

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

CPSW No. 67/2017 in
SWP No. 1526/2015
CM No. 4174/2025

Shanker Dass & Ors.

.....Petitioner(s)

Through: Mr. Ajay Bakshi, Advocate.

Vs

Sanjeev Verma, Adm. Secy. PHE

..Respondent(s)

Through: Ms. Nazia Fazal, Advocate vice
Ms. Monika Kohli, Sr. AAG.

Coram: HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE

ORDER
(05.05.2026)

1. Three petitioners came forward with writ petition **SWP No. 1526/2015** and availed its disposal at its very inception stage in terms of an order dated **22.05.2015** when it came to be stated that the petitioners would feel satisfied with disposal accorded to the writ petition with a direction to the writ respondents to accord consideration to the petitioners' case and claim in light of the judgment rendered by this Court in writ petition SWP No. **284/2001**.

2. This Court, in its order dated **22.05.2015**, in disposing of the petitioners' said writ petition directed the writ respondents to accord consideration to the petitioners' case in light of the judgments passed by this Court in SWP Nos. **284/2001 & 1397/2011** and if the petitioners were to be found similarly situated with the petitioners of the aforesaid two writ petitions and also having regard to the rules applicable at the relevant times, then

the writ respondents were to accord consideration at an earliest preferably within a period of eight weeks' upon production of a copy of the order dated **22.05.2015** by the petitioners.

3. It is this one and half page order of this Court which has engaged this Court in the present contempt petition right from **07.02.2017** and seeing no way out literally creating a maize and haze situation for this Court in view of the response filed, affidavit filed, reply to the counter affidavit filed, then compliance report filed on three occasions.

4. Before coming forward with the present contempt petition, the petitioners had preferred a contempt petition **Contempt (SWP) No. 482/2015** in which during the course of its pendency, the petitioners had come forward with an application **MP No. 01/2016** for the purpose of seeking impleadment of the then incumbent Administrative Secretary, Irrigation and Flood Control Department J&K who was Mr. Sanjeev Verma as a contemnor in the contempt petition but simultaneously solicited the disposal of the contempt petition with a direction to the Administrative Secretary to take appropriate action in furtherance of the communication dated **17.08.2015** of the Chief Engineer, Irrigation & Flood Control Department, Jammu.

5. The communication referred to in the order dated **08.08.2016** of this Court in the **Contempt (SWP) No. 482/2015** is No. **IFC/Legal/J/105/9885** which is from the end of the Chief

Engineer, Irrigation & Flood Control Department, Jammu to the Secretary to Government, PHE/I&FC Department, Civil Secretariat, Srinagar.

6. The subject of said communication is SWP No. **1526/2015** titled "**Shanker Dass & Ors. Vs. State of J&K & Ors**". wherein the Chief Engineer above referred is on record to say that three petitioners came to be engaged as Daily Wagers w.e.f. **01.12.1982, 01.03.1980 & 15.09.1984** respectively to be regularized as Helpers from the respective dates on which basis the petitioners were claiming the benefit of pay scale of **Rs. 410-700** (old) as against the pay scale granted to them of **Rs. 345/460** at par with the Helpers of the several Departments.

7. The Chief Engineer further mentions in his said communication that the Department had given the benefit of the revised pay scale of **Rs. 410-700** to **Tarsem Lal, Sham Lal, Babu Ram, Jagat Ram and Jaswant Singh** at par with petitioner of SWP No. **428/1987** in compliance to Hon'ble High Court's direction passed in **SWP No. 284/2001** and also of the petitioners in SWP No. **1397/2011** by an order No. **478-E of 2014-15** dated **13.02.2015** with all the beneficiaries being senior to the three petitioners herein.

8. The parting line of the communication is that necessary instructions be given as the petitioners are similarly situated to the parties as referred in the communication.

9. This communication was addressed for input from the Government.

10. By virtue of a Government Order No. **192-PW(Hyd) of 2019 dated 08.05.2019** passed by the Commissioner/Secretary to Government, PHE/I&FC Department, the Government came to take a position that the beneficiaries of writ petitions **SWP Nos. 428/1987, 284/2001 and 1397/2011** have been granted higher pay scale without approval from the competent authority and, therefore, ordered that the Chief Engineer I&FC shall conduct an in-depth enquiry and fix the responsibilities against the officers/officials within a period of one month.

11. In the name of the compliance to the original writ court order passed in reference to the present petitioners' writ petition, the Government Order No. **192-PW(Hyd) of 2019 dated 08.05.2019** perhaps came to be the last word and, thereafter whatsoever proceedings are taking place in the contempt petition is only to explain and sustain said Government Order.

12. This Court is very uncomfortable with the tone and tenor of the aforesaid Government Order for the following reasons:

“a. The disposal of the petitioners' writ petition had taken place by reference to the judgment passed by this Court in SWP Nos. **284/2001 & 1397/2011**.

b. Towards compliance of the judgment so passed in the aforesaid writ petitions, the Chief Engineer, Irrigation and Flood Control Department, Jammu is on record to say that the compliance came to be carried out vide Government Order No. **478-E of 2014-15 dated 13.02.2015.**

13. In order to come out of effect and constraint of aforesaid Government Order No. **478-E of 2014-15 dated 13.02.2015** issued towards compliance of the writ court judgments in two writ petitions SWP Nos. **284/2001 & 1397/2011**, the Commissioner/Secretary to the Government, PHE/I&FC Department declared the benefits so granted to the beneficiaries as without statutory provision and, therefore, the same is not to constitute as a precedent for placing the petitioners herein in the pay scale on the basis of their claim of parity.

14. If the benefit would have been granted to the similarly situated persons as cited by the petitioners at the end of the Government itself, then the Government could have been heard to say that it was a wrong precedent which cannot be cited and quoted for the sake of claiming equality under article 14 of the Constitution of India and on that account the writ court seized of the petitioners' writ petition could have been in a position to evaluate said revised stand of the Government vis-à-vis its own order giving benefit to the

beneficiaries in parity to whom the petitioners came forward with the writ petition.

15. The situation in the case is otherwise that pursuant to the court judgment, the Government Order came to be issued and, therefore, the Commissioner/Secretary to the Government, PHE I&FC Department, when read and understood between the lines in terms of Government order No. **PW/PHEJ/90/2015-WP** of **08.05.2019** is meaning to say that the disposal of writ petitions SWP Nos. **284/2001 & 1397/2011** was setting a wrong precedent as the beneficiaries of the judgments were without reference to the statutory provisions and, therefore, the High Court's judgment is not going to be a precedent for the benefit of the petitioners.

16. It is here where this Court finds the Government on the wrong foot in the context of the compliance to the present contempt petition.

17. This Court, in terms of an order dated **27.02.2026**, has already registered its disapproval to the manner in which the compliance of the writ court direction is being reported from the end of the respondents/contemnors.

18. This Court is not in a position to proceed in the contempt petition against the author of the Government Order who at the relevant point of time was Mr. Ajit Kumar Sahu serving as Commissioner/Secretary to the Government, Irrigation & Flood

Control Department and the petitioners are to be blamed for letting said contemnor go off the hook.

19. This Court makes it clear to the present incumbent serving as Commissioner/Secretary, Irrigation and Flood Control Department, Government of UT of J&K to come to reality check and do course correction and come up with the compliance in present case on the similar lines as came to be accorded to the petitioners of SWP No. **284/2001 & 1397/2011** without any iota of deviation or difference making, failing which on the next date of hearing, this Court would be constrained to frame Rules/Robkar against the present Incumbent serving as Commissioner/Secretary, Irrigation and Flood Control Department, Government of UT of J&K.

20. List this case on **03.06.2026**.

21. A copy of this order be provided to Mrs. Monika Kohli, learned Sr. AAG for notice and compliance at the end of the respondents.

(RAHUL BHARTI)
JUDGE

JAMMU
05.05.2026
Shivalee