



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

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Subject:-T.A. No. 62/1910/2020 titled Mr. Des Raj Vs State of J&K & Ors.

ORDER

Whereas, the Hon'ble Central Administrative Tribunal, Bench Jammu has disposed of the case, on 30-07-2021, and certified copy of the judgment/order received in this office on 10-01-2022. The Para-4&5 of the judgment/Order reads as under:-

4. *The prayer in the O.A. is to direct the respondents to regularize the service of the applicant. We find it difficult to accede to such a request. As a matter of fact the Hon'ble Supreme Court deprecated the practice of issuing such direction. At the same time, if there exist any policy in the Government as regards dealing with the employees of this nature, the case of the applicant also needs to be considered in accordance with rules. Beyond that, we cannot issue any direction.*
5. *We, therefore, dispose of the OA directing the respondents to consider the case of the applicant in terms of the existing policy, relevant schemes, law laid down by various court, rules and regulations governing regularization and if permissible under the rules, within two months from the date of receipt of a certified copy of this order."*

Whereas, the petitioner in the writ petition has sought directions to command the respondents to regularize the services of the petitioner as warranted under SRO-64 of 1994 from the date the same became due i.e. on 08-05-1995 when the petitioner became eligible for regularization on the completion of 7 years of regular service and also when there were number of vacancies lying vacant against which the petitioner could have been regularized. The petitioner has contended in the writ petition he came to be appointed as Safaiwala on temporary basis on a consolidated pay of Rs 630/- per month, vide Order No. Est-3/430-31, dated 07-05-1988. The petitioner completed his seven years of service on 08-05-1995 and thus became eligible and entitled to regularization in terms of SRO-64 of 1994. However, the regularization of the petitioner has been delayed and avoided. The petitioner on 31-10-2018 is going to retire from his service on superannuation but the regularization case of the petitioner is still hanging fire and is unsettled.

Whereas, under J&K Daily rated workers/work charged employees (Regularization) Rules 1994, notified as SRO 64 of 1994 only those

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employees are eligible for regularization of their services who have been engaged as a Daily rated worker/work charged employee. However, the petitioner, as per his initial engagement order, had been appointed as consolidated paid safaiwala as such was not eligible for regularization of his services in terms of SRO-64 of 1994.

Whereas, services of the employees working in the departments on Adhoc/Contractual/Consolidated basis is regulated under J&K Civil Services (Special Provisions) Act, 2010. The First proviso to Section 5 of the J&K Civil Services (Special Provisions) Act 2010 provides that *"Provided 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."*

Whereas, the applicant has attained the age of retirement from Government services and presently he is not in service of the department and as per the Act there is no provision of regularization of services retrospectively or counting of services rendered prior to regularization.

Now, therefore, the case of the petitioner for regularization of his services rendered on consolidated basis in the department prior to his retirement is considered in terms of J&K Civil Services (Special Provision) Act, 2010 and found devoid of merit, hence rejected.

Sd/-

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

No:-DHSJ/Legal/ 15725-28

Dated: - 12/01/2022

Copy to the:-

1. Chief Medical Officer, Kathua for information.
2. Block Medical Officer, Billawar for information.
3. Health Education Bureau, DHS, Jammu to upload the order on official website of the department.
4. Sh. Des Raj S/O Sh. Kirpa Ram R/O Kishanpur Dungara, Tehsil Billawar, District Kathua for information.

(Dr. Seema Gupta)

Dy. Director Health Services (Sch),
Jammu