

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

**Case No. :- SWP No. 223/2016
IA No. 01/2016**

Date of pronouncement:- 13.11.2025

Uploaded on :- 18.11.2025

Sushil Dutt and ors.

.... **Petitioner(s)**

Through:- Mr. Sheikh Najeeb, Advocate

V/s

State of J&K and ors.

.....**Respondent(s)**

Through:- Mrs. Monika Kohli, Sr. AAG with
Ms. Shazia Asaf, Advocate.

CORAM:HON'BLE MR. JUSTICE JAVED IQBAL WANI, JUDGE

ORDER(ORAL)

1. In the instant petition filed under Article 226 of the Constitution of India, the petitioners have sought the following reliefs:-

“CERTIORARI:-

Quashing order No.JKTDC/Adm/689-90dated 21-01-2006 issued by respondent No.4whereby the case of the petitioners for their regularization of services were rejected illegally/arbitrarily and in violation of the decision taken by the Board of Directors in its 86th meeting held on 27-09-2012 and also the Judgment/Order dated 09-06-2015passed in SWP No.1709/2015 titled Sushil Dutt & Ors V/s State of J&K & Ors.

MANDAMUS: -

- i) *Commanding the respondents to regularize the services of the petitioner retrospectively with all consequential benefits by*

implementing the 86th Board of Directors decision dated 27-09-2012.

ii) Commanding the respondents to produce the entire record regarding the regularization of all the employees who were regularized in pursuance to decision dated 27-09-2012.

Prayer for grant of any other interim or final relief as may be deemed appropriate in the circumstances of the case.”

2. The facts under the shade and cover of which the aforesaid reliefs have been sought and as are stated in the instant petition are that the petitioners came to be engaged in the respondent-Corporation as casual workers on 05.05.1995, 07.09.1995, 07.09.1995 & 31.05.1996 and that the Corporation in its 86th Board of Directors' Meeting held on 27.09.2012 issued a circular, resolving therein that temporary workers (daily wager/casual/consolidated workers) engaged upto 31.12.1997 numbering 137 strictly as per the seniority be regularized as Helpers against the available Class-IV posts and Waiters in the minimum scale of 4440-7440 with grade pay 1300, medical allowances and CCA wherever applicable from 01.10.2012 to 31.03.2013 and entitled to the Dearness Allowance and House Rent Allowance, as applicable to the regular employees of the Corporation from 01.04.2013 and that subsequent to the issuance of the said circular, Order No. 117/ADM/JKTDC of 2013 dated 29.06.2013 came to be issued in furtherance thereof, whereby post-facto sanction came to be accorded to the release of grade in favour of the temporary workers regularized pursuant to the said circular and that the petitioners though were entitled to be regularized in terms of the circular dated 13.10.2012, yet the respondents did not regularize

their services despite the fact that persons, namely, Raj Kumar, Jagdev Singh and Palvinder Singh, who had also been working on casual basis with the petitioners and even engaged after the petitioners came to be regularized in terms of the circular and that when a representation filed by the petitioners in this regard before the respondents did not yield any result, the petitioners preferred SWP No. 1709/2015 before this Court, seeking therein a direction upon the respondents to regularize their services in light of the decision taken in 86th Board Meeting held on 27.09.2012 and also extend them all consequential benefits thereto, as were granted to the similarly situated to the petitioners pursuant to consequential order dated 29.06.2023, which writ petition came to be disposed of on 09.06.2015 with a direction to the respondents to consider the case of the petitioners for their regularization strictly in light of the decision taken by the Board of Directors and that the respondents instead of considering the case of the petitioners in correct and right perspective, inasmuch as, in line with the directions passed by this Court on 09.06.2015, the respondents rejected the claim of the petitioners for regularization of services in terms of order dated 21.01.2016, which is impugned in the instant petition.

3. The petitioners have challenged the impugned order in the instant petition, *inter-alia*, on the grounds that the respondents violated their legal, statutory and fundamental rights while denying them regularization of their services on one hand and, on the other hand,

discriminated them while regularizing the services of their juniors including one, namely, Hidayat Ahmed Mukhdoomi.

4. **Objections** to the petition have been filed by the respondents, wherein the petition is being opposed and it is being, *inter-alia*, stated that the petitioners were engaged as casual workers in the Corporation purely on need basis on 05.05.1995, 01.06.1995, 07.08.1995 & 31.05.1996 and subsequently, were placed in the minimum daily wage category on 15.12.1999 respectively in terms of order dated 15.12.1999 and that 131 temporary workers, admittedly, were regularized pursuant to the decision of Board of Directors taken in the 86th Meeting, whose seniority was determined from the date of their conversion as daily rated/consolidated workers and that the said workers were regularized in order of seniority excluding the petitioners, as their casual services were not counted towards daily rated services and that the petitioners were also regularized in the year 2019 despite the fact that they were not fulfilling the minimum qualification criteria.

Heard learned counsel for the parties and perused the record.

5. At the very outset, the appearing counsels for petitioners while making his submissions, would submit that although the petitioners stand regularized in the year 2019 by the respondents, yet they were essentially required to be regularized along with those, who came to be regularized in the year 2012 pursuant to the circular dated 13.10.2012 and that the petitioners since have been

discriminated by the respondent in the matter of regularization not only vis-a-vis other temporary workers, but also with those, who have had been engaged as casual workers much after the petitioners.

6. Perusal of the record available on the file indisputably reveals that the petitioners have named five temporary workers, namely, Jagdev Singh, Ravinder Singh, Shabnum Khan, Raj Kumar and Zahoor Ahmed Zahoor, who according to them, had been engaged after the petitioners and had been subsequently regularized pursuant to the circular dated 13.10.2012, however, the said plea of the petitioners has not been replied by the respondents in the reply filed to the petition, but the only plea raised by the respondents in this regard is that only those temporary workers were regularized in terms of circular dated 13.10.2012, who have had been initially engaged on consolidated basis and were, as such, treated as daily wagers and not casual workers like the petitioners. The said plea of the respondents, *ex-facie*, is grossly misconceived in view of the fact that circular dated 13.10.2012, pursuant to which, the temporary workers in the respondent-Corporation were ordered to be regularized, did not make any classification amongst daily wagers/casual/consolidated workers and in fact provided all the said workers across board as eligible for regularization, though with a caveat that such temporary workers ought to have been engaged upto 31.12.1997. The respondents, seemingly, have made a classification amongst the temporary workers of their own

without the same being provided in the circular and have consequently denied the petitioners' regularization of their services on misconceived and flimsy grounds, overlooking the seniority of the petitioners qua even those, who have been referred in the petition, who admittedly have been engaged by the respondent-Corporation much after the engagement of the petitioners.

7. Although the services of the petitioners have been regularized subsequently, yet the said regularization has been accorded in the year 2019 without any lawful justification by the respondent-Corporation, when in fact the respondents ought to have regularized the services of the petitioners at par with those, who were engaged with them or else ahead of those, who were engaged much after them, pursuant to the circular dated 13.10.2012 and whose services have had been regularized admittedly w.e.f. 01.12.2012. It would not thus lie in the mouth of the respondents that the petitioners cannot now claim regularization in parity with those already regularized after a considerable period of time, in that, delay in this regard cannot be said to operate against the petitioners in view of patent discrimination meted out to them by the respondents.

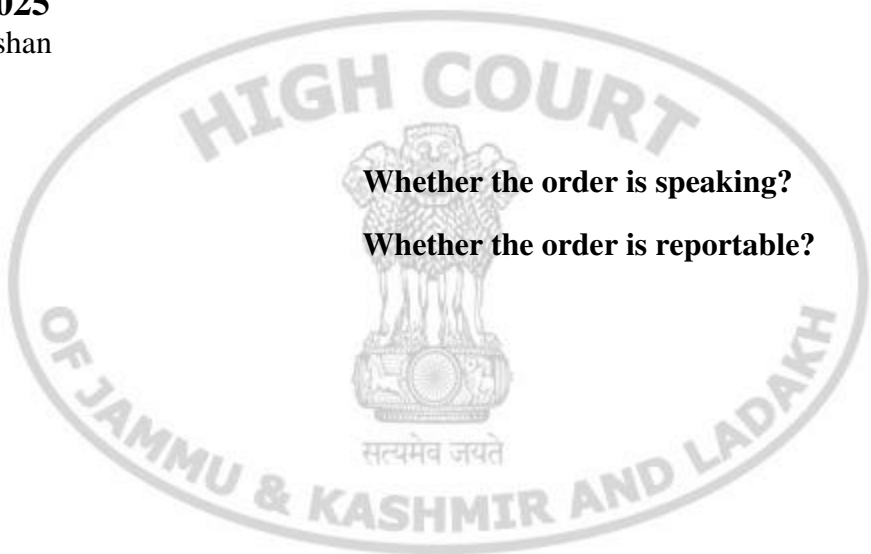
8. Viewed thus, for the aforesaid reasons, the instant petition succeeds, as a consequence whereof, the impugned order dated 21.01.2006 is quashed and by issuance of writ of mandamus, the respondents are commanded to treat the petitioners to have been

regularized w.e.f. 01.12.2012, that is the date on which the other temporary workers, who had been engaged with the petitioners or else after them stand regularized. The respondents consequently shall also release all consequential benefits in favour of the petitioners thereto, as have had been extended in favour of those already regularized in terms of circular dated 13.10.2012.

9. *Disposed of* along with connected application.

(JAVED IQBAL WANI)
JUDGE

JAMMU
13.11.2025
Ram Krishan



Whether the order is speaking?	Yes
Whether the order is reportable?	Yes/No