

INTHE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

CPSW no. 418/2016 in
SWP no. 385/2001

Mohammad Shafi and others

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

Through: Mr. Kaiser Ali, Advocate

Vs.

Mr. Rohit Kansal and another

...Respondent(s)

Through: Mr. Illyas Laway, GA

CORAM:

HON'BLE MS. JUSTICE SINDHU SHARMA, JUDGE

ORDER
06.05.2024

1. This contempt petition has been filed for non-implementation of Judgment passed in SWP no. 385/2001 dated 04.09.2015. The writ petition was disposed with a direction:

“...In view of the order already passed by this Court in SWP no. 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.”

2. The petitioners approached this Court on 30.05.2016 seeking direction to the respondents to implement the Judgment. Statement of facts was filed by the respondents and the matter was considered by this Court in terms of order dated 01.12.2023. By virtue of order dated 01.12.2023, this Court has held that the perusal of record in general and in particular engagement of the petitioners would reveal that petitioners were engaged as casual labourers on daily rated basis on approval of respondent no.1, thus belying the stand taken by the respondents that petitioners were engaged as Seasonal labourers and not as casual labourers and in these circumstances the Court directed the respondents to comply with the Judgment and file the compliance report within a

period of eight weeks failing which respondents 1 and 2 were directed to appear in person.

3. The respondents, instead of filing compliance report, have filed statement of facts in terms of the aforesaid order and have submitted that the Law Department has referred the matter to the General Administration Department which has further referred the case to the Finance Department.
4. Learned Government Advocate submits that they have now filed Letters Patent Appeal (LPA) against the Judgment dated 04.09.2015, seeking condonation of delay of eight years which is yet to be condoned and the same is listed on 08.05.2024.
5. The Appeal is barred by time in which the delay is yet to be condoned and there is no stay of the Judgment and the respondents cannot use this as a plea for not complying the Judgment.
6. The respondents are directed to comply with the Judgment dated 04.09.2015 and file their compliance report within a period of four weeks in terms of order dated 01.12.2023, failing which as directed in terms of order dated 01.12.2023, respondents 1 and 2 shall appear in person on the next date of hearing.
7. List on 03.06.2024.
8. Copy of this order be provided to the learned counsel for the respondents under the seal and signature of the Bench Secretary.

(SINDHU SHARMA)
JUDGE

SRINAGAR
06.05.2024
"Imtiyaz"