

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

WP(C) No. 1431/2025

Reserved on: 06.08.2025
Pronounced on: 12 .08.2025

1. UT of Jammu and Kashmir through Commissioner Secretary to Government, Agriculture Production Department.
 2. Director Agriculture Department, Talab Tilo, Jammu
- Petitioners

Through: - Mr. Sunil Malhotra G.A

Vs.

1. Baby Tickoo wife of A.K.Koul resident of House No. 204, Janipur Colony Jammu
2. Agnes wife of Gabriel resident of House No. 143 Veer Marg, Jammu.

...Respondent(s)

Through: - Mr. Anuj Dewan Raina Advocate.

**CORAM: HON'BLE MR. JUSTICE SANJEEV KUMAR, JUDGE
HON'BLE MR. JUSTICE SANJAY PARIHAR JUDGE**

JUDGMENT

Sanjeev J

1 The petitioners invoke the extraordinary writ jurisdiction vested in this Court under Article 226 of the Constitution of India to throw challenge to an order and judgment dated 27.12.2024 passed by the Central Administrative Tribunal, Jammu Bench, Jammu ['Tribunal'] in OA No. 61/112/2022 titled '*Baby Tickoo and another vs UT of Jammu and Kashmir and others*', whereby the Tribunal has allowed the OA filed by the respondents and directed the petitioners herein to regularize the services of the respondents in accordance with

SRO 64 of 1994, in light of the observations made in the said judgment.

2 The impugned judgment is assailed by the petitioners primarily on the ground that the Tribunal has failed to appreciate that the OA filed by the respondents was hit by delay and laches. It is submitted that the cause of action accrued to the respondents to approach the Tribunal when they acquired eligibility for regularization under SRO 64 of 1994, or at least, on the date when their case for regularisation was rejected by the Empowered Committee. It is further submitted that the respondents approached the Tribunal only in the year 2022, that too, after their retirement and, therefore, their OA ought to have been dismissed at the threshold on the ground of delay and laches.

3 Mr. Malhotra, learned counsel appearing for the petitioners, would submit that the petitioners may not oppose the direction issued by the Tribunal to consider the case of respondents for regularisation, but the respondents cannot be paid the arrears of their salary beyond the period of three years prior to the filing of the OA before the Tribunal.

4 *Per contra*, Mr. Anuj Dewan Raina, learned counsel appearing for the respondents, would argue that the case of the respondents was all along pending consideration of the petitioners and the delay, if any, in finalizing their regularization is wholly and entirely attributable to the petitioners. It is submitted that the petitioners cannot take the benefit of their own wrong and non-suit the respondents only on the ground of delay and laches. He would further argue that, having regard to the fact that the respondents have all along worked in the

Department of the petitioners as daily wagers, as such, they were always kept under a false hope that their cases shall be considered by the competent authority for regularization. It was only when similarly situated persons were regularized, and the cases of the respondents were turned down, the respondents were compelled to knock at the doors of the Court.

5 Having heard learned counsel for the parties and perused the material on record, we are of the considered opinion that the impugned judgment passed by the Tribunal is legally and factually correct and does not call for interference by us in these proceedings.

6 Respondent No.1 came to be engaged as a daily rated worker in December 1992, whereas respondent No.2 was similarly engaged as daily wager in October 1992. Both the respondents became eligible for their regularization in the financial year 2000, i.e, upon completion of seven years of continuous service as daily rated workers. On acquiring eligibility, their names, along with others similarly situated, were forwarded to the competent authority , but their cases were not considered for one reason or the other. In the year 2006, the cases of the respondents were once again forwarded by the Controlling Officer of the respondents for their regularization, along with various other similarly circumstanced employees. However, the cases of the respondents were rejected by the Empowered Committee.

7 It is not in dispute that several similarly situated persons, including Yash Pal, Des Raj, and Sagar Singh were regularized vide Agriculture Order No. 60/E/2017 dated 10.03.2017. Similarly, vide Agriculture Order No. 134/E/2018 dated 25.09.2018, five more persons were regularized against Class-IV posts, notionally from the date they

had completed seven years of continuous service. The respondents also represented before the Authority concerned against their arbitrary exclusion from such regularization and, as a result whereof, the case of the respondents was again processed in the office of the Director, Agriculture, Jammu, and forwarded to the Secretary to Government, Agriculture Production Department vide communication No. 15.04.2019. While the case was pending consideration of the Administrative Department and was required to be placed before the Empowered Committee, the respondents retired as daily wagers upon attaining the age of superannuation i.e 60 years.

8 Feeling aggrieved by the inaction of the petitioners in conferring upon them the benefit of regularization upon completion of seven years of continuous service as daily wagers in terms of SRO 64 of 1994, the respondents filed OA No. 61/112/2022 claiming, *inter alia*, a right of regularization under SRO 64 of 1994 on completion of seven years of continuous service as daily wagers and also on the ground that the similarly circumstanced candidates stood already regularized. The petition was contested by the petitioners herein. In the reply affidavit filed before the Tribunal, the fact that the respondents were engaged as daily rated workers in the Department of Agriculture in December 1992 and October 1992 respectively was not disputed. It was submitted that upon completion of the requisite length of service, i.e., seven years from the date of their engagement, the cases of the respondents for regularization against Class-IV posts in terms of SRO 64 of 1994 were forwarded by the Directorate of Agriculture, Jammu, along with other cases, to the Empowered Committee for consideration. However, the Empowered Committee rejected the cases of the

respondents. It was further submitted that the respondents also filed representations against their exclusion from regularization. The Directorate of Agriculture, Jammu once again processed the case of the respondents for placing it before the Screening Committee constituted vide Government Order dated 19.08.2015. It was submitted that the Screening Committee held its meeting on 25.08.2018 under the Chairmanship of the Principal Secretary to the Government, Department of Finance, but rejected the case of the respondents without assigning any reasons. It also emerges from the reply affidavit filed by the respondents that, notwithstanding the rejection by the Screening Committee, the Directorate of Agriculture, Jammu once again recommended the cases of the left-out daily rated workers, including the respondents, annexing all requisite documents for consideration.

9 From the reply affidavit filed by the respondents, no good reason has emerged which would demonstrate that the respondents could not be regularized under SRO 64 of 1994 because of their ineligibility. Though the stand taken by the respondents before the Tribunal and even before us is not clear, yet we find that earlier the competent authority had disputed their status as daily rated workers, overlooking the fact that they had been working continuously on a daily wage basis for over a decade. On the second occasion, the Screening Committee rejected their cases solely on the ground that they had already been rejected earlier and, therefore, were not worthy of reconsideration.

10 From the pleadings of the parties and the material on record in the shape of various communications, it becomes abundantly clear that both the respondents, having been engaged in the year 1992,

acquired eligibility for regularization in the financial year 2000, i.e., the financial year following the completion of seven years of continuous service as daily wagers.

11 It is true that in the case of respondent No.1 there was a break of one month and that break was owing to her pregnancy and for delivering a child. The Directorate of Agriculture, Jammu had clearly recommended that the absence from duty for a period of 30 days was due to the circumstances beyond the control of respondents No.1, and, therefore, deserved to be condoned. The Empowered Committee/Screening Committee never took note of the aforesaid recommendation and rejected the case of the respondents for regularisation arbitrarily and without even disclosing any good reason. It is in this backdrop, the Tribunal found merit in the Original Application filed by the respondents and, accordingly, allowed the same, directing the petitioners herein to regularize the services of the respondents against Class-IV posts in accordance with SRO 64 of 1994, keeping in view the observations made in the judgment. The respondents have also been held entitled to all consequential benefits including wage arrears beginning from the date they acquired eligibility for regularization.

12 In view of the admitted factual position, we do not find any illegality or infirmity in the conclusions arrived at by the Tribunal. The repeatedly turning down of the cases of the respondents for regularization by the Screening Committee/Empowered Committee was wholly arbitrary and in violation of Articles 14 and 16 of the Constitution of India. It has also come on record that similarly situated persons were regularized, but the respondents were excluded without

any fault on their part. The plea raised by Mr. Malhotra learned counsel appearing for the petitioners, for the first time before us that the OA was hit by delay and laches and ought to have been rejected at the threshold, is also without any substance.

13 From the pleadings of the parties and the documents on record, it is abundantly clear that the case of the respondents was all along under the consideration of the petitioners and was, in fact, processed and forwarded again in the year 2019. It was only when, despite repeated efforts made by the respondents and repeated recommendations by the Directorate of Agriculture their services were not regularized, the respondents were left with no option but to approach the Tribunal for redressal of their long-pending grievance. We understand that the respondents ought to have agitated the matter at the earliest possible occasion, but having regarding to the fact that the Directorate of Agriculture always gave them to understand that their case has been taken up with the competent authority for regularization, the respondents remained quiet and waited for the outcome of the efforts made by the Directorate.

14 We also cannot lose sight of the fact that the respondents served the Department of Agriculture as daily wagers on meagre wages and, therefore, could ill afford to engage in litigation against the petitioners, more so, when they were legitimately expecting that their cases would be considered on the analogy of similarly circumstanced persons and they would also be regularised in due course of time.

15 It is unfortunate that the services of the respondents could not be regularized till they attained the age of superannuation, i.e., 60 years. The respondents served as daily wagers with the petitioners for

more than two decades and were not regularized despite repeated recommendations made by the Directorate. We do not find any logic in the stand of the petitioners that would justify the repeated rejection of case of the respondents for regularization by the Screening Committee/Empowered Committee. The delay in according meaningful consideration to the case of the respondents is wholly and entirely attributable to the petitioners, and, therefore, they cannot be permitted to take advantage of their own wrong and seek to non-suit the respondents on the ground of delay and laches. For all these reasons, we reject the argument advanced by Mr. Malhotra, learned counsel appearing for the petitioners, that the Original Application filed before the Tribunal was hit by delay and laches.

16 For the foregoing reasons, we find no merit in this petition and the same is, accordingly, dismissed.

(SANJAY PARIHAR)
JUDGE

(SANJEEV KUMAR)
JUDGE

Jammu
12 .08.2025
Sanjeev

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