

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

**LPA No. 156/2023 in  
SWP No. 886/2016**

Reserved On: 28<sup>th</sup> of August, 2025  
Pronounced On: 9<sup>th</sup> of September, 2025

**Syed Muzaffar Hussain, Age: 76 Years**  
S/O Syed Hussain  
R/O Sazgaripora, Hawal, Srinagar.

**... Appellant(s)**

**Through: -**

Mr Z. A. Qurashi, Senior Advocate with  
Mr Anurag Verma, Advocate.

**V/s**

1. **J&K State Road Transport Corporation,**  
Through its Managing Director,  
Maulana Azad Road, Srinagar/ Jammu.
2. Joint Managing Director,  
J&K State Road Transport Corporation,  
Maulana Azad Road, Srinagar/ Jammu.
3. Accountant General (A&E),  
Jammu & Kashmir/ Senior Accounts Officer (PNR-III).

**... Respondent(s)**

**Through: -**

Mr Altaf Haqani, Senior Advocate with  
Mr Asif Wani, Advocate for R-1 & 2; and  
Ms Rahella Khan, Assisting Counsel for R-3.

**CORAM:**

**Hon'ble Ms Justice Sindhu Sharma, Judge**  
**Hon'ble Mr Justice Shahzad Azeem, Judge**

**(JUDGMENT)**

**Shahzad Azeem-J:**

01. By virtue of this Letters Patent Appeal, challenge is sought to be thrown to the Judgment dated May 18, 2023 passed by the learned Single

Judge [“the Writ Court”] in SWP No. 886/2016 titled ‘**Syed Muzaffar Hussain v. J&K State Road Transport Corporation and Ors.**’, whereby the Writ Court held that the claim of the Petitioner [hereinafter referred to as “Appellant”] to the consequential benefits, in particular to promotion, is devoid of any merit and, therefore, rejected, however, he was held entitled to the CPF amount standing in his account.

**FACTS:**

02. For the sake of convenience and brevity, we deem it proper to set out relevant facts for the proper adjudication of the instant appeal.

03. Appellant was an employee of the J&K State Road Transport Corporation [“the Corporation”]. He retired from service as Depot Manager on April 30, 2004. While he was in service, despite of having proved against him allegation of embezzlement of the Corporation money to the tune of Rs.5,33,624/-, but on his making mercy appeal, the Corporation settled the period of suspension towards duty on humanitarian grounds, so that the consequential benefits only to the extent of monetary benefits are released in his favour. This was not something done unilaterally by the Corporation, but, during the course of first round of litigation in SWP No. 1141/2006, which came to be disposed of vide Order dated May 05, 2008, both the parties agreed to it. It is this Order which forms the bedrock of all the subsequent litigation indulged in by the Appellant.

04. Be it noted that pursuant to Order dated February 12, 2008 passed in SWP No. 1141/2006, a committee was constituted by the Corporation, who had submitted its report.

05. Therefore, in order to capture the gamut of whole controversy in real perspective, the Order dated **May 05, 2008** assumes significance and same is reproduced hereinbelow, *verbatim*:

**“On 12.02.2008 respondents were directed to constitute a Committee of two senior officers to look into the matter. In compliance to the directions a Committee of G.M (OPS), JK SRTC, Srinagar and DGM (Admn), JK SRTC, Srinagar has been constituted, who have looked into the matter and have submitted their report. Operative portion of the report reads as under:**

**‘a) That there is not any doubt about the petitioner having embezzled the Corporation revenue to the tune of Rs. 5,33,624/-. The petitioner has not challenged this any stage during the pendency of enquiry or thereafter but has submitted mercy appeals for waiving off interest component of the order under which the embezzled amount was ordered to be recovered from him and as the misconduct stands established against him, the entire period of suspension cannot be treated as on duty. But since the period of suspension has prolonged for 698 days in official procedure for which Petitioner cannot be blamed and as this prolongation in suspension period has resulted in treated the period beyond 10 months (the limit up to which earned leave accumulates in favour of an employee as per leave rules of J&K CSR) as dies non. Since this has affected the petitioner’s pension, the Committee on humanitarian grounds recommends treating of the Dies-non period from 10.10.2001 to 20.11.2002 as on duty as the Petitioner is said to have all along his suspension period remained present at all place of attachment.**

**b) Secondly treating the long pending un-decided suspension period from 10.08.1988 to 18.04.1990 after his retirement does not look proper and in consonance with rules. Thus, it becomes harsh for the petitioner as this period of dies-non has not been counted for fixation of his Pension and has thus adversely affected his pensionary period from 10.08.1988 to 18.04.1990 be treated as on leave whatever kind be due to him...’**

**Both the learned counsels state that the recommendations of the Committee are acceptable to the parties.**

**Learned counsel for the petitioner submits that after accepting the report of the Committee the respondents should release in favour of the petitioner all the consequential benefits which flow from the recommendations after settling period of suspension of the petitioner as recommended by the Committee.**

**Mr. Haqani, learned counsel for the respondent-SRTC states that the respondents would implement the recommendations of the Committee and will give consequential benefits which may flow from it.**

**On consideration of the matter the writ petition is disposed of with the direction that the respondents shall implement the recommendations of the Committee as contained in the report and release all consequential benefits which accrue to the petitioner on the basis of and as a result of such recommendations. Respondents are directed to issue appropriate orders in favour of the petitioner after settling his suspension period as recommended by the Committee within four weeks.**

**Disposed of.”**

06. All in all, purely on sympathetic and humanitarian grounds, the period of suspension of the Appellant was regulated, so that he may get all the post-retiral monetary benefits and also to the same, parties had readily consented.

07. It appears that the Respondents did not obey the Order dated May 05, 2008 passed in SWP No. 1141/2006, compelling the Appellant to file a Contempt Petition, being Contempt No. 302/2008.

08. In the said Contempt Petition, the Corporation filed the Statement of Facts, wherein it was submitted that the period of suspension has been treated as duty and also further submitted that the Appellant would be entitled to remuneration as admissible under rules. The Corporation also apprised the Court that against the embezzled amount of Rs. 5,33,624/-, the Appellant had voluntarily deposited an amount of Rs. 1,79,000/-, leaving the balance amount of Rs. 3,54,624/- as outstanding which was agreed to be recovered from his gratuity, arrears, subsistence allowance, salary, etc.

09. However, on considering the stand of the Respondents, the Court in the contempt proceedings, vide its Order dated May 28, 2010 directed the Respondents to re-examine the case of the Appellant and comply with the direction of the Court dated May 05, 2008 passed in SWP No. 1141/2006. Since, this Order is of great significance as it appears that it was the Order which provided impetus to the litigation upto this stage, therefore, we deem it proper to take note of Order dated May 28, 2010 passed in Contempt Petition No. 302/2008, relevant part of which reads, thus:

**“From the statement of fact, it is not clear that consequential benefits have been given to the petitioner. Consequential benefits are not confined to make payment of pay for the period treated as duty and leave salary for the period treated as leave but other benefits which flow from the settlement of petitioner’s case, to which petitioner as an employee of the Corporation was entitled.**

...

**In these circumstances I find that before proceeding further in case to initiate proceedings against the respondents, the respondents may re-examine the case and comply with the directions of the Court dated 5.5.2008. While doing so the petitioner may be associated with the process. He shall be at liberty to place before the respondents details of the consequential benefits which flow in his favor from the order.”**

10. It is important to note that it was for the first time, while disposing of the Contempt Petition, the Court made an observation that the consequential benefits are not confined to make payment of the salary for the period treated as duty and leave, but they extend to other benefits which flow from the settlement of the case of the Appellant to which he, as an employee of the Corporation, was entitled to and, as such, supplemented and widened the scope of order subject matter of the Contempt Petition.

11. The Appellant was again made to knock at the doors of the Court by filing another Contempt Petition, being Contempt Petition No. 243/2010, as the Respondents failed to re-examine the matter in terms of Order dated May 28, 2010 passed in Contempt Petition No. 302/2008.

12. The subsequent Contempt Petition No. 243/2010 also came to be disposed of vide Order dated August 25, 2015 with a direction to the Respondents to issue orders in compliance of Order dated May 28, 2010.

13. In compliance with the direction passed by the Court in SWP No. 1141/2006 dated May 05, 2008, followed by the orders of the Court dated May 28, 2010 and August 25, 2015 passed in Contempt Petitions No. 302/2008 and 243/2010, respectively, the Corporation had re-examined the subject matter under consideration and issued Order No. JKSRTC/Ec-III/651 dated October 14, 2015.

14. The Appellant did not reconcile with the consideration Order dated October 14, 2015 and, being indignant thereof, assailed it by way of SWP No. 886/2016, which came to be disposed of vide impugned Judgment dated May 18, 2023, whereby the claim of the Appellant for promotion came to be rejected by the Writ Court, however, a direction was issued to the Corporation to immediately and forthwith communicate with the Accountant General and furnish the details of the CPF account of the Appellant, so that

the Accountant General shall release the payment of CPF due to the Appellant under rules.

**CHALLENGE:**

15. Now, coming to the grounds of challenge to the impugned Judgment dated May 18, 2023, in essence, the attempt of the Appellant, all along, after the passing of the Order dated May 05, 2008 in SWP No. 1141/2006 appears to be to get the promotion to the post of Traffic Manager from the date one Mr Mohammad Altaf Kawoosa was promoted and further to the post of Deputy Manager, with all consequential benefits. To cement his claim for promotion, it is seen from the record that the very foundation of his claim is raised on the basis of Order dated May 28, 2010 passed in Contempt Petition No. 302/2008 and, on the same lines, the Appellant has also thrown challenge to the Judgment impugned in this appeal.

16. According to the Appellant, the Court, vide Order dated May 28, 2010 passed in Contempt Petition No. 302/2008, clarified the meaning of words “**consequential benefits**” as not confined to retiral benefits, including salary for the period of suspension; treating the suspension period as leave/duty as has been held by the Writ Court, but the observation of the Writ Court that the Appellant is only entitled to the retiral benefits, including salary, amounts to amendment of Judgment passed by the Court dated May 05, 2008 read with Order dated May 28, 2010, which the Writ Court had no jurisdiction.

17. Therefore, the contention of the Appellant is that the initial Order dated May 05, 2008 contains the words “consequential benefits” and, as same was clarified by the Court vide Order dated May 28, 2010, the Appellant was entitled to the benefit of promotion, as such, the Writ Court misconstrued the directions of the Court.

18. In addition, Mr Z. A. Qurashi, the learned Senior Counsel appearing for the Appellant, during the course of the arguments, raised the point that, vide Order dated October 14, 2015, the Respondents have wrongly rejected the claim of the Appellant for promotion on the ground that the Appellant never raised this issue, whereas, he filed number of representations and also a specific prayer regarding grant of promotion to the Appellant to the post of Traffic Manager and Deputy Manager with all consequential benefits was raised in SWP No. 886/2016, but same has not been considered by the Writ Court.

19. It has been further argued that the Writ Court did not take into account the specific averments contained in the Writ Petition, but passed the impugned Judgment exceeding the pleadings and the averments contained in the Petition. According to the learned Senior Counsel, once the sealed cover procedure was adopted, in that event, the Appellant has the right of consideration, but same has been denied by the Respondents and also the Writ Court did not deal with the issue as per law.

20. *Per contra*, Mr Altaf Haqani, the learned Senior Counsel, appearing for the Respondents-Corporation, submits that despite the embezzlement of huge amount had been proved against the Appellant, however, in view of his mercy appeal, no penalty was imposed, but, same does not mean that the Appellant is entitled to all the consequential benefits in view of Order dated May 05, 2008, whereby the recommendations of the Committee came to be accepted by both the parties, wherein the consequential benefits were only restricted to the post-retiral monetary benefits, therefore, the Appellant cannot be allowed to take a u-turn and to say that he is entitled to all the benefits including the promotion.

21. The learned Senior Counsel for the Respondents further submits that the Writ Court has touched upon all the aspects of the matter, factual as

well as legal, and, after holding threadbare discussion, a sound and reasoned Judgment came to be passed, therefore, no fault can be found with the same. Accordingly, he prayed that the appeal be dismissed.

**ANALYSIS:**

22. After hearing the parties and going through the chequered history of the case, in our opinion, the controversy boils down to the point, “as to whether the basic Order dated May 05, 2008 passed by the Writ Court in SWP No. 1141/2006 can be stretched to the extent that words ‘**consequential benefits**’ used therein to mean accord of promotion also”.

23. Being alive to the issue that the initial grievance of the Appellant, as projected in SWP No. 1141/2006, came to be settled vide Order dated May 05, 2008, therefore, we have purposely reproduced the operative part of the said Order. It is so because the Appellant appears to have laid much stress before the Court in contempt proceedings persistently on the words used “**consequential benefits**” and it was in this backdrop the Court, vide Order dated May 28, 2010 passed in Contempt Petition No. 302/2008, directed the Respondents to re-examine the case of the Appellant and comply with the directions of the Court dated May 05, 2008 and, while doing so, associate the Appellant with the liberty to place before the Respondents the details of the consequential benefits which flow in his favour from the Order. Similarly, in the same Order, the Court held that consequential benefits are not confined to making payment of salary for the period treated as duty and leave, but other benefits which flow from the settlement of Petitioner’s case to which the Petitioner/ Appellant herein as an employee of the Corporation is entitled.

24. Now, let us examine the Order dated May 05, 2008 passed by the Writ Court in SWP No. 1141/2006, which forms the very foundation of the consequent orders, and the Appellant had been, all along, maneuvering to



make out a case for accord of his promotion on the basis of the subsequent orders passed by the Court in contempt proceedings.

25. Just as a passing reference, we deem it proper to place on record that the initial Writ Petition, being SWP No. 1141/2006 titled **‘Syed Muzaffar Hussain v. J&K State Road Transport Corporation and Ors.’** came to be filed by the Appellant seeking the following relief (s):

“i. A writ of the nature of mandamus or any other appropriate writ quashing the order dated 13.08.2004 in so far as it directs that suspension period of 300 days be counted towards as earned leave and remaining period be treated as dies-non.

ii. A writ of the nature of mandamus or any other appropriate writ commanding the respondents to treat the suspension period w.e.f. 01.08.1988 to 18.04.1990 and 19.10.2001 to 20.11.2002 as on duty and count the same towards petitioner’s service and admit petitioner to all consequential benefits in the matter of gratuity and pension after counting said period towards petitioner’s service.

iii. A writ of the nature of mandamus commanding the respondents to release the withheld amount of gratuity and commuted pension.

iv. Any other writ, order or direction which this Hon’ble Court deems just and proper in the attending facts and circumstances of the case, may be granted in favor of the petitioner.”

26. From the perusal of the relief sought in SWP No. 1141/2006, one would find that the Appellant has restricted his relief to the settlement of the period of suspension and specifically prayed for grant of consequential benefits in the matter of gratuity and pension after counting said period towards his service.

27. It is in the above backdrop that vide Order dated February 12, 2008, the Writ Court in SWP No. 1141/2006 directed to constitute a committee to look into the matter and in compliance thereto, the committee submitted the report, note whereof we have taken hereinbefore. In the said report, it has been specifically and unequivocally stated that the Appellant has embezzled the Corporation revenue to the tune of Rs. 5,33,624/- and he did not question this fact during enquiry or thereafter, but pleaded mercy. The report further proceeds on the premise that it is only on humanitarian ground,

the suspension period was treated on duty, otherwise, same would have affected the Appellant's pension. The reason for settling the suspension period which prevailed with the committee was that if same would remain undecided after retirement of the Appellant, it would not look proper and would become harsh for the Appellant for fixation of his pension.

28. On the basis of this very report, SWP No. 1141/2006 came to be disposed of vide Order dated May 05, 2008, wherein the words "consequential benefits" came to be used by the Writ Court in the context of the recommendations of the committee, as such, the words "consequential benefits" cannot be read in isolation, as in ordinary parlance are used in the service jurisprudence, but same, in the facts and circumstances of the instant case, are qualified by the words **"recommendations of the committee"** and same has been duly accepted by both the learned Counsels before the Writ Court, thus, restricting the claim to the post-retiral pensionary benefits only.

29. Now, the question arises as to whether the subsequent direction issued in the contempt proceedings by the Court which had ultimately led to the passing of Order dated October 14, 2015 was in consonance with the basic Order dated May 05, 2008 and as to whether the words **"consequential benefits"** would have been stretched in contempt proceedings by the Court to include the other benefits which the Appellant was otherwise entitled to as employee of the Corporation, as has been held in Order dated May 28, 2010 and, thereafter, reiterated in the subsequent Order dated August 25, 2015 passed in contempt proceedings.

30. We have dealt with the Order dated May 05, 2008 at length, wherein words **"consequential benefits"** were used to mean such benefits which flow from the recommendations of the Committee after settling the period of suspension of the Appellant, so that such period may be counted for fixation of his pension and does not adversely affect his pensionary

benefits, but, to the contrary, the Appellant had been consistently making attempts to get the benefit of promotion by taking support of the orders passed in the contempt proceedings which, of course, fall beyond the scope of the basic Order sought to be implemented.

31. Once the basic Order dated May 05, 2008 was very much restrictive in its nature to mean the only benefits which flow from the recommendations of the Committee, then in the contempt proceedings the Court, in our opinion, exceeded the jurisdiction by widening its scope and interpreting the words “**consequential benefits**”, despite having no ambiguity.

32. We are fortified in our view by the Judgment rendered by Hon’ble Supreme Court in case titled ‘**Sudhir Vasudeva, Chairman and MN, ONGC v. M. George Ravishekeran and Ors., AIR 2014 Supreme Court 950**’, wherein at paragraph No. 15(B) it has been observed, thus:

“15B. The power vested in the High Courts as well as this Court to punish for contempt is a special and rare power available both under the Constitution as well as the Contempt of Courts Act, 1971. It is a drastic power which, if misdirected, could even curb the liberty of the individual charged with commission of contempt. The very nature of the power casts a sacred duty in the Courts to exercise the same with the greatest of care and caution. This is also necessary as, more often than not, adjudication of a contempt plea involves a process of self-determination of the sweep, meaning and effect of the order in respect of which disobedience is alleged. Courts must not, therefore, travel beyond the four corners of the order which is alleged to have been flouted or enter into questions that have not been dealt with or decided in the judgment or the order violation of which is alleged. Only such directions which are explicit in a judgment or order or are plainly self-evident ought to be taken into account for the purpose of consideration as to whether there has been any disobedience or willful violation of the same. Decided issues cannot be reopened, nor the plea of equities can be considered. Courts must also ensure that while considering a contempt plea the power available to the Court in other corrective jurisdictions like review or appeal is not trenching upon. No order or direction supplemental to what has been already expressed should be issued by the Court while exercising jurisdiction in the domain of the contempt law, such an exercise is more appropriate in other jurisdictions vested in the Court, as noticed above. The above principles would appear to be the cumulative outcome of the precedents cited at the bar, namely, *Jharieswar Prasad Paul and another v. Tarak Nath Ganguly and others*, *V. M. Manohar Prasad v. N. Ratnam Raju and another*, *Bihar Finance Service House Construction Cooperative Society Ltd. v. Gautam Goswami and others* and *Union of India and others v. Subedar Devassy PV.*”

33. While interpreting the scope and jurisdiction of the contempt proceedings, the Hon'ble Supreme Court, in unequivocal terms, held that the Court must not travel beyond the four-corners of the Order which is alleged to have been flouted and further held that only such directions which are explicit in a Judgment or Order or are plainly self-evident ought to be taken into account for the purpose of consideration as to whether there has been any disobedience or willful violation of the same.

34. It is trite that no order or direction, supplemental to what has been already expressed, should be issued by the Court while exercising jurisdiction in the domain of the Contempt law.

35. When testing the orders passed by the Court in exercise of contempt jurisdiction and emphasis laid thereon by the Appellant, all along, the Court, while passing the Order dated May, 28, 2010 in Contempt No. 302/2008 not only exceeded its jurisdiction, but also supplemented the Judgment/ Order which is sought to be implemented by widening its scope which was never intended or meant in the Order/ Judgment dated May 05, 2008 in SWP No. 1141/2006.

36. Therefore, all the proceedings/ orders subsequent to the Order passed in the Contempt Petition are the result of the erroneous interpretation of original Order dated May 05, 2008 passed in SWP No. 1141/2006 and, in this backdrop, the Writ Court was compelled to touch upon all the aspects of the matter, whether raised or not raised before it, so as to settle the issue in its entirety.

37. Present is a classic case where the Appellant has been consistently attempting to **approbate and reprobate** by both relying on the Order dated May 05, 2008 passed in SWP No. 1141/2006, firstly, to escape the consequences of proved misconduct and, thereafter, making attempts to get all the benefits, by taking benefit of erroneous interpretation of the basic

Order, whereby the scope of the words “**consequential benefits**” came to be extended, which is not permissible, as he is estopped from claiming any other service benefit, except post-retiral monetary benefits, as has been settled by the Court in the above Writ Petition and accepted by the Appellant.

38. Therefore, the plea of the Appellant for accord of promotion was rightly rejected by the Writ Court in SWP No. 1141/2006, in that, the Appellant never claimed any promotion to which he may have been entitled to pursuant to settlement of his period of suspension and, thus, we are of the opinion that the Judgment under challenge is a reasoned one, based on sound principles of law, as such, same does not call for any interference.

**RELIEF:**

39. For the foregoing reasons, we do not find any error of fact or law committed by the Writ Court, accordingly, the appeal being bereft of merit, is **dismissed**. Interim direction(s), if any subsisting as on date, shall stand vacated.

(Shahzad Azeem)  
Judge

(Sindhu Sharma)  
Judge

**SRINAGAR**  
September 9<sup>th</sup>, 2025  
“TAHIR”

i. Whether the Judgment is approved for reporting? YES.