

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

WP(C) No. 2118/2025

UT of J&K and Ors.

.....Applicant(s)/Petitioner(s)

Through :- Mr. Vishal Bharti, Dy. AG

v/s

Nawab Din

.....Respondent(s)

Through :-

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

ORDER

06.08.2025

1. This petition under Article 226 of the Constitution of India filed by the Union Territory of Jammu and Kashmir and three others is directed against an order and judgment dated 18.02.2025, passed by the Central Administrative Tribunal, Jammu (“**the Tribunal**”) in OA No. 843/2024 titled “*Nawab Din vs. Commissioner Secretary to Govt. Department of Forest, Environment and Ecology and ors.*” whereby the Tribunal has allowed the writ petition of the respondent and directed the petitioners herein to release the salary of the respondent as regular employee from the date he completed seven years of continuous service.
2. The impugned judgment is called in question by the petitioners primarily on the ground that the Tribunal has failed to appreciate that in terms of the order which was subject matter of challenge in the OA before the Tribunal, the respondent was regularized as

helper on completion of seven years only on notional basis and the monetary benefits were given to him only prospectively, i.e., from the date of issuance of Government Order No. 24 JK (FST) of 2024 dated 27.01.2024.

3. Having heard learned counsel for the petitioners and perused the material on record, few facts which are not in dispute need to be noticed before considering the submissions of learned Deputy Advocate General appearing for the petitioners. As is claimed by the respondent, he came to be engaged as daily rated worker in the Social Forestry Department on 01.05.1993, however, as per the stand of the petitioners in the reply affidavit filed before the Tribunal, the respondent was initially engaged as casual labour in February, 1994 for a few days and thereafter re-engaged in the same capacity in August, 1994. When the respondent was not regularized even after completion of seven years' continuous service in terms of SRO 64 of 1994, he approached this Court by way of SWP No. 1928/2006.

4. The writ petition was disposed of by a Bench of this Court vide order dated 04.06.2012, thereby directing the petitioners herein to pass a requisite order for regularization of the respondent in service with effect from the date he became entitled thereto after completion of seven years' continuous daily wage service. It was specifically provided that remaining arrears of salary, if any, shall also be released in favour of the respondent forthwith. This judgment was not assailed by the petitioners before the Division

Bench and, therefore, attained finality. However, when the judgment was not complied with, the respondent filed a contempt petition which was registered as CPSW No. 245/2017. During the pendency of the aforesaid contempt petition and on the pains of committing the contempt, the petitioners herein passed Government Order No. 24 JK(FST) of 2024 dated 27.01.2024 regularizing the services of the respondent as helper notionally from the date he had completed seven years of continuous service and monetarily on prospective basis, i.e., from the date of issuance of Government Order (supra).

5. Feeling aggrieved, the respondent assailed the Government Order dated 27.01.2024 in OA No. 843/2024 which has been allowed by the Tribunal in terms of the order impugned in this petition.
6. In the aforesaid backdrop, it becomes abundantly clear that in terms of a concluded judgment of this Court passed in SWP No. 1928/2006, the respondent was held entitled to the following: -
 - a. **Regularisation with effect from the date he became entitled thereto after completion of seven years' continuous daily wage service.**
 - b. **The remaining arrears of salary, i.e., the salary to which respondent was entitled to upon his regularization minus the daily wage received by him during the period.**
7. The order of consideration, which was passed by the petitioners, ought to have taken care of both these aspects. However, as is the attitude of the petitioners, the respondent was held entitled to regularization from the date he had completed seven years of continuous service, but the benefit

of salary was given to him only on prospective basis. The petitioners, therefore, denied the benefit of regular pay scale of helper to the respondent from the date of his notional regularization till the issuance of Government Order dated 27.01.2024. The Government order passed in compliance with the direction of a Bench of this Court dated 04.06.2012 (supra) is to that extent in breach and not in compliance. The clear cut direction contained in the judgment dated 04.06.2012 is not only to regularize the services of the respondent herein from the date he completed seven years of continuous daily wage service, but is also to pay him the arrears of salary. The petitioners very cleverly and with a view to overreach the judgment passed by this Court on 04.06.2012 formulated the Government Order (supra) in a manner so as to deprive the respondent of the benefit of salary. The Tribunal has correctly appreciated this aspect of the matter and has accordingly directed the petitioners to give the benefit of salary of the post of helper to the respondent from the date he has been notionally regularized.

8. That apart, we see no good reason or justification to deprive the respondent of the benefit of salary. It is not in dispute that the respondent became entitled to regularization in terms of SRO 64/1994 in the financial year, next after the completion of continuous service of seven years as daily wagger. The delay, if any, in regularizing the services of the respondent is wholly and entirely attributable to the petitioners. They took almost 22 years to issue the formal order of regularization of the respondent and took 12 years after the passing of the judgment dated 04.06.2012.
9. In these circumstances, it was wholly unjust and totally irrational on the part of the petitioners to deprive the respondent of the salary of helper

from the date he completed seven years of continuous service as daily wager that, too, by terming his regularization notionally.

10. In a country governed by rule of law, the Government or for that matter its functionaries, cannot arrogate to themselves the powers akin to the powers of a monarch and deal with its citizens at their whims and fancies. This case reflects a mind-set with which the bureaucracy in the Union Territory works. Every effort is made to defeat the rights of the people and even the concluded judgments passed by this Court are not spared. It is high time, when the persons at the helm of affairs take note of this sorry state of affairs and come heavily on officers on whose account the rights of the people are trampled and the concluded judgments passed by this Court are disrespected. It is also the onerous duty of the Courts to deal with such elements with iron hand so that the faith of the people in the judicial system is maintained. We could have dismissed this petition imposing heavy costs on officers who might have dealt with the case of the respondent from time to time, but having regard to the fact that those officers who have caused the damage may not be now in service, we put a quietus here only.
11. For the foregoing reasons, we find no merit in this petition and the same is, accordingly, dismissed.

(Sanjay Parihar)
Judge

(Sanjeev Kumar)
Judge

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