

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

**Case No: CCP(D) No. 34/2024 in
WP(C) No.1546/2021**

c/w

CCP(D) No.36/2024

CCP(D) No. 48/2024

CCP(D) No. 62/2024

CCP(D) No. 63/2024

CCP(D) No. 55/2025

(of Jammu Wing)

a/w

CCP(D) No. 38/2024

in LPA No. 28/2023

c/w

CCP(D) 45/2024

CCP(D) 46/2024

CCP(D) 47/2024

CCP(D) 48/2024

CCP(D) 49/2024

CCP(D) 50/2024

CCP(D) 51/2024

CCP(D) 52/2024

CCP(D) 73/2024

(of Srinagar Wing)

Reserved on: 05.12.2025

Pronounced on: 06. 02.2026

Uploaded on:06. 02.2026

*Whether the operative part or full
Judgment is pronounced : **Full***

1. Bilal Ahmad Bhat and others
a/w connected matters **[of
Jammu Wing]**
2. Bilal Ahmad Khan and others
a/w connected matters **[of
Srinagar Wing]**

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

Through: Mr. Rahul Pant, Sr. Advocate with Mr. Druv
Pant, Advocate
Mr. Abhinav Sharma, Sr. Advocate with Mr.
Abhirash Sharma, Advocate

Mr. Shariq J. Reyaz, Advocate with
Mr. Nasheem Rashid, Advocate &
Ms. Safa, Advocate

(From Jammu Wing)

Mr. Faisal Qadri, Sr. Advocate with Ms. Mariya
Ashraf, Advocate in CCP(D) No.38/2024, Mr.
Z.A.Shah, Sr. Advocate with Mr. Hanan,
Advocate in CCP(D) No. 45/2024 to CCP(D)
No. 52/2024,
Mr. Jahangir Ganie, Sr. Advocate with
Mr. Qwais Majeed, Advocate in CCP(D)
No.73/2024.

(From Srinagar Wing)

v/s

Chandraker Bharti and others

.... Respondent(s)

Through: Ms. Monika Kohli, Sr. AAG

(From Jammu Wing)

Mr. Jahangeer Dar, GA

(From Srinagar Wing)

**CORAM: HON'BLE MR. JUSTICE RAJNESH OSWAL, JUDGE
HON'BLE MR. JUSTICE SANJAY DHAR, JUDGE.**

ORDER

PER OSWAL-J

1. These contempt petitions, instituted before both the Jammu and Srinagar Wings of this Court, allege willful non-compliance of the judgment dated 24.11.2023 by the respondents-contemnors. The said judgment, rendered by a Coordinate Bench, concluded a series of writ petitions and intra-court appeals.
2. These proceedings arise out of two distinct sets of contempt petitions. The first set involves 151 petitioners, originally parties to

LPASW No. 144/2017 and LPA Nos. 28/2023 to LPA No. 35/2023, who served as Wireless Assistants. The Court directed their regular appointment as Constables (Operator) against 170 vacant posts, with notional effect from their initial appointment dates, though without entitlement to back wages.

3. In the other set of contempt petitions, the petitioners were the private respondents in **WP(C) Nos. 1546/2021, 1548/2021, 1684/2021, 1585/2021, and 736/2023**. Their number has increased from 63 to 85. The respondents were directed to consider these petitioners for engagement as Wireless Assistants against 151 resultant vacant posts, subject to their suitability and their attainment of the prescribed benchmarks in the recruitment process pursuant to the Advertisement dated 09.03.2007.
4. At first instance, we shall consider the contempt petitions where the court directed the appointment of the petitioners as Wireless Assistants against the 151 resultant vacancies.
5. The essential facts for determining the controversy are that PHQ, J&K, advertised posts for Constable (Operator) on 09.03.2007. A select list of 925 candidates against 1,126 vacancies was subsequently issued on 01.08.2009 in terms of Order No. 2844 of 2009 based on district-level merit, leaving 201 reserved-category posts vacant. This process was assailed in multiple writ petitions, wherein the petitioners contended that selection ought to have been made on the basis of State-level merit. Consequently, on 09.05.2014, the learned Single Judge quashed the district-wise select list and ordered a fresh selection list based on State-level merit.

6. In compliance with the aforementioned judgment, a fresh select list of 1,052 candidates was issued based on State-level merit. As a consequence, 74 vacancies in the reserved category remained unfilled owing to non-availability of eligible candidates. The redrawing of the select list further resulted in the exclusion of 229 candidates who had earlier been selected but failed to secure a place upon application of the revised merit criteria. Out of the said 229 individuals, 40 had either left the service or had expired, while 38 came to be re-selected upon operation of the waiting list. Consequently, 151 candidates continued to remain ousted from service.
7. After dismissal of their initial writ petitions challenging the ouster, the 151 candidates carried the matter further by way of Letters Patent Appeals assailing the quashing of the district-level select list; however, the said appeals came to be dismissed on account of delay. Subsequently, the Government, by way of a one-time exception, engaged these individuals as Wireless Assistants in terms of Order dated 10.07.2018 bearing No. 891-Home of 2018. The engagement was on a consolidated monthly honorarium of ₹25,000, with an annual increment of 3%.
8. The engagement of the 151 candidates as Wireless Assistants was assailed before the learned Central Administrative Tribunal, Jammu, which set aside the order of engagement. The said order of the Tribunal was thereafter challenged by the ousted candidates by way of writ petitions before this Court. In the meantime, the 151 candidates also questioned the judgment of the Coordinate Bench by

filing Special Leave Petitions before the Hon'ble Supreme Court, seeking leave to challenge the dismissal of their Letters Patent Appeals. The Hon'ble Supreme Court allowed the SLPs, condoned the delay in filing the LPAs, and remanded the matter to this Court for fresh consideration on merits.

9. Thereafter, the Letters Patent Appeals arising out of the Single Judge's judgment quashing the selection, together with the writ petitions challenging the order passed by the Central Administrative Tribunal, Jammu, were heard together and disposed of by a Coordinate Bench of this Court vide judgment dated 24.11.2023.

The relevant operative portion thereof is extracted hereunder:-

“69. Accordingly, subject to our observations and findings as discussed, we are not interfering with the common judgment and order dated 09.05.2014 passed in SWP Nos. 1352 of 2010, 1802 of 2009, 1270 of 2009, 1527 of 2009, 1478 of 2009, 1177 of 2009, 1257 of 2009, 1527 of 2009, 998 of 2013, 777 of 2013, 778 of 2013 and 211 of 2017.

We, however, allow the WP(C)Nos. 1546 of 2021, 1548 of 2021, 1684 of 2021, 1585 of 2021 and 736 of 2023, whereby the judgment and order dated 28.07.2021 passed by the Ld. Central Administrative Tribunal (CAT), Jammu Bench in TA No.62/864/2021 has been challenged, by setting aside the same with the following directions:-

- (i) The appellants in LPASW No.144 of 2017, LPA 28 of 2023, LPA 29 of 2023, LPA 30 of 2023, LPA 31 of 2023, LPA 32 of 2023, LPA 33 of 2023, LPA 34 of 2023, LPA 35 of 2023, stated to be numbering 151(one fifty-one) and who are presently serving as Wireless Assistants, shall forthwith be appointed as Constables (Operator) on regular basis by adjusting against the 170 (one seventy) vacant posts of Constables (Operator) and their appointments shall be given effect notionally from the date they were initially appointed as Constables (Operator), without any back wages.
- (ii) The services of those persons who are already appointed as Constables (Operator) after the services of the appellants were terminated vide order dated 19.01.2017

will remain undisturbed and will be en-bloc senior to the appellants in the LPAs as the seniority of the Constables (Operator) should be based on the state level merit list which was prepared in terms of the direction issued by the Ld. Single Judge in the impugned judgment and order dated 09.05.2014 in SWP No. 1352 of 2010 and other writ petitions, as this would truly reflect the comparative merit of the candidates, irrespective of the fact that they may be appointed on different dates and in different districts.

(iii) In order to avoid any such similar future litigation, the official respondents should clarify the status/position of the “Constables (Operator) qua the “Constable” as provided in the J&K Police Rules, 1960.

(iv) The private respondents in WP(C) Nos. 1546 of 2021, 1548 of 2021, 1684 of 2021, 1585 of 2021 and 736 of 2023, who have continued to pursue their claim till now, stated to be numbering 63 (sixty-six), shall be appointed as Wireless Assistants against the resultant 151 (one fifty-one) vacant posts of Wireless Assistants, subject to their suitability and on attaining the benchmark in terms of the performance in the recruitment process pursuant to the advertisement dated 09.03.2007, as may be decided by the appointing authority, as observed above, within a period of one month from today.”

10. Pursuant to the directions contained in paragraph (iv) of the operative part of the judgment, the writ petitioners initially numbering 63 and later increased to 85 by virtue of subsequent orders were required to be appointed as Wireless Assistants against the 151 resultant vacancies. Such appointments were subject to their suitability and the attainment of prescribed performance benchmarks in the recruitment process, initiated pursuant to Advertisement dated 09.03.2007, as determined by the appointing authority.

11. The respondents have filed a statement of facts asserting that in compliance with the directions contained in paragraph (iv) of the judgment, the claims of all 85 writ petitioners were duly considered. It is, however, stated that the petitioners were found unsuitable for appointment as Wireless Assistants for various reasons.

Consequently, vide PHQ Order No. 4166 of 2025 dated 16.10.2025, the claims of the petitioners were rejected as being devoid of merit.

12. Learned Senior Counsel for the petitioners submits that although the Coordinate Bench, in paragraph 68 of the judgment *ibid*, recorded that the petitioners did not figure either in the district-level or the State-level merit lists, it nevertheless issued a direction to the respondents to consider their cases. It was further contended that had the Court intended a strict application of the State-level merit benchmark, there would have been no occasion to direct consideration of the petitioners' cases, particularly when they admittedly did not figure in the merit lists prepared under the original selection process.

13. *Per contra*, learned Senior A.A.G., Mrs. Monika Kohli, submitted that all 85 petitioners belonged either to the Open Merit (OM) or Resident of Backward Area (RBA) categories and that none of them had secured the requisite cut-off marks. It was stated by her that the prescribed cut-off was 81 marks for the OM category and 62 marks for the RBA category. She further contended that apart from these 85 petitioners, there are as many as 1,075 non-selected candidates in the Open Merit category who possess higher merit than Shri Rub Nawaz (Roll No. 2725). Likewise, in the RBA category, 116 candidates who also did not figure in the final select list have higher merit than Shri Mohd. Shareef Mir (Roll No. 2736).

14. Having heard learned counsel for the parties at length, we have minutely examined the material on record.

15. The primary contention of the 85 petitioners is that they are entitled to appointment as Wireless Assistants against the 151 available vacancies, subject to their fulfilling the suitability and performance benchmarks prescribed under the Advertisement dated 09.03.2007. It is contended that had the Court intended a strict application of the State-level merit benchmark, there would have been no occasion for the Coordinate Bench to direct consideration of the original 63 candidates, who admittedly did not figure either in the district-level or the State-level merit lists. The petitioners further submit that although such candidates would not ordinarily be eligible, a conscious and specific exception was carved out by the Coordinate Bench in view of the availability of sufficient vacancies and the fact that these candidates had litigated their grievance before the Central Administrative Tribunal.

16. The respondents rely exclusively upon direction (iv) of the judgment to contend that the expression 'benchmark in terms of performance' necessarily refers to the merit list prepared on a State-level basis.

17. We are conscious of the restricted scope of our contempt jurisdiction. The Court is required to remain strictly within the 'four corners' of the judgment and cannot expand or diminish its mandate through interpretation. Moreover, the operative part of the judgment must not be read in isolation; it must be construed as a whole to ensure its true intent and purpose are not defeated. Compliance must be assessed by reading the judgment in its entirety, rather than through a fragmented or isolated approach.

18. It would, therefore, be apposite to extract paragraph 68 of the judgment, which reads as under:-

“68. We have been informed that the number of private respondents/original applicants in the batch of the applications challenging the appointment of the appellants as Wireless Assistants, which were decided by the Ld. Administrative Tribunal petitions, who are pursuing their cause is 63. They were also candidates who had taken part in the recruitment process conducted in terms of the advertisement issued on 09.03.2007 but could not make it either in the merit list prepared at the district level or state level. Though, under normal circumstances, they cannot be considered for appointment in terms of merit, and they had not served in any capacity earlier, as the appellants, since, there are sufficient vacancies in the post of Wireless Assistants, these 63 candidates can be considered for appointment as they had successfully pursued their claim before the Ld. CAT. We are also of the view as also contended by them that since they had also taken part in the recruitment process, their case can be considered. We, accordingly, are of the view that their cases can be considered for engagement as Wireless Assistants against the existing vacancies of Wireless Assistants, if they are found to be fulfilling the minimum standard required or the benchmark for appointment and if they so given appointment, their services shall stand regularized on completion of 10 years as per the condition stipulated at the time of creation of the 151 posts of Wireless Assistants.”

19. In paragraph 68 of the judgment, the Coordinate Bench recorded that the petitioners, initially numbering 63 and subsequently increased to 85, had participated in the recruitment process pursuant to the advertisement dated 09.03.2007 but had failed to secure a place either in the district-level or the State-level merit lists. The Bench observed that although they would not ordinarily be eligible for appointment on the basis of merit, particularly as they had no prior service unlike the other ousted candidates; they nevertheless deserved consideration in view of the fact that they had successfully litigated their claims before the learned Central Administrative Tribunal.

20.The Coordinate Bench thereafter directed the respondents to consider the petitioners for engagement as Wireless Assistants against the available vacancies, subject to their satisfying the minimum standards or benchmarks prescribed for such appointment. The Court further observed that, upon their appointment, the services of the petitioners would be liable to be regularized on completion of ten years, in accordance with the terms and conditions stipulated at the time the 151 posts of Wireless Assistants were created. The judgment has attained finality, inasmuch as the Special Leave Petition preferred against it was dismissed. The Review Petition filed by the respondents seeking review of the dismissal of the SLP was also rejected, thereby rendering the original mandate absolute.

21.The direction (iv) contained in para No.69 of the judgment dated 24.11.2023 is required to be read in conjunction with paragraph 68 thereof, the findings recorded therein constituting the very substratum of the final direction. The respondents were, thus, obligated to assess the suitability of the petitioners on the basis of the prescribed benchmarks and to engage them if they satisfied the minimum standards required for appointment. It is evident that the expressions ‘minimum standard’ or ‘benchmark’ denote the threshold of suitability for the post and cannot be equated with comparative merit in the overall recruitment process.

22.Consequently, while failure to satisfy the basic eligibility conditions or the prescribed minimum standards may justify a refusal to engage, mere non-placement in the merit lists cannot, by itself,

operate to disentitle the petitioners. The Coordinate Bench was fully conscious of the merit position of the petitioners and, notwithstanding the same, issued a specific direction for their engagement as Wireless Assistants, subject only to their suitability. The Coordinate Bench, with full knowledge that the petitioners did not figure either in the State-wise or district-wise merit lists, consciously directed the respondents to consider their claims for engagement. The matter has since attained finality. By once again raising the issue of the petitioners' lack of merit, the respondents have, in effect, sought to reopen an issue that already stands adjudicated by the Court. Such a course of action is legally impermissible and amounts to an attempt to circumvent the judicial mandate.

23. The contention that other candidates with higher merit might claim similar rights is misconceived. The directions of the Coordinate Bench were restricted to those specific candidates who were pursuing their claims in court. This judicial remedy is exclusive to the petitioners and cannot be extended to individuals who were not parties to the litigation before the learned Tribunal.

24. We find that Order No. 4166 of 2025 dated 16.10.2025 is not in consonance with the directions issued in the judgment dated 24.11.2023, insofar as the first set of contempt petitions is concerned. Consequently, the statement of facts filed by the respondents, to the extent it is founded upon the said order dated 16.10.2025, is hereby **rejected**.

25. With regard to the second set of contempt petitions, the compliance report filed by respondent No. 1 indicates that the Home Department examined the proposal forwarded by PHQ, J&K, vide communication dated 22.09.2025. Taking note of the binding nature of the judgment and the practical constraint arising from the non-availability of substantive vacancies, the Home Department found the creation of 145 supernumerary posts of Constables (Operator) to be legally permissible and administratively feasible. This course of action ensures compliance with the judgment without disturbing the existing cadre strength or the appointments already made. Consequently, the proposal was forwarded to the Finance Department on 09.10.2025 seeking concurrence for creation of the said posts with retrospective effect from 01.07.2010.

26. Vide order dated 14.11.2025, this Court had taken note of the submissions of Mr. Abhinav Sharma, learned Senior Counsel appearing for the petitioners, to the effect that appointment orders in respect of the petitioners have been issued appointing them as Constables (Operator), however, they have been permitted to join only as Wireless Assistants. Unless the supernumerary posts of Constables (Operator) are not created and the petitioners are given notional retrospective effect to their appointment as Constables (Operator) in terms of direction No.(i) of the LPA Bench, it cannot be stated that the said direction stands complied with.

27. In view of the foregoing discussion, we are of the considered view that judgment dated 24.11.2023 has not been complied in its entirety in respect of the remaining petitioners as well.

28. Viewed thus, the respondents are directed to file a fresh statement of facts, strictly in accordance with the basic judgment dated 24.11.2023, on or before the next date of hearing. In the event of failure to do so, the respondents shall remain personally present before this Court for further proceedings.
29. List all these contempt petitions again on 27.03.2026.
30. Registry to place copy of this order on each batch of the contempt petitions.

(Sanjay Dhar)
Judge

(Rajnish Oswal)
Judge

Jammu
06 .02.2026
Madan Verma-Secy

Whether order is speaking? Yes/No.
Whether order is reportable? Yes/No.

