



UNION TERRITORY OF JAMMU & KASHMIR
DIRECTORATE OF HEALTH SERVICES, JAMMU

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Subject:-O.A./61/1313/2022 titled Imraz Khan Vs UT of J&K & Ors.

ORDER

Whereas, the applicant in the above titled case has sought directions, inter-alia, to direct the respondents to grant retrospective effect of regularization to the services of the applicant alongwith all the consequential and monetary benefits from the date of completion of period of seven years i.e. in the year 2009 in terms of the Jammu and Kashmir Civil Services (Special Provision) Act, 2010 and to accord consideration to the representation of the applicant by passing a reasoned and speaking order, and;

Whereas, the Hon'ble Central Administrative Tribunal, Jammu Bench disposed of the case, on 16-09-2022, with the judgment/order whose operative Para-6 is reproduced verbatim as under:-

"Para 6. I have considered the submissions made by the Ld. Counsels for both the sides and perused the material on record. Without expressing on the merits of the case, the O.A. is disposed of at admission stage, with direction to Respondent No.2 to consider and decide the pending representation of the applicant, as per relevant rules and regulations by passing a reasoned and speaking order within a period of four weeks from the date of receipt of a certified copy of this order."

Whereas, the case of the applicant has been examined in the light of record and found that the applicant was initially engaged in the department as Male Multipurpose Health Worker (MMPHW) on contractual basis on 31-07-2002. The services of the applicant has been regularized prospectively in terms of J&K Civil Services (Special Provision) Act, 2010 on the recommendations of Empowered Committee constituted under the Act, and;

Whereas, earlier there was no policy for the regularization of service of Adhoc/contractual/consolidated employees working in the department. However, the government took a policy decision and framed a policy called J&K Civil Services (Special Provision) Act, 2010 for the regularization of services of Adhoc, contractual and consolidated employees engaged in the departments, and;

Whereas, the case of the applicant was processed in light of provisions of the Act and his services have been regularized in terms of J&K Civil Services (Special Provision) Act, 2010, as recommended/cleared by the Empowered Committee constituted in terms of J&K Civil Services (Special Provision) Act 2010 which is accepted by the applicant and he drew his salary and increments since the year 2019 onwards in terms of said scheme, and;

Whereas, the first proviso to section 5 of J&K Civil Services (Special Provision) Act 2010 provides that the regularization of the eligible adhoc or contractual or consolidated appointees under this Act shall have effect only from the date of such regularization, irrespective of the fact that such appointees have completed more than seven years of service on the appointed date or thereafter but before such regularization, and;

Whereas, in view of the above stated rule position the applicant is not entitled for grant of retrospective effect of regularization to his services from the date of completion of period of seven years.

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Now, therefore, in view of the facts elaborated herein above and after having examined and considered the case of the applicant, it is found that the applicant cannot be granted retrospective effect of regularization to his services from the date of completion of period of seven years as there is no such provision in the Jammu and Kashmir Civil Services (Special Provision) Act, 2010 under which his services have been regularized. Hence the case being considered and found devoid of merit and is rejected.

Sd/-
(Dr. Saleem-ur-Rehman)
Director Health Services,
Jammu

No;-DHSJ/Legal/13144-44

Dated: - 13 /12/2022

Copy to the:-

1. Chief Medical Officer, Rajouri for information.
2. Private Secretary to Secretary to Govt., Health and Medical Education Department, Civil Secretariat, Jammu for information of worthy Secretary.
3. HEB Section to upload the order on official website.
4. Sh. Imraz Khan S/O Lal Khan R/O Chowkian Darhal, Tehsil Darhal, District Rajouri for information.

Dy. Director Health Services
Jammu