

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

Reserved on: 17.12.2025

Pronounced on: 24.02.2026

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*Whether operative part or
full judgment is
pronounced: **Full***

**ROBSW No.4/2024 in
CCP(S) No.363/2022 c/w
CCP(S) No.363/2022**

ROBKAR

....PETITIONER(S)

*Through: - Mr. Z. A. Shah, Sr. Advocate, with
Mr. J. I. Balwan, Advocate.*

Vs.

SANJEEV VERMA, COMMISSIONER/ SECRETARY,
GAD, JAMMU.

...RESPONDENT(S)

Through: - Mrs. Monika Kohli, Sr. AAG.

CORAM: HON'BLE MR. JUSTICE JAVED IQBAL WANI, JUDGE

JUDGMENT

1) This case represents a disturbing chapter in service jurisprudence (where a litigant, despite having succeeded at every tier of the judicial hierarchy, finds himself entangled in what can only be described as a Kafkaesque maze, of bureaucratic manipulation and deliberate obstruction) or (exposing a disturbing pattern of administrative recalcitrance where the executive machinery has systematically attempted to dilute and defeat a judicial mandate that had attained finality at the level of the Supreme Court. The State, having failed in its attempt to sustain the petitioner's premature

retirement before the Writ Court, the Division Bench and ultimately the Hon'ble Supreme Court, has chosen to resurrect what were effectively dead inquiries in order to defeat a living decree, and to deny promotion on the nebulous ground of service record, even when such record stands legally cleansed.

2) The factual canvas is not in dispute. The petitioner's premature retirement vide Government Order No. 868-GAD of 2015 dated 30.06.2015 was quashed by this Court vide judgment dated 07.02.2017 passed in in SWP No. 2140/2015 titled **Bhumesh Sharma vs State of J&K**. The writ Court directed reinstatement with all consequential benefits within one month. The operative para of the judgment reads as follows:

16. In view of preceding analysis, the inevitable conclusion is that the impugned order cannot be sustained in the eyes of law. It is accordingly quashed. The petitioner shall be reinstated in service with all consequential benefits within one month from today. Accordingly, the writ petition is allowed.

3) The State carried the matter in appeal; the Division Bench dismissed the LPA on 19.10.2022, however, granted liberty to go ahead with the enquiry they claimed to have been initiated against the Petitioner and others. Paras 13 and 14 of the judgment read as follows:

"13. Viewed thus, we are not inclined to take a view other than the one taken by the learned Single Judge.

Accordingly, the appeal is dismissed along with connected CIWIAs upholding the judgment and order of learned Single Judge.

14. However, as regards the allegations leveled by the writ respondent against the writ petitioner, the State and its officers at the helm of affairs if are fair enough and have a will, and do not intend to provide a safe passage either to writ petitioner or the then officials/officers of Vigilance Organization, are free to go ahead with such inquiry, if they deem fit, and complete the same in a time bound manner without any excuse on the part of officers holding such inquiry."

4) The SLP preferred by the State before the Hon'ble Supreme Court thereafter met the same fate on 03.07.2023. Thus, the judgment dated 07.02.2017 attained finality. What remained was compliance.

5) However, what ought to have been a straightforward administrative act of restoration evolved instead into prolonged resistance. During pendency of the contempt petition, Respondent No. 1 issued Order No. 1091-JK(GAD) of 2023 dated 08.09.2023 rescinding the premature retirement, however, with respect to the consequential benefits inserted a condition that the benefits would be subject to outcome of departmental proceedings/court case, if any pending against the Petitioner. Relevant para of the order dated 08.09.2023 reads as follows:

i...However, the consequential service benefits shall be subject to the outcome of departmental proceedings/ court case pending, if any, against the officer."

It is pertinent to mention here that neither the writ Court nor the appellate Court had imposed such a condition. The

introduction of this caveat marked the beginning of a new chapter of avoidance.

6) It is a settled canon of law that the fruits of litigation must not be denied to a successful suitor by the stubbornness of the State, Judicial review would be rendered sterile if a judgment, though upheld to finality, could be diluted in execution through administrative innovation. Yet, the present case demonstrates how executive machinery can convert a judicial victory into a mirage, forcing a petitioner to battle for nearly eight years merely to enforce a judgment that had already attained finality.

7) The respondents claimed compliance of the judgment dated 07.02.2017 by issuance of Government Order dated 08.09.2023 rescinding the order of premature retirement and reinstating the petitioner in service. However, while doing so, the respondents kept the issue of consequential benefits in abeyance by making the same subject to the outcome of certain alleged inquiries, the details whereof were neither furnished to the petitioner nor placed before this Court. The compliance was thus partial and conditional. Being conscious of the fact that the writ judgment had attained finality and that consequential benefits formed an integral part of the relief granted, this Court, vide order dated 18.03.2024,

directed the respondents to file a fresh compliance report specifically addressing the release of consequential benefits, failing which personal appearance of an officer of the respondent department was ordered.

8) The respondents failed to report complete compliance and the officer concerned did not appear before the Court as directed. In view thereof, this Court, vide order dated 29.04.2024, directed the Registry to frame Robkar against the respondent. Consequently, Robkar came to be framed against Sanjeev Verma, Commissioner/Secretary Government, General Administration Department, calling upon him to show cause as to why proceedings under the provisions of the Contempt of Courts Act should not be initiated against him for non-compliance of the judgment.

9) In the reply filed by the said respondent, while certain details were furnished regarding release of arrears of salary, the grant of consequential benefits was sought to be withheld on the ground that the petitioner was required to be cleared from vigilance angle. It was stated that as per the record of the respondents, FIR No. 13/2002 stood registered against the petitioner and that an inquiry bearing No. JSC-SLK-58/2004 was pending disposal. On this basis, the respondents sought to justify the non-release of consequential benefits despite the finality of the writ judgment.

10) The aforesaid stand taken by the respondent was controverted by Mr. Z. A. Shah, learned senior counsel appearing for the petitioner. It was submitted that the affidavit filed by the respondent was factually incorrect and misleading inasmuch as the petitioner had never been arraigned as an accused in FIR No. 13/2002, which itself stands closed. Learned senior counsel further submitted that a departmental inquiry had been initiated against the officer in charge at the relevant point of time, and therefore the said proceedings could not be cited as an impediment for withholding consequential benefits. It was also pointed out that the inquiry bearing No. JSC-SLK-58/2004 had likewise been closed long ago. Learned counsel emphasized that as on 27.05.2024, when the reply filed by the respondent came to be considered by this Court in the contempt proceedings, no disciplinary inquiry was pending against the petitioner which could legally obstruct the implementation of the writ judgment. Accordingly, it was contended that the reliance placed upon these closed matters was nothing but an attempt to create frustrate the judgment.

11) The Court examined the operative portion of the Division Bench judgment dated 19.10.2022, which had granted liberty to the State to proceed with any inquiry, if deemed fit, and to complete the same in a time-bound manner. The Court

observed that despite such liberty having been granted in October 2022, no inquiry had been concluded till date. Instead, the respondents had merely directed submission of action taken reports in respect of matters which, according to the petitioner, already stood closed.

12) The Court observed that as on date no concluded inquiry was shown to exist which could legally obstruct implementation of the writ judgment. Upon being confronted, learned counsel for the respondent-contemnor, on instructions, assured the Court that the writ judgment dated 07.02.2017 would be implemented in letter and spirit within one week.

13) In view of this assurance, the Court deferred further proceedings in the contempt petition and Robkar and granted time till 05.06.2024 for filing final compliance report. It was made clear that failing compliance, the Court would be constrained to initiate coercive measures against the contemnor.

14) On 06.08.2024, after hearing learned counsel for both sides at length, this Court deemed it appropriate to further crystallize the controversy regarding release of consequential benefits. With a view to proceeding effectively in the contempt petition, the Court directed learned senior counsel for the

petitioner, Mr. Shah, to file an affidavit within one week specifically detailing the consequential benefits which had not been released in conformity with the writ judgment dated 07.02.2017, with a further direction to the Respondent to ensure compliance with the same.

15) Pursuant to the order dated 06.08.2024 passed by this Court, the petitioner filed an affidavit dated 08.08.2024 detailing the consequential benefits which, according to him, had not been released in terms of the writ judgment dated 07.02.2017.

16) On 03.09.2024, the contemnor/respondent appeared in person before the Court. The Court noted that pursuant to its earlier order dated 06.08.2024, the petitioner had filed an affidavit on 08.08.2024 detailing the consequential benefits not released, wherein it was disclosed that amounts of ₹41,24,214/- (credited on 31.03.2024) and ₹60,41,299/- (credited on 30.07.2024) had been released towards arrears of salary in the Time Scale. The Court observed that these payments pertained only to arrears against the Time Scale post held prior to 30.06.2015 and did not address the petitioner's claim for promotion to Selection Scale and Special Scale, which he asserted he would have earned had the order of premature retirement not intervened.

17) The petitioner's affidavit was examined in detail. It recorded that he had been placed at Serial No. 7 in the final seniority list issued vide Government Order No. 784-GAD of 2014 dated 18.07.2014, and that officers, junior to him, had been promoted to Selection Scale in 2018 and to Special Scale in April 2021. The petitioner asserted entitlement to similar treatment along with fixation of his seniority at Serial No. 1 upon retirement of seniors. He further complained that even after reinstatement, no posting had been given to him, no identity card had been issued, no seat or work had been assigned, and he was not permitted to mark attendance in the Civil Secretariat.

18) In response to the affidavit, the respondent/contemnor filed a reply contending that promotions to Selection Grade, Super Time Scale and Special Scale under the Jammu and Kashmir Administrative Service Rules, 2008 are governed by Rules 19 and 20, which require selection based on merit, suitability and service record, vigilance clearance, absence of pending criminal cases or departmental inquiries, and consideration by the Establishment-cum-Selection Committee. It was argued that consequential benefits, at best, meant a right of consideration in accordance with the Rules.

19) Learned Senior Counsel for the petitioner, however, placed on record various communications to demonstrate

that no inquiry or criminal case was pending against the petitioner. It was pointed out that FIR No. 13/2002 had culminated in a final report accepted by the competent court directing departmental action against other officials, and no articles of charge were framed against the petitioner. It was further shown that FIR No. 20/2005 stood closed as "not proved" by the CBI, and that the Special Judge (Anti-Corruption) had accepted the closure report. Reference was also made to communications of the Vigilance Organization dated 18.02.2009 and subsequent departmental communications clarifying that the matter stood closed with the approval of the competent authority. The petitioner thus contended that no inquiry was pending which could justify withholding consequential benefits.

20) Upon examining the record, the Court observed that the grounds cited in the minutes of meeting dated 16.05.2024 regarding FIR No. 13/2002 and JSC-SLK-58/2004 were untenable, as those matters had already been closed. The Court found that the reliance placed by the respondent upon pendency of inquiries was contrary to record and appeared to be an attempt to avoid consequences of contempt proceedings.

21) The Court further held that the liberty granted by the Division Bench to proceed with inquiry did not make release

of consequential benefits subject to the outcome of such inquiry, particularly when no inquiry was shown to be pending. It was clarified that consequential benefits included not merely monetary arrears but also service benefits, including consideration for promotion to higher scales in accordance with the applicable Rules, subject to eligibility and absence of legal impediment.

22) The Court observed that till date the respondent had only partially complied with the judgment by releasing monetary arrears but had failed to place the petitioner's case before the Establishment-cum-Selection Committee for consideration of promotion in parity with his juniors. It held that full compliance would require placing the petitioner's case before the Committee and according due consideration in conformity with Rules 19 and 20 of the 2008 Rules.

23) Upon assurance by the contemnor that the case of the petitioner would be placed before the Establishment-cum-Selection Committee and the judgment would be implemented in letter and spirit, the Court granted a last opportunity of two weeks to ensure full compliance, including release of all consequential service benefits and appropriate posting. failing which appropriate orders would be passed. The matter was directed to be listed on 25.09.2024.

24) During the pendency of the contempt proceedings, the petitioner filed an application, being CM No. 6364/2024, seeking directions for closure of the enquiry initiated against him vide charge sheets dated 01.07.2024 and 08.07.2024 and for disclosure of the outcome of the deliberations of the Establishment-cum-Selection Committee which had considered his case for promotion. In the said application, the petitioner traced the history of litigation beginning with his premature retirement on 30.06.2015, the quashing of the retirement order by the Writ Court, dismissal of the State's appeal by the Division Bench on 19.10.2022, and dismissal of the SLP, thereby rendering the judgment final.

25) The petitioner referred to paragraph 14 of the Division Bench judgment wherein liberty was granted to the State to proceed with any enquiry, if deemed fit, and to complete the same in a time-bound manner. According to the petitioner, this liberty was confined to any enquiry that was already pending prior to his premature retirement and did not authorize initiation of a fresh enquiry after final adjudication of the matter.

26) It was pleaded that despite repeated directions in contempt proceedings, the respondents addressed communications dated 28.11.2023 and 18.12.2023 seeking status of any RDA allegedly pending against him in

connection with FIR No. 20/2005 and related matters. The petitioner contended that these communications were merely for seeking status and did not authorize initiation of a fresh enquiry. He further relied upon this Court's order dated 18.03.2024, wherein it was observed that consequential benefits could not be kept pending on the plea of a vague enquiry without disclosure of its nature or fate.

27) The petitioner asserted that without there being any regular departmental action pending prior to 30.06.2015, the respondents issued Government Order No. 50-JK(TR) of 2024 dated 03.06.2024 appointing an Enquiry Officer. Thereafter, two sets of Articles of Charge were served upon him on 01.07.2024 and 08.07.2024, to which he submitted replies raising preliminary objections as to maintainability and jurisdiction.

28) It was specifically pleaded that this Court in its order dated 03.09.2024 had already concluded that the reasons put forth by the respondents for non-implementation of the writ judgment were non-existent and contrary to record, and had clarified that release of consequential benefits was not subject to outcome of any enquiry. The petitioner also referred to the respondents' affidavit dated 14.10.2024 wherein it was stated that his case had been placed before the Establishment-cum-

Selection Committee and that the outcome had been kept in a sealed cover.

29) The petitioner questioned the very initiation of the enquiry on multiple grounds: that no regular departmental action was pending prior to his retirement; that the Division Bench had not permitted initiation of a fresh enquiry; that the alleged matters stood closed; that initiation of enquiry after nearly two decades was impermissible under the J&K Civil Services (Classification, Control and Appeal) Rules, 1956; and that the entire exercise was a device to justify non-compliance of judicial directions and to deny consequential benefits.

30) It was further contended that since he had remained out of service from 30.06.2015 till reinstatement in September 2023, no service record existed for the intervening period, yet the Establishment-cum-Selection Committee had allegedly considered his case and withheld the outcome in a sealed cover. According to the petitioner, pendency of such enquiry could not legally obstruct his entitlement to consequential benefits including promotion to higher scales in parity with his juniors.

31) On these averments, the petitioner prayed that the enquiry initiated vide charge sheets dated 01.07.2024 and 08.07.2024 be directed to be closed forthwith, that the

respondents be directed to notify the outcome of the Establishment-cum-Selection Committee's deliberations, and that under no circumstances grant of consequential benefits be deferred.

32) On 06.02.2025, during the hearing, learned senior counsel for the petitioner produced Government Order No. 03-JK (TR) of 2025 dated 17.01.2025 issued by the Transport Department. Upon perusal, the Court noted that in light of the recommendation made by the Inquiry Officer appointed vide Government Order No. 72-JK (TR) of 2024 dated 09.09.2024, and owing to non-availability of records in case FIR No. 13/2002 (P/S VOJ) and JSC-SLK-58/2004, the charges levelled against the petitioner could not be substantiated. Consequently, the Regular Departmental Action (RDA) initiated against the petitioner was dropped. However, the order carried a rider that the officer be administered a strict warning to remain careful in future and not to take decisions merely on assumptions or presumptions while discharging official duties.

33) In view of the aforesaid development, learned Senior AAG sought two weeks' time to apprise the Court about the outcome of the petitioner's promotion case, which had been kept in a sealed cover, particularly in light of the dropping of the RDA. The Court granted time as prayed for and directed

that a fresh compliance report/affidavit be filed within two weeks.

34) In the compliance report filed pursuant to order dated 06.02.2025, the contemnor asserted that the petitioner's case had been placed before the Establishment-cum-Selection Committee for release of pending grades of JKAS and that the Committee had declared him "unfit." Initially, no minutes or reasons were furnished. Only upon repeated orders, was the record produced. The minutes reveal no articulated criteria, no reference to benchmark ACR gradings, no comparative assessment, and no discernible reasoning. The declaration of "unfit" stands as a bare conclusion.

35) The respondents have also relied upon an alleged inquiry. The record, however, reveals that the charges were not substantiated. The Government's own order records that the relevant records in the underlying FIRs had been deluged and destroyed. Yet paradoxically, the Establishment-cum-Selection Committee has declared the petitioner "unfit" based on assessment of his "merit and reputation." It is a paradox of the highest order that the State admits destruction of records necessary to assess merit, and simultaneously bases adverse conclusions on an evaluation purportedly drawn from such non-existent material.

36) There is a thin line between administrative discretion and malicious defiance. In the present case, by initiating what is styled as a "fresh inquiry twenty-two years after the alleged events-at a stage when the writ judgment had already attained finality-and thereafter declaring the petitioner "unfit" on grounds already examined and effectively closed by the Vigilance Organization, the respondents have not only crossed that line but have trampled upon it with impunity. Liberty granted by the Division Bench to proceed with inquiry cannot be transmuted into license to neutralize judicial relief.

37) What renders the impugned action of the Establishment-cum-Selection Committee wholly unsustainable is the fact that the petitioner has been declared "unfit" for promotion substantially on the basis of two FIRs, namely FIR No. 13/2002 and FIR No. 20/2005, both of which had long since culminated in closure reports. The record demonstrates that FIR No. 20/2005, after investigation by the CBI, resulted in submission of a closure report which was accepted by the competent court, holding that the allegations were "not proved." Insofar as FIR No. 13/2002 is concerned, the petitioner was not even arraigned as an accused and the matter stood closed with, at best, a recommendation for departmental action. No regular departmental enquiry under the J&K Civil Services (Classification, Control and Appeal)

Rules, 1956 was pending against the petitioner at the time of his premature retirement in 2015, nor was any such enquiry initiated for nearly two decades thereafter. It was only during the pendency of the present contempt proceedings in the year 2024, after this Court repeatedly called upon the respondents to implement the writ judgment and release consequential benefits, that the enquiry was set in motion by issuance of Government Order dated 03.06.2024 appointing an Enquiry Officer, followed by service of articles of charge in July 2024. The timing of this exercise leaves little room for doubt that the initiation of the enquiry was not a bona fide administrative action but a defensive manoeuvre to stave off compliance with a binding judicial decree.

38) Significantly, even this belated departmental enquiry, conducted nearly twenty years after the alleged events and during the subsistence of contempt proceedings, ultimately resulted in dropping of the Regular Departmental Action, the charges having been found unsubstantiated and incapable of proof due to non-availability of records. Yet, while the enquiry was still pending and before it had culminated in exoneration, the Establishment-cum-Selection Committee proceeded to consider the petitioner's case and declared him "unfit," ostensibly on the basis of the very FIRs and allegations which had either been closed or were the subject matter of the

belated enquiry. Thus, the petitioner was branded unfit not on the basis of any proved misconduct, adverse service record, or subsisting disciplinary finding, but on allegations which had either been judicially closed as "not proved" or had not even crystallized into a lawful departmental penalty. To permit such a course would be to hold that a government servant may be perpetually haunted by accusations that never matured into guilt, and that even closure of criminal proceedings and termination of departmental action would not cleanse the slate. Such an approach is antithetical to the settled principles of service jurisprudence, which require that promotion be denied on the basis of tangible, subsisting material and not on resurrected shadows of closed proceedings. The declaration of the petitioner as "unfit" in these circumstances is therefore vitiated by arbitrariness, non-application of mind, and a manifest attempt to achieve indirectly what could not be sustained directly.

39) It is equally significant that the petitioner stood prematurely retired in June 2015 and remained out of service until reinstatement pursuant to judicial intervention. Consequently, there could exist no service record for the interregnum between 2015 and 2023. The only material that could possibly have been available for consideration by the Establishment-cum-Selection Committee was the petitioner's

service record prior to 2015. That record necessarily included the very same FIRs and alleged inquiries which are now projected as grave impediments rendering him "unfit for promotion. Yet, it is a matter of record that despite the existence of those FIRs and allegations, the petitioner was inducted into the Jammu and Kashmir Administrative Service in the year 2010 and placed appropriately in the seniority list. If those allegations were not considered of such gravity as to disentitle him from induction into the Administrative Service itself-a far more foundational milestone in his career-it defies logic and fairness that the same material, without any fresh adverse finding or proved misconduct, should suddenly assume decisive significance to deny him promotional advancement. What was not treated as disqualifying at the threshold of induction into a higher cadre cannot, without new and substantive material, be elevated years later into a determinative ground for branding him unsuitable. To hold otherwise would amount to retroactively converting non-fatal allegations into career-ending disabilities, thereby unsettling settled service positions and undermining the principle of consistency in administrative decision-making.

40) Consequential benefits are not ornamental words. They carry substantive meaning in service jurisprudence. When an order of premature retirement is quashed ab initio, the legal

fiction is that such order never existed. The employee is to be restored to the same position in which he would have stood but for the illegal action. This includes continuity of service, seniority, notional promotion, pay fixation and release of grades. The respondents cannot superimpose conditions that the Court did not prescribe.

41) The sequence of events, when examined holistically, gives rise to a deeply disquieting inference. The initiation of a departmental enquiry in June-July 2024, nearly two decades after the alleged incidents and only after repeated directions of this Court in contempt proceedings, followed almost contemporaneously by consideration of the petitioner's case by the Establishment-cum-Selection Committee, cannot be viewed as a mere coincidence. The enquiry was set in motion at a stage when the writ judgment had attained finality and the only surviving obligation upon the State was to release consequential benefits, including consideration for promotion in parity with the petitioner's juniors. Instead of effectuating the judicial mandate, the respondents appear to have revived dormant allegations and simultaneously placed the petitioner's case before the Selection Committee, culminating in a declaration of "unfit" while the enquiry itself was still pending and before any finding had been returned. This parallel movement-of instituting a belated enquiry on the one

hand and proceeding to assess "merit and suitability" on the other-creates the unmistakable impression of a coordinated design to generate a procedural ground for rejecting promotion.

42) Service jurisprudence does not countenance such calibrated sequencing of administrative steps to defeat a judicial outcome. An employee cannot be subjected to a situation where the pendency of a freshly instituted enquiry, particularly one arising from matters long closed, becomes the very reason for denying advancement, and thereafter, even when the enquiry collapses for want of substantiation, the stigma continues to operate through a prior declaration of unfitness. If such a methodology were to be approved, it would enable the administration to indefinitely forestall promotion simply by initiating proceedings at strategically convenient moments. The rule of law demands that administrative processes be bona fide and temporally consistent; when action is taken not in the ordinary course of governance but in response to judicial compulsion, and structured in a manner that neutralizes the relief granted, the Court cannot remain a silent spectator. The contemporaneous initiation of the enquiry and the convening of the Establishment-cum-Selection Committee in the present case thus bears the imprint of a strongly suggests a

coordinated administrative course resulting in denial of the promotional benefits which had become legally due to the Petitioner.

43) This Court, therefore, holds that the decision of the Establishment-cum-Selection Committee declaring the petitioner "unfit" is arbitrary, unreasoned and unsustainable in law. It defeats the effect of the writ judgment and amounts to indirect non-compliance. The said decision cannot be said to be the compliance of the judgment dated 07.02.2017, as such being violative to the judgment is declared void ab initio.

44) The rule of law demands that when a citizen prevails against the State in a court of law, the State must comply in spirit and substance. A decree that has survived scrutiny at every tier cannot be reduced to a mirage through administrative manoeuvring. To permit such a course would be to convert judicial review into a decorative exercise and to render justice contingent upon executive grace. That, the Constitution does not permit.

45) Thus, for what has been observed, considered and analyzed hereinabove, the respondents are directed to grant to the petitioner all consequential benefits flowing from judgment dated 07.02.2017, including release of pending grades, notional promotion, seniority correction, pay fixation

and arrears, subject only to lawful deductions strictly in accordance with service rules and excluding any reliance upon quashed or unsubstantiated allegations. The aforesaid exercise shall be completed within a period of eight weeks from the date a copy of this judgment served upon the respondents.

(Javed Iqbal Wani)
Judge

Srinagar

24.02.2026

“Bhat Altaf-Secretary”

*Whether the **Judgment** is speaking: **Yes***

*Whether the **judgment** is reportable: **Yes***

