



सत्यमेव जयते

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

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Subject:-SWP No:-98/2013 titled Kher Singh Vs State & Ors.

ORDER

Whereas, the petitioners in the subject captioned writ petition has sought directions from the Hon'ble High Court, amongst others, to command the respondents to allow final consideration to the case of the petitioners for their regularization as Safaiwalas in Health Department against available posts held by them from different dates ranging from 1988 to 1997 and to give effect their regularization from the dates the petitioners are holding these posts, and;

Whereas, the Hon'ble High Court of J&K and Ladakh at Jammu has disposed of the writ petition SWP No:-98/2013 titled Kher Singh & Ors Vs State of J&K and Others and Para-5 of the judgment/order reads as under:-

5. *".....The relief as restricted to the aforesaid situation is totally innocuous, therefore, the instant petition is disposed of with a direction to the respondents that they shall accord consideration to the cases of petitioners in accordance with the applicable provisions as referred to hereinabove or in accordance with any other enabling provisions and to take a final decision within a period of two months from the date, a copy of this order is served on the respondents. The decision as shall be taken thereon be conveyed to the petitioners."*

Whereas, the petitioners have been engaged as Safaiwalas in the department, at different time, ranging from the year 1988 to 1997, on contingent basis on consolidated pay and being paid their wages out of object head "Upkeep of Outsource", and;

Whereas, in the year 2010, the Govt. came up with a policy vide J&K Civil Services (Special Provisions) Act, 2010 for the regularization of services of the employees who were engaged on Adhoc/ contractual/ consolidated basis in different departments and accordingly the cases of the petitioners were forwarded to the Administrative Department for placing before the Empowered Committee constituted under the Act for their consideration, and;

Whereas, the cases of the petitioners were placed before the Empowered Committee in its 50th ECM held on 19-08-2015 and the following decision was taken by the Committee:-

“The documents furnished by the department reflects that the incumbents from S. No. 112 to 129 have been engaged on consolidated basis; however, their salary is paid by debit to Contingencies. As such, these incumbents are not entitled for regularization as per Section 3(d) of the J&K CS (Special Provisions) Act, 2010.”

Whereas, the department resubmitted the matter for placement before the Empowered Committee for a review in light of the Hon'ble Court judgment dated 20-11-2014 and the comments furnished by the Director Health Services, Jammu. The case was again placed before the Empowered Committee in its 57th meeting dated 07-12-2016 and the committee decided as under:-

“In pursuance of judgment dated 20-11-2014 in the contempt petition No. 122/2015 titled Khadim Hussain Vs State & others filled in SWP No. 98/2013 titled Kher Singh V/S State & Others, the Empowered Committee deliberated upon the issue in great detail, and went through its mandate & decided that these petitioners are being paid out of Contingencies which implies that they are not working against any post as such the petitioners are not entitled for regularization as per Section 3(d) of the J&K CS Special Provisions Act, 2010. Accordingly, the Empowered Committee reconsidered & rejects the claim of petitioners, meanwhile, advised the department to reject the claim of petitioners by way of speaking order.”