



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

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Subject: -SWP No: -1231/2014 titled Javed Iqbal & Ors Vs State of J&K & Ors.

ORDER

Whereas, the petitioners by way of filing the subject captioned writ petitions have, inter-alia, sought directions to give effect of regularization of services w.e.f. the date of their attaining eligibility for the same i.e. they have completed minimum five years and maximum 7 years of regular and uninterrupted service from the date of recommendations qua regularization made in their favour, and;

Whereas, the Hon'ble High Court vide interim order dated 21-05-2014 has directed as under: -

“Meanwhile, respondents are at liberty to consider the claim of the petitioner under rules having regard to the averments made in the application within notice period.”

Whereas, the claim of the petitioners have been examined in the light of record and found that the petitioners, initially, have been appointed on contractual basis on different posts during the year, 2002 and services of the petitioners have been regularized, vide different Government Orders, 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)

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Act, 2010 for the regularization of services of Adhoc, contractual and consolidated employees engaged in the departments, and;

Whereas, the cases of the petitioners were processed in light of the provisions of the Act and their 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, 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, it is a settled law that no person can claim regularization in service until and unless the regularization is provided under any statute, rule or Government Order. The services of the petitioners have been regularized in terms of J&K Civil Services (Special Provision) Act, 2010, as earlier to this Act there was *no* Government policy for the regularization of services of Adhoc, contractual and consolidated employees working in different departments. The Section 5 of this Act provides for regularization of Adhoc, contractual or consolidated appointees on fulfillment of certain conditions, inter-alia, completion of seven years of service on the appointed date. The first proviso to section 5 of the aforesaid Act clearly lays down that the regularization of eligible adhoc, contractual or consolidated appointees under the Act shall have effect only from the date of regularization, irrespective of the fact that appointees have completed more than seven years of services on the appointed date or thereafter but before such regularization. In this view of the rule position the petitioners are entitled for regularization only from the date of their regularization and not from the date of their initial engagement on contractual basis as there is no such

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