

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

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**CCP(S) No. 629/2019 in
SWP No. 1042/2014**

Renu Mahajan

...Petitioner /Appellant(s)

Through: - Mr. Rahil Raja, Advocate

Vs.

Achal Sethi, Secretary to Government
Law Department and Another.

...Respondent(s)

Through: - Mrs. Monika Kohli, Sr. AAG with
Ms. Mandeep Kour, Advocate

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

ORDER
12.10.2026

1. The petitioner, through the medium of the present contempt petition, is seeking implementation of judgment dated 30.01.2018 passed by the learned writ court, whereby two writ petitions, bearing SWP No. 1042/2014 and SWP No. 309/2016, filed by the petitioner, were allowed in the following terms:
 - (i) by issue of a writ of Certiorari, the impugned seniority list issued vide Government Order No. 2129-LD(Estt) of 2015 dated 20.07.2015 to the extent of the private respondent and the petitioner shown at seniority position 1 and 2 respectively in category-D (Legal Assistant) is quashed.

- (ii) by issue of a writ of Mandamus, respondent No. 1 is directed to redraw the seniority list by showing petitioner at seniority position 1 and the private respondent at seniority position 2 in category-D (Legal Assistant).
 - (iii) by issue of a writ of Mandamus, respondents 1 & 2 are directed to give the promotional benefit to the petitioner and the private respondent in accordance with the re-fixed seniority, however, subject to fulfillment of other requisites.
2. The respondents have filed a series of statements of facts and compliance reports in the present contempt petition from time to time. The latest one being dated 28.03.2026. In the said statement of facts, the respondents have submitted that, pursuant to the judgment of the writ court, the seniority of the petitioner has been re-fixed, whereafter the date(s) of her promotion(s) and regularization(s) at different levels have been suitably modified. It has further been submitted that, in this regard, Government Order No. 8838-JK (LD) of 2025 dated 25.07.2025 has been issued, whereby sanction has been accorded to the grant of promotional benefits, including arrears of salary and pensionary benefits, in favour of the petitioner in accordance with the re-fixed seniority. According to the respondents, an amount of Rs. 9,66,572/- towards arrears of salary has been credited to the petitioner's account, and her revised pension has been fixed by the office of the Principal Accountant General in terms of its letter dated 20.11.2025.
3. The petitioner has filed her response to the compliance report submitted by the respondents. In her response, she has contended that the action

taken by the respondents addresses only the issue raised in SWP No. 309/2016, whereas the grievances raised by her in SWP No. 1042/2014 and the directions issued in that regard have been completely overlooked and ignored by the respondents. According to the petitioner, on 29.04.2011, one Shri Fayaz Ahmad Sheikh was promoted to the post of Additional Secretary, even though the said post was earmarked for members of the erstwhile Law Officer Service, which stood amalgamated with the J&K Legal (Gazetted) Service with effect from 26.08.2010. It has been submitted that Shri Fayaz Ahmad Sheikh was promoted to the said post on the ground that no officer from the cadre of Law Officers was eligible for such promotion on that date. It has been contended that once retrospective effect was given to her promotions to the posts of Law Officer and Senior Law Officer pursuant to the judgment of the writ court and the consequential action taken by the respondents in terms of Government Order dated 27.12.2023, read with Government Order dated 25.07.2025, she became eligible for promotion to the post of Additional Secretary with effect from 29.04.2011, i.e., the date on which her junior, Shri Fayaz Ahmad Sheikh, was promoted to the said post. Accordingly, she claims entitlement to promotion to the post of Additional Secretary with effect from 29.04.2011, but actually she has been promoted to the said post with effect from 22.05.2013. According to her, this would also have a cascading effect on her subsequent promotions to the posts of Special Secretary and Secretary. On the basis of these submissions, it is being contended that the respondents have failed to implement the judgment of the writ court in its letter and spirit.

4. I have heard learned counsel for the parties and perused record of the case.
5. A perusal of the record would show that the petitioner had filed two writ petitions, one bearing SWP No. 1042/2014 and other bearing SWP No. 309/2016. Both these writ petitions were decided by a common judgment dated 30.01.2018. Vide SWP No. 1042/2014, the petitioner had sought the following reliefs:
- (i) Writ, order or direction in the nature of Writ of Mandamus commanding the respondents to regularize/substantively promote the petitioner as Public Law Officer Gr.II retrospectively w.e.f. 4th April, 2005 i.e. from the date she was promoted as Public Law Officer Gr.II in the pay scale of Rs. 7500-12000 subject to clearance by the DPC/PSC
 - (ii) Writ, order or direction in the nature of Writ of Mandamus commanding the respondents to regularize/substantively promote the petitioner as Senior Law Officer in the grade of Rs. 10000-15200/- w.e.f. 3rd September, 2007 i.e. w.e.f the date she was promoted as Senior Law Officer vide Government Order No. 2181-LD (Estt) of 2007 dated 3rd September, 2007 subject to confirmation by DPC/PSC.
 - (iii) Writ, order or direction in the nature of Writ of Mandamus commanding the respondent No. 1 to fix the seniority of the petitioner as Senior Law Officer after regularizing her promotion as Senior Law Officer w.e.f. the date she was promoted to the said post subject to confirmation by the DPC/PSC.

- (iv) Writ, order or direction in the nature of Writ of Mandamus to consider the petitioner for promotion to the post of Additional Secretary to Government in accordance with the J&K Legal (Gazetted) Service Recruitment Rules as amended vide SRO 51 dated 4th February, 2011 w.e.f. the year 2011 or 2012 on same conditions as contained in Government order No. 1392-LD(Estt) of 2011 dated 29th April, 2011.
 - (v) Writ, order or direction in the nature of Writ of Mandamus commanding the respondents to consider the petitioner for promotion as Additional Secretary Law retrospectively w.e.f. the date the post of Additional Secretary Law became available in the year, 2011/2012 on the same analogy as was done in the case of other similarly situated candidates.
 - (vi) Any other writ, order or direction which the Hon'ble Court may deem fit and proper in the facts and circumstances of the case, may also be granted in favour of the petitioner and against the respondents along with cost of the petition.
6. So far as SWP No. 309/2016 is concerned, the petitioner sought the following reliefs:
- (i) Writ, order or direction in the nature of Writ of Certiorari quashing Government Order No. 2129-LD(Estt.) of 2015 dated 20.07.2015 whereby the final seniority list of Members of J&K Legal Service has been issued to the extent it places the respondent No. 2 over and above the head of the petitioner in the Category-D of Legal Assistants in the erstwhile Law Officer Services.

- (ii) Writ, order or direction in the nature of writ of Mandamus commanding the respondent No. 1 to place the petitioner at Sr. No. 1 of the seniority list of Legal Assistants.
 - (iii) Writ, order or direction in the nature of Writ of Mandamus commanding the respondent No. 1 not to act upon the seniority list of Legal Assistants as issued vide Government Order No. 2129-LD (Estt.) of 2015 dated 20.07.2015 by promoting or regularizing the respondent No. 2 over and above the head of the petitioner.
 - (iv) Any other writ, order or direction which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case, may also be granted in favour of the petitioner and against the respondents along with cost of the petition.
7. From a perusal of the afore-quoted reliefs prayed in the two writ petitions, it is clear that in SWP No. 1042/2014, the petitioner had *inter alia* sought a direction upon the respondents to consider her for promotion to the post of Additional Law Secretary with effect from the date the said post became available in the year 2011-2012, whereas in SWP 309/2016, the grievance projected by the petitioner was with regard to her seniority vis-a-vis private respondent namely, Nazir Ahmad Thakur.
8. As is evident from the operative portion of the judgment of the writ court, whereby both the writ petitions were disposed of, the seniority list dated 20.07.2015, which was under challenge in SWP No. 309/2016, was quashed, and the respondents were directed to redraw the seniority list by placing the petitioner at seniority position 1 and the private respondent at seniority position 2 in Category-D (Legal Assistant). A further direction

was issued to the respondents to grant promotional benefits to the petitioner and the private respondent in accordance with the re-fixed seniority. However, there is no direction passed by the learned writ court with regard to the prayer of the petitioner relating to her promotion to the post of Additional Secretary with effect from the date the said post had become available in the year 2011-2012. In fact, in paragraph 18 of the judgment it is noted that the core issue for determination before the writ court is as to who, among the petitioner and the private respondent, is senior in the category of Legal Assistant in the pay scale of Rs. 2000–3200. It is this core issue that has been deliberated and determined by the writ court while passing judgment dated 30.01.2018. The writ court neither discussed nor adverted to the petitioner's claim for promotion to the post of Additional Secretary with effect from the year 2011/2012.

9. It is true that, upon being granted retrospective effect to her promotions to the posts of Law Officer and Senior Law Officer, the petitioner may have become eligible for consideration for promotion to the post of Additional Secretary in the year 2011, when her junior, Shri Fayaz Ahmad Sheikh, was promoted to the said post. However, in absence of any specific direction to this effect in the judgment of the writ court, the respondents could have reasonably entertained a doubt as to whether they were obliged to consider the petitioner's case for promotion to the post of Additional Secretary, which was occupied by Shri Fayaz Ahmad Sheikh in the year 2011. Yet another reason for the respondents to entertain such doubt was that Sh. Fayaz Ahmad Sheikh was not a party in both the aforesaid writ

petitions filed by the petitioner and there was no direction passed by the learned writ court in this regard.

10. It is a settled position of law that a person can be proceeded against for having committed contempt of court only if it is shown that there has been a willful default on the part of such person in implementing the judgment of the court. Where the directions issued by the court are capable of more than one plausible interpretations, and the person/authority concerned adopts an interpretation that is possible and plausible in the facts and circumstances of the case, it cannot be said that such person or authority has willfully defaulted in implementing the court's directions. In the present case there was no specific direction passed by the writ court to the effect that the petitioner is to be promoted to the post of Additional Secretary with effect from the year 2011. Therefore, the respondent cannot be held guilty of violating the order of the writ court. The respondents by re-fixing her seniority over and above the private respondent and by giving effect to her promotion(s) retrospectively have complied with the judgment of the writ court.
11. In view of the foregoing discussion, the contempt proceedings are closed.

(SANJAY DHAR)
JUDGE

Jammu:
12.10.2026
Karam Chand

Whether the order is speaking:	Yes/No
Whether the order is reportable:	Yes/No