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Subject:-O.A./61/1583/2021 titled Mohd Yaqoob & Ors Vs UT of J&K & Ors.

ORDER

Whereas, the applicants in the above titled case has sought directions, inter-alia, to command the respondents for counting the temporary services rendered by the applicants on adhoc/contractual/stop gap arrangements prior to the regularization for the purpose of grant of pensionary benefits in accordance with Article 177 of Civil Service Regulations having regard the decision of the Hon'ble High Court dated 30-08-2007 rendered in SWP No. 942/2006 titled Kaka Ram Vs State and others and further to reckon and maintain the seniority of the applicants retrospectively towards pensionary benefits, and;

Whereas, the Hon'ble Central Administrative Tribunal, Jammu Bench disposed of the case on 21-10-2021 with the judgment/order whose operative portion reads as under:-

"Looking to the limited prayer made by the learned counsel for the applicants, we dispose of the O.A. with direction to the respondents to treat this O.A. as representation preferred by the applicants and take a decision on the same taking into consideration judgment cited by the applicants and pass a reasoned and speaking order within a period of two months 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 applicants were initially engaged in the department on different posts on stop gap arrangement in the year ranging from 1992 onwards. The services of the applicants have been regularized prospectively in terms of J&K Civil Services (Special Provision) Act, 2010 vide different Govt. Orders issued in the year 2012 onwards by the Administrative Department on the recommendations of Empowered Committee constituted under the Act, and;

Whereas, earlier there was no policy for the regularization of service of Adhoc 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 cases of the applicants were processed in light of provisions of the Act and their services have been regularized in terms of J&K Civil Services (Special Provision) Act, 2010, 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 applicants are not entitled for counting their services rendered on stop gap arrangement prior to their regularization as there is no such provision in the Act, and;

Whereas, the services of the applicants have been regularized vide different Govt. Orders as recommended/cleared by the Empowered Committee constituted in terms of J&K Civil Services (Special Provision) Act 2010 which is accepted by the applicants in the year 2012 and onwards and they drew their salaries and increments since the year 2012 onwards in terms of said scheme, and;

Whereas, after careful perusal of the judgment relied upon by the applicants in the O.A. passed in writ petition SWP No. 942/2006 titled Kaka Ram Vs State & others it is found that this judgment is not applicable in the case of the applicants as the services of the applicants have been regularized under J&K Civil Services (Special Provision) Act, 2010 wherein there is no such provision to count the temporary services rendered prior to their regularization, and;

Whereas, rule 9 of J&K Civil Services (Special Provision) Act, 2010 deals with the issue of seniority and provides that the seniority of the regularized employees shall be determined with reference to the date of their regularization. Therefore, the