to claim salary for the period during which they admittedly rendered no service.It is further urged that CONFED was an autonomous Cooperative Institution, governed by its own bye-laws and financial structure, and the Government could not be fastened with the financial liabilities of the Federation after its winding up. The Cabinet decision dated 15.07.1999 contemplated only suitable adjustment of the employees and did not provide for payment of salary for the intervening period. The appellants have also contended that the respondents were neither appointed nor deployed in any Government department during the period in question and, therefore, the direction to release salary amounts to grant of monetary benefits without any corresponding discharge of duties. The principle of 'no work, no pay' has, according to the appellants, been completely overlooked by the Writ Court. Another ground urged is that the respondents did not claim arrears of salary in the earlier proceedings and, having accepted their prospective absorption without demur, they could not have revived stale monetary claims after an inordinate delay. It is also contended that the judgments passed in SWP No.812/2008 and the subsequent contempt proceedings were rendered in favour of different employees and could not automatically be extended to the respondents without an independent determination of their entitlement.The appellants have further questioned the application of the principle of parity, contending that the factual circumstances, dates of absorption and periods claimed by the respondents are not identical to those of the employees who were beneficiaries of SWP No.812/2008. It is urged that the impugned judgment, if allowed to stand, would impose an unwarranted financial burden upon the public exchequer.

10 We have heard learned counsel for the parties and perused the material on record.

Submissions of the parties

11 Learned counsel appearing for the appellants has reiterated the grounds taken in the memorandum of appeals. It is submitted that the respondents were not in Government service during the intervening period and had not rendered any service to the Government. The mere fact that they were subsequently absorbed in Government departments would not, by itself, confer upon them an enforceable right to claim salary retrospectively. It is contended that the writ Court has erroneously proceeded on the assumption that the respondents are entitled to monetary benefits merely because certain other employees of CONFED have been paid arrears pursuant to judicial directions.

12 Learned counsel appearing for the respondents, on the other hand, has supported the judgment passed by the writ Court. It is submitted that the issue with regard to the entitlement of the erstwhile employees of CONFED to service and monetary benefits has already been adjudicated by this Court in SWP No.812/2008, which judgment was affirmed in LPA No.202/2011 and attained finality upon dismissal of the challenge before the Supreme Court. It is further submitted that the respondents herein had also approached this Court in their individual proceedings and their claims were directed to be considered/disposed of on the same terms as those of the petitioners in SWP No.812/2008.It is, thus, contended that the appellants cannot be permitted to deny the respondents the benefit of the judgments and orders which have attained finality in their respective cases. The impugned administrative orders, according to learned counsel, are nothing but an attempt to circumvent the

judicial directions by treating the intervening period as duty only for the limited purpose of pensionary benefits while withholding the corresponding monetary benefits.

Discussion and analysis

13 Having considered the rival submissions and examined the material on record, we are of the considered opinion that the controversy raised in these appeals is required to be examined in the backdrop of the earlier litigation between the parties and the judicial determinations made in respect of the erstwhile employees of CONFED.

14 There is no dispute with regard to the fact that CONFED was wound up pursuant to Cabinet Decision dated 15.07.1999. It is equally not in dispute that while taking the decision to wind up the Federation, the Government had also decided that its employees would be suitably adjusted. The subsequent litigation initiated by the employees was essentially directed towards securing implementation of the aforesaid Cabinet decision.

15 It is true that Rule 13(1) of SRO 233 of 1988 provides for cessation of service of an employee on the date the Society in which he was initially appointed ceases to function. However, the reliance by the appellants upon the said provision, in isolation, does not answer the controversy arising in the present appeals.

16 The controversy before us is not confined to the question whether the respondents continued to be employees of CONFED after its winding up. What falls for consideration is whether the Government, having decided to adjust the employees of CONFED and this Court having issued directions for

implementation of that decision, could deny them the benefits flowing from such adjustment and subsequently recognised by this Court. In this regard, the judgment dated 30.09.2005 passed in SWP No.1839/1999 assumes significance. The Writ Court did not leave the matter entirely to the discretion of the Government. It specifically directed the constitution of a Committee to examine the suitability of the employees for their permanent adjustment in Government departments. It was further directed that the employees found suitable be offered posts commensurate with their qualifications and the pay scales they were drawing in CONFED. The aforesaid directions were not interfered with in the appellate proceedings. Rather, the Division Bench, while disposing of LPA No.294/2005, required the report of the Committee to be placed before the Cabinet for consideration. Thus, the process of adjustment of the employees was not an independent or isolated administrative exercise but was undertaken pursuant to a policy decision of the Government, reinforced by judicial directions.

17 It is in this background, the judgment dated 22.04.2011 passed in SWP No.812/2008 assumes importance. The Writ Court, while considering the claim of five erstwhile employees of CONFED, directed the Government to place them in the grades which they were holding in the Federation, release annual increments and pay arrears accruing to them consequent upon such placement. Their past service in CONFED was also directed to be counted for the purposes of time-bound promotions and pensionary benefits after their permanent absorption. The said judgment was not only affirmed by the Division Bench in LPA No.202/2011 but the challenge laid thereto before the Supreme Court also failed. The Division Bench, while dismissing the appeal, specifically observed that the service rendered by the employees in CONFED

did not stand obliterated merely because the Government had taken a decision to wind up the Federation. It was further held that the judgment of the Writ Court gave effect to the spirit of the Cabinet decision and did not confer upon the employees any benefit to which they would not have been entitled had the Federation not been wound up. The appellants cannot, therefore, be permitted to reopen the entire controversy as if the rights of the erstwhile employees of CONFED were being adjudicated for the first time in these appeals. The earlier judgments, having attained finality, constitute the foundation upon which the subsequent claims of the respondents have to be examined.

18 We may also point out that the respondents herein were parties to the earlier proceedings and had independently approached this Court, securing orders in their favour. So far as the petitioners in WP(C) No. 1689/2023 are concerned, their writ petition, being SWP No. 1205/2011, was allowed on 10.02.2016, extending to them the same benefits as had been granted in SWP No. 812/2008. The challenge laid by the Government to the said judgment in LPA No. 131/2016 also failed. Thus, the entitlement of these petitioners to the benefits flowing from the judgment in SWP No. 812/2008 stood conclusively settled by judicial pronouncements. Similarly, the petitioners in WP(C) No.1011/2023 had instituted SWP No.1387/2008. The said writ petition was disposed of on 30.09.2016 in terms of the judgment passed in SWP No.812/2008, which had already been affirmed by the Division Bench. The Government itself thereafter issued Order No.69-Adm of 2016 dated 28.11.2016, according approval for implementation of the judgment in respect of these petitioners as well. Likewise, the petitioner in WP(C) No.2551/2023 had instituted SWP No.2571/2011. The said writ petition was disposed of on 13.02.2014 in the light of the judgment dated 22.04.2011 passed in SWP

No.812/2008, subject to its applicability to his case. The review petition filed by the Government against the said order was also dismissed on 29.03.2016. Thereafter, the Government issued Order No.17-L&E dated 23.02.2018, sanctioning annual increments and pay arrears in favour of thirteen employees, including the said petitioner.

19 A perusal of the aforesaid proceedings clearly demonstrates that the respondents had obtained orders from this Court in their respective cases, requiring their claims to be considered in the light of the judgment passed in SWP No. 812/2008. The appellants, having acquiesced in those directions and implemented them by extending certain service benefits to the respondents, cannot now be permitted to deny them the other benefits accruing from the same judgment.

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20 We are mindful of the fact that the contempt proceedings in CPSW No. 718/2017 were initiated by the petitioners in SWP No. 812/2008 and that the order dated 29.05.2019 passed therein was rendered in the context of the directions issued in their favour. Likewise, while dismissing Civil Appeal No. 239/2022, the Supreme Court directed payment of arrears to the respondents therein. Viewed strictly, neither the order passed in the contempt proceedings nor the direction issued by the Supreme Court can be construed as an independent adjudication of the individual claims of all erstwhile employees of CONFED. Nevertheless, these proceedings assume significance inasmuch as they explain the nature and extent of the monetary benefits envisaged by the judgment dated 22.04.2011. Of greater relevance is the fact that the respondents herein had themselves approached this Court and obtained orders in their respective writ petitions, whereby the terms of the judgment passed in SWP No. 812/2008 were made applicable to them. The appellants cannot,

therefore, seek to defeat the claims of the present respondents merely on the ground that the contempt proceedings were initiated by other employees, particularly when the respondents had independently secured judicial orders in their favour**..** The further plea of the appellants that the respondents had not actually worked during the intervening period and were, consequently, not entitled to salary for the said period, is equally untenable and cannot be accepted in the circumstances of the present cases**..** The doctrine of 'no work, no pay' is not an inflexible rule to be applied irrespective of the facts and circumstances of a particular case. Its applicability must be examined in the context of the nature of the claim and the circumstances responsible for the employee remaining out of service. In the cases at hand, the respondents are not asserting a claim for salary on the premise that they had physically discharged duties in any Government department during the intervening period. Their claim is founded upon the decision of the Government to wind up CONFED, coupled with its commitment to suitably adjust the employees of the Corporation, and the subsequent judicial directions governing the service benefits to which such employees were entitled upon their adjustment. The absorption of the respondents in various Government departments was not an independent administrative exercise having no connection with the winding up of CONFED. Rather, it was an integral part of the process set in motion by the Government itself and thereafter regulated through successive judicial proceedings. Having implemented the judicial directions by extending to the respondents the benefits relating to their placement, increments and pension, the appellants cannot selectively withhold the monetary benefits forming part of the same arrangement by invoking the principle of 'no work, no pay'. Such selective implementation would neither be consistent with the judicial directions nor legally sustainable.

21 Another significant aspect which cannot be overlooked is that the impugned administrative orders themselves recognize the intervening period as duty on notional basis for the limited purpose of pensionary benefits, while denying the respondents the corresponding arrears of salary. This distinction, in the facts of the present cases, does not appear to be justified, particularly when the individual writ petitions filed by the respondents had already been disposed of by extending to them the benefit of the judgment passed in SWP No. 812/2008. The appellants cannot adopt an interpretation of those directions which results in partial implementation of the relief granted by this Court**..** The plea that the respondents had not specifically sought arrears of salary in the earlier proceedings or that their claims are defeated by delay and acquiescence is also devoid of merit. The respondents had approached this Court in their individual cases and obtained orders directing consideration of their claims in terms of the judgment passed in SWP No. 812/2008. The appellants were, therefore, required to give effect to those orders in their entirety and could not reopen the issue of entitlement by raising objections which run contrary to the very basis on which the respondents had secured relief. The mere fact that a specific monetary component was not separately adverted to in the earlier proceedings would not, in the facts of the present cases, absolve the appellants of their obligation to implement the directions in their true perspective**..** The respondents are not claiming the benefits merely on the basis of parity with other employees. Their entitlement flows from the specific orders passed by this Court in their individual writ petitions, extending to them the benefit of the judgment in SWP No. 812/2008. The principle of parity only further reinforces the obligation of the appellants to extend the same benefits to all similarly situated employees. We could have accepted the argument of learned counsel for the appellants that the respondents or, for that matter, the writ petitioners of

SWP No.812/2008 were never granted the relief of payment of arrears with effect from August 1999 or December 1998, had the Contempt Court not interpreted the directions passed in SWP No.812/2008 and held the writ petitioners therein entitled to arrears with effect from December 1998. To top it all, the Hon'ble Supreme Court upheld this interpretation, though impliedly, while dismissing Civil Appeal No.239/2022. In these circumstances, we are constrained not to take a view contrary to the one taken by the Contempt Court, even though we are convinced that the Contempt Court had exceeded its jurisdiction and virtually added directions to the judgment, the violation whereof was alleged before it. However, persons similarly situated to the respondents herein have been extended the benefits flowing from the interpretation of the judgment dated 22.04.2011 passed in SWP No.812/2008, which was subsequently followed in the cases of the respondents herein.

22 The financial burden that may arise from implementation of the impugned judgment cannot, by itself, constitute a valid justification for denying the respondents the benefits flowing from judicial orders which have attained finality. Financial considerations may be relevant while taking policy or administrative decisions, but they cannot override rights flowing from judicial orders. The appellants cannot refuse to implement such directions merely on the ground that compliance would involve financial implications.

23 For the foregoing reasons, we find no ground to interfere with the view taken by the writ Court. The writ Court has correctly appreciated the factual background as well as the legal position emerging from the earlier proceedings and has rightly held the respondents entitled to the same treatment as was extended to the petitioners in SWP No. 812/2008. The entitlement of the respondents shall, however, be subject to verification of the actual period

for which salary arrears are due, after adjusting any amounts already paid to them. We may clarify that the directions issued by the Writ Court shall not be understood to confer any right upon the respondents to receive double payment or to claim amounts which they have already received. The appellants shall, accordingly, determine the arrears payable in each individual case after taking into account the period for which salary was paid by CONFED, the respective dates of absorption of the respondents in Government departments and any other payments already made to them towards the period in question. The exercise, therefore, is confined to determining and releasing the admissible arrears in terms of the earlier judicial directions and does not create any fresh or additional service entitlement in favour of the respondents.

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Conclusion

24 For the foregoing reasons, we find no error of law or fact in the judgment passed by the learned Single Judge warranting interference by this Court in exercise of its intra-Court appellate jurisdiction. These appeals are, accordingly, dismissed. The judgment and order dated 26.12.2025 passed by the learned Single Judge is upheld. Pending applications, if any, shall also stand disposed of. Let the original record, if summoned, be returned to the concerned.

LPA NO. 61/2016

In view of the fact that the issue involved in the present appeal is identical to the one considered and decided by this Court in LPA No. 65/2026 and other connected appeals, vide order of even date, the judgment rendered therein shall govern the disposal of the present appeal as well. Accordingly, the

present appeal is Salso dismissed, and the judgment passed by the learned Writ Court is upheld.

(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

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