

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

WP(C) No. 2083/2024

CM No. 5057/2024

1. UT of J&K Acting through Appellant(s)/Petitioner(s)
Commissioner Secretary to the
Government Agriculture/
Sericulture Department Civil
Secretariat, Jammu
2. Director Sericulture
Department, Tulsi Bagh,
Srinagar.
3. Director Sericulture
Department, Jammu
4. Add. Director Sericulture
Department Jammu
5. Dy. Director Director
Sericulture Department,
Ramban

Through: Mr. Suneel Malhotra, GA

Vs

1. Sham Lal S/o Brij Ram R/o Sumran, ... Respondent(s)
Ramban
2. Gandrab Singh S/o Nar Pal Singh
R/o Saina Bati, Ramban
3. Qasim Mir S/o Ghulam Mir R/o
Kumait Ramban.

Through: Mr. Rajdeep Singh Thakur, Advocate &
Ms. Ankita Katoch, Advocate

**Coram: HON'BLE MR. JUSTICE SANJEEV KUMAR, JUDGE
HON'BLE MR. JUSTICE PUNEET GUPTA, JUDGE**

ORDER
30.12.2024

1. This petition under Article 227 of the Constitution of India filed by the
Union Territory of Jammu and Kashmir is directed against an
order/judgment dated 22.03.2024 passed by the learned Central
Administrative Tribunal, Jammu (for short "*the Tribunal*") in OA No.

61/1167/2021 whereby the Tribunal has directed the petitioners herein to regularize the services of the respondents after verification of their names and official records of the Department in terms of SRO 64 of 1994 within a period of eight weeks.

2. Briefly stated, the facts leading to filing of the instant petition are that the respondent No. 1 was engaged as casual labour on 10.02.1984; respondent No. 2 was engaged as casual labour on 01.09.1989; and respondent No. 3 was engaged as casual labour on 01.06.1980. It is submitted that the Department had been giving two days' break after every 59 days of the working. While the respondents were providing their services regularly to the petitioners, may be, with two days' break after 59 days, SRO 64 of 1994 came to be promulgated by the Government providing for regularization of the daily rated workers/work charged employees who, on the cut-off date i.e. 01.04.1994 had completed 07 years continuous service. The case of the respondents was covered by SRO 64 of 1994 and, therefore, they legitimately expected that their services would be regularized by the petitioners. However, this did not happen and the respondents approached this Court through the medium of SWP No. 2886/2013 which was disposed of by this Court vide order dated 16.10.2018 directing the respondents therein [petitioners herein] to consider the representation of the petitioners therein [respondents herein] supported by the documentary evidence in their possession for passing appropriate orders in terms of SRO 64 of 1994. The case of the respondents was, however, rejected by the petitioners by passing order No. 91/DS/JK/2020 dated 16.07.2020. It is this order which was called in

question by the respondents in OA No. 61/1167/2021 which has been disposed of by the Tribunal vide judgment impugned in this petition.

3. Having heard learned counsel for the parties and perused the material on record, we are of the considered opinion that the judgment passed by the Tribunal is completely in consonance with law. It is not in dispute that the respondents have been working with the petitioners since 1984, 1989 and 1980 respectively. Respondent Nos. 1 & 3 completed 07 years continuous service as on 01.04.1994 when SRO 64 of 1994 came into force. The respondent No. 2, however, completed 07 years continuous service in the year, 1997 and was thus, entitled to be regularized w.e.f 01.04.1998, i.e. the next Financial Year. The OA seems to have been opposed by the petitioners on two grounds, first, that the respondents were not in the continuous service of the petitioners as daily rated workers and that at the time of consideration of the writ petition, SRO 64 of 1994 stood repealed by SO No. 514 of 2023. These two grounds are reiterated by Mr. Suneel Malhotra, learned GA before us also.
4. We have given thoughtful consideration to the arguments made by Mr Suneel Malhotra, learned GA and do not find any substance therein. Again, it is not in dispute that the respondents are working as daily rated workers with the petitioners for the last more than 30 years. Although the petitioners have named them as “casual labourers” but casual labourer cannot be one who is performing the duties for the last 30 years continuously.
5. So far as repeal of SRO 64 of 1994 by SO 514 of 2023 is concerned, the same would not affect the vested right of regularization which accrued to

the respondents immediately on completion of continuous service of 07 years. In the instant case, 07 years continuous service was completed by the respondents much before repeal of SRO 64 of 1994. Both these grounds urged by Mr. Malhotra, learned GA are not tenable in the eye of law and are, thus, rejected.

6. For the foregoing reasons, we do not find any merit in the present petition and the same is, accordingly, dismissed.

(Puneet Gupta)
Judge

(Sanjeev Kumar)
Judge

Jammu
30.12.2024
Tarun/PS

Whether the order is speaking?
Whether the order is reportable?

Yes/No
Yes/No

