

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

**LPAC No.02/2010, CMP No.02/2010.  
CMP No.04/2010.**

Date of decision: 05.06.2010

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State and others

Vs. Prem Nath and others

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***Coram:***

**Hon'ble Mr. Justice Virender Singh-Judge  
Hon'ble Mr. Justice Sunil Hali- Judge.**

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**Appearing counsel:**

For the appellant(s) :Mr. A.H.Qazi, AAG

For the respondent(s) :Mr. S.K.Shukla, Advocate

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- i/ Whether to be reported in : Yes/No..  
Press, Journal/Media.
- ii/ Whether to be reported in : Yes/No..  
Digest/Journal.
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**Per Sunil Hali-J.**

The appellant being aggrieved of order dated 06.11.2009 passed by the learned Single Judge in contempt petition (COAOW No.47/2008) directing the State to implement the judgment of this court, has questioned the same in this appeal.

In order to understand the controversy involved in this appeal, brief facts are required to be noticed.

A batch of writ petitions came to be filed in this court claiming parity with Kashmiri migrants in the matter of grant of cash assistance and

relief. It was stated that the respondents-petitioners who belong to Jammu Division had to migrate on account of eruption of militancy, as a result of which they had to leave their homes and hearth. The said writ petitions came to be allowed by the learned Single Judge of this court vide order dated 29.11.2005 and direction came to be issued to the respondents to treat the respondents-petitioners at par with the migrants of Kashmir Valley in respect of relief and rehabilitation. It was, however, provided that State would be well within its right to examine each case on its own merits to find out entitlement of each individual lest undesirable persons succeed in availing of the benefit at the cost of public exchequer.

Being aggrieved of this order, the State filed appeal, which came to be dismissed on 19.03.2008. Having failed to comply with the directions of the writ court, contempt petition came to be filed seeking implementation of the judgment dated 29.11.2005.

State-respondent in its statement of facts filed before the learned Single Judge in COA(OWP) No.47/2008 submitted that the following scale of relief to the migrants of Jammu was sanctioned:-

- “ ... a. Cash assistance f Rs.400/- per month subject to maximum of Rs. 1600/- per family.  
 b. Ration @ Atta- 9kg and Rice 4 Kg (total 11 kgs).  
 c. 10 litres of K.oil per family per month.  
 d. Cash assistance of Rs.300/- per month per cattle

for purchase of fodder.

Also the State Government was asked to ascertain the genuineness of Migrants before passing on any benefit. The process was initiated in light of the direction of the Hon'ble Supreme Court. Relief and Ration as per the Scale fixed, which has been accepted by the Hon'ble Supreme Court is being released in favour of genuine Migrants of Jammu which includes Doda Migrants also. On the basis of the submissions made by State Government before the Hon'ble Supreme Court, the judgment was passed by the Apex Court which is being strictly implemented by State Government.....”

Categorical stand taken by the appellant in this contempt petition is that respondents-petitioners are not entitled to claim parity with Kashmiri migrants in view of the fact that the Apex Court has already accepted the plea of State Government regarding scale of relief to be provided to the migrants of Jammu. It is further contended in the statement of facts that in terms of order of the Hon'ble Supreme Court, all pending cases numbering about 2000 were sent for verification to CID authorities and after receipt of report from CID, the relief benefits as per the scale fixed were passed on to the migrants of Jammu which include the petitioners as well. The direction of the learned Single Judge implies that the relief as paid to the migrants of Kashmir valley is required to be paid to the present petitioners also. It is in the light of this fact that the present appeal has been filed.

We have heard learned counsel for the parties and perused the record.

There is no dispute that the direction was issued by the learned Single Judge on 29.11.2005 to treat the respondents-petitioners like Kashmiri migrants which direction was confirmed by the Division Bench of this Court vide order dated 19.03.2008. As already stated hereinabove, a batch of writ petitions were filed including Public Interest Litigations in this court and the matter went upto Hon'ble Supreme Court who after hearing the parties determined the scale of relief payable to the migrants of Jammu which includes the present respondents-petitioners. The scale accepted by the Apex Court has already been quoted hereinabove.

Further direction was issued to verify as to whether the persons have actually migrated or not. In the face of the direction issued by the Apex Court, relief payable to the migrants of Jammu have been determined, as such, they could not be granted the same relief as has been granted to the Kashmiri migrants.

The learned Division Bench of this Court to whom the matter was referred by the Hon'ble Supreme Court in the contempt petition has already concluded the matter in this behalf. Dealing with the same questions as are involved in the present case, the learned Division Bench has upheld the plea of the Government in respect of the scale of relief to be provided to

the migrants of Jammu as determined by the Apex Court.

In view of the above, this appeal is allowed with the following directions:-

- (a) That the scale of relief payable to the migrants of Jammu, respondents-petitioners herein, shall be the same as has been determined by the Apex Court detailed hereinabove.
- (b) That on proper verification by the Relief and Rehabilitation Commissioner (M), Jammu, the relief shall be payable to the respondents-petitioners, if not, already paid.
- (c) That in case cash relief has not been paid to the respondents-petitioners, the same shall be paid within two months from the date a copy of this order is received.

**Disposed** of along with connected CMP(s), if any.

**(Sunil Hali)**  
**Judge**

**(Virender Singh)**  
**Judge**

Jammu  
.06.2010.  
'Madan'