Sr. No.2

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

(THROUGH VIRTUAL MODE)

LPA 259/2024 IN[OWP 1649/2017]

UT OF J AND K TH COMMISSIONER SECRETARY REVENUE RELIEF AND REHABILITATION AND ANOTHER …Petitioner(s)/appellant(s)

Through: Mr. Raman Sharma, AAG with
Ms. Saliqa Sheikh, Assisting Counsel

Vs.

SHER SINGH AND OTHERS (SENIOR CITIZEN) ...Respondent(s)

Through: Mr. R.K.S. Thakur, Advocate with
Ms. Anandita Thakur, Advocate

CORAM:

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE RAJESH SEKHRI, JUDGE

O R D E R
12.10.2026

1. The brief facts mooted by this Court are that the appellant-State had a policy of providing cash compensation and food rations to the migrants who were displaced due to militancy in the appellant-State. The bone of contention is that the migrants from Doda district, who were admittedly given food rations, were not given cash compensation at par with Kashmiri migrants.
2. The welfare scheme of the appellant-State regarding ration and cash assistance was challenged by the Zila Doda Migrants Welfare Committee seeking the same status for migrants of Doda district as for those of Kashmir by filing OWP No. 657/1996, in which certain orders

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were passed on 30.08.1996. Admittedly, some of the private respondents, being verified as migrants, received free ration w.e.f. 05.08.1999 as per the sanctioned scheme and the orders of the Hon'ble Court.

3. The counsel for the appellant-State submits that thereafter there was litigation which culminated in OWP No. 948/2001, disposed of by the learned Single Judge on 29.11.2005, whereby the appellants were directed to treat the petitioners on par with the migrants of Kashmir Valley in respect of relief and rehabilitation after verifying their credentials. The judgment stood affirmed by the Hon'ble Division Bench of this Court vide order dated 19.03.2008 and attained finality.
4. The counsel for the appellants submits that while abiding by the judgment and in pursuance thereof, the appellants took a policy decision in the year 2015 vide Government Order dated 30.12.2015, sanctioning the payment of cash assistance to the registered migrants of the hilly areas of Jammu region on par with Kashmiri migrants as per the scale given.
5. The counsel for the appellants further submits that the policy depended on varying factors and, therefore, at best, the appellants would be required to pay as per the policy of the appellants.
6. He further submitted that the respondents were sleeping over their rights and approached this Court only in the year 2017; thus, the sanctioning of their cash assistance w.e.f. 28.07.2021 was justified because this was done after due verification of those persons. The counsel submitted that it is only from the date of verification and

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registration that the cash assistance under the scheme has been sanctioned, and thus, although no cause of action survives, at best, the respondents could be given relief from the time the policy came into effect.

7. The counsel for the respondents, however, submitted that migrants are poor people who were not only displaced but also subjected to huge psychological and financial trauma. Thus, while the appellant-State was benevolent to the extent of extending food grain assistance, cash assistance from 1999 on par with other migrants of Kashmir ought to have been extended to the present respondents.
8. The counsel for the respondents submitted that it has been duly verified that they were migrants, as earlier orders of the State demarcated them for the benefit in question in the year 1999 itself to the extent of food grains. The counsel further submits that though the cause of action had been agitated since 1996 itself before this Court, the subsequent litigation culminated in a judicial mandate in OWP No. 948/2001 decided on 29.11.2005, whereby the appellants were required to grant all consequential benefits of cash assistance forthwith.
9. This Court, after hearing the learned counsel for the parties, finds that the appellants decided to pay the migrants of the then State of Jammu and Kashmir, but restricted the Doda district migrants to food assistance, whereas the Kashmir migrants were given food assistance as well as cash assistance. This Court finds that this proposition was adjudicated through various proceedings, which culminated in a decisive order on 29.11.2005.The operative portion of the order passed

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by the learned Single Judge and the relevant paragraphs thereof are as follows:

> ***"Adverting to the main controversy traceable to the denial of similar treatment, the least that is expected of the respondents is to indicate the rational principle upon which they have chosen to treat the petitioners differently vis-à-vis the migrants of Kashmir Valley, but significantly, even an in-depth examination of the counter does not indicate any cause, much less a tenable one. One fails to comprehend as to how, in the absence of a reasonable classification, the petitioners and the migrants of Kashmir Valley have been treated diversely when the fact of the matter is that bullets fired, be it in the Valley or in Doda/Poonch, have an equally ruinous effect, causing a similar degree of harm, injury, misery, mental suffering, and distress. More so, terrorist activities cannot be said to be disastrous in Kashmir Valley and life-saving in Doda/Poonch, and there cannot be two opinions that the fallout of cruel and barbaric acts is equally grave; therefore, it is absurd to deny the benefit of the policy/scheme to the petitioners. On top of all, discrimination on the basis of place of birth/residence violates the mandate of Articles 14 and 15 of the Constitution of India, which envisage equal protection before the law and prohibition against discrimination of this kind.***
>
> ***In the aforementioned backdrop, the writ petitions succeed and are allowed with a direction to the Respondent-State to treat the petitioners at par with the migrants of Kashmir Valley in respect of relief and rehabilitation. Nonetheless, it shall be obligatory upon the functionaries of the Respondent-State to examine each case on its own merits to determine the entitlement of each individual, lest undesirable persons succeed in availing of the benefit at the cost of the public exchequer. As a corollary, the benefit of the policy/scheme in favour of the petitioners—migrants of Districts Doda and Poonch—shall follow forthwith unless scrutiny carried out as indicated above disentitles them.***
>
> ***The writ petitions are disposed of along with connected CMPs without any order as to costs. Consequently, contempt petitions having become infructuous are dismissed."***

10. This Court also takes note of the fact that the same order was affirmed by the Hon'ble Division Bench of this Court vide judgment dated 19.03.2008, against which no appeal was filed in the Hon'ble Apex Court. The relevant part of the Division Bench Judgment is reproduced herein:

> ***"Mr. Salathia next contended that the migrants of District Doda and Poonch cannot be treated at par with the migrants of Kashmir province. We are not in agreement with Mr. Salathia. It is not legally***

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permissible for the State to treat differently the migrants of Doda, Poonch, and Kashmir. If the State has formulated a policy in discharge of its constitutional obligation to protect the life and property of its subjects, coming to the rescue of those who, in the face of fear of bullets of militants, have left their houses for taking shelter in safe places by providing relief for their bare survival, it cannot validly draw a distinction between migrants of Jammu province and migrants of Kashmir province. Both need the same assistance equally.

We do not, therefore, find any reason to interfere with the well-reasoned judgment of the learned Single Judge.

Therefore, there is no merit in these appeals, and as such, the same are dismissed along with connected CMPs."

11. Thus, we see a clear mandate given by this Court by virtue of its precedent law, which was binding upon the appellant-State, which chose not to contest those orders further. The spirit of the orders and judgments whereby a declaration was made by this Court is that both sets of migrants—that is, those from Kashmir and Jammu—have to be treated on par. The order was categorical in drawing the conclusion that, as a corollary, the benefit of the policy seeking food grain and cash assistance in favour of the migrants of Doda and Poonch districts shall follow forthwith.

12. The counsel for the appellants is unable to show how this precedent law would not operate in an absolute sense once it has attained finality and has not been challenged before the Hon'ble Apex Court. Once the precedent law has attained finality and the appellant-State itself adhered to the policy of 2015 by registering the present respondents as migrants and granting them all the benefits of the scheme of cash assistance and food ration.

13. The question of the respondents not agitating the matter in time does not arise because, in 1996, the General Association of the Doda

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Migrants had already begun challenging the discrimination in the policy; thus, the cause of action was being pursued and was before the appellant at all times, and finally culminated in the Single Bench judgment dated 29.11.2005 and the Division Bench judgment dated 19.03.2008.

14. Once the binding impact of the judgment is established, this Court cannot have a second opinion regarding the mandate already drawn by this Hon'ble Court in its precedent law. Thus, from the date of the Single Bench judgment, the benefits have to accrue to the persons concerned.

15. The analogy drawn by the Hon'ble Single Bench of this Court is absolutely in accordance with the law. However, without interfering with the impugned order on merits, we substitute the part which requires the sanction and release of monthly cash assistance in favour of respondent Nos. 2, 3, 11, and 12 w.e.f. August 1999, and for the rest of the petitioners-respondents herein w.e.f. the date on which the Hon'ble Single Bench order granting equal status to both sets of migrants came into currency that is 29.11.2005.

16. The appeal is accordingly disposed of.

(RAJESH SEKHRI)
JUDGE

(DR. PUSHPENDRA SINGH BHATI)
CHIEF JUSTICE

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