

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

**CPSW No. 418/2016 in
SWP No. 385/2001**

Mohammad Shafi Rather and Ors.

..... Appellant/petitioner(s)

Through: -
Mr. M. M. Dar, Advocate

V/s

Mr. Rohit Kansal and Anr.

..... Respondent(s)

Through: -
Mr. Ilyas Nazir Laway, GA

CORAM:

HON'BLE MR JUSTICE JAVED IQBAL WANI, JUDGE

(ORDER)

01.12.2023

In the instant contempt petition, the petitioners have alleged violation of order dated 04.09.2015, passed in SWP No. 385/2001, whereby this Court while disposing of the petition finally observed and directed in para 5 as follows.

“ 05. In view of the order already passed by this Court in SWP Nos. 1404/2008 and 1026/2011, wherein the casual labourers have been treated as daily-rated worker, this writ petition is allowed with a direction to respondents to treat the petitioners as daily-rated workers and regularize their services. Respondents are further directed to release the withheld wages also. The said exercise be undertaken and completed within a period of two months from the date copy of this order is received by respondents.”

The respondents/contemnors though filed statement of facts/status report in response to the contempt petition, stating therein that the petitioners are not entitled to be treated as daily-rated workers or regularized on the premise that the petitioners had been working as seasonal labourers. A consideration order, rejecting the claim of the petitioners also came to be

issued by the respondents/contemnors on the same lines, however, upon consideration of the instant contempt petition along with statement of facts/status report as also the consideration order on 22.05.2023, this Court observed that the directions passed by the Court have not been complied with by this Court.

On 18.08.2023, in order to settle the instant contempt petition in view of stand taken by the respondents in the statement of facts/status report, perusal of the record was held to be mandatory.

Record of the petition is available so also the record pertaining to the petitioners has been produced by Mr. Laway, appearing counsel for the respondents/contemnors.

Perusal of the said record in general and in particular the engagement order of the petitioners issued by respondent/contemnor 2, bearing No. CE-PWD(R&B) K-295 of 1994 dated 26.02.1994, reveals that the petitioners had been engaged as **casual labourers** on daily-rated basis upon the approval of the contemnor/respondent 1, thus belying the stand taken by the respondents/contemnors that the petitioners were engaged as seasonal labourers and not as casual labourers.

Under these circumstances, the stand taken by the respondents as also the consideration order issued by the respondents/contemnors pals into insignificance and respondents/ contemnors cannot avoid the compliance of the order dated 04.09.2015, and compliance of which has been considerably delayed by the respondents though the compliance had to be accorded in terms of the order within a period of two months from the date of receipt copy of the order by them.

The respondents/contemnors in the interest of justice and on asking of the counsel for the respondents/contemnors are granted eight weeks' last and final opportunity to report compliance of the order, failing which, the respondents/contemnors 1 and 2 shall appear in person before this Court on the next date of hearing along with record. The record produced by Mr. Laway, learned GA, is returned back to him in the open Court.

List on 28.02.2024.

(JAVED IQBAL WANI)
JUDGE

SRINAGAR
01.12.2023
"Mohammad Yasin Dar"

