

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

WP(C) No. 1923/2022
CM No. 5314/2022

Poonam Rani, age 46 years
D/o Bharat Bhushan
R/o 597-A, Gandhi Nagar, Jammu.

.....Appellant(s)/Petitioner(s)

Through: Mr. Jasbir Singh Jasrotia, Advocate

vs

1. The UT of J&K, th. Respondent(s)
Commissioner/Secretary to Govt. GAD,
Civil Secretariat, Srinagar/Jammu.
2. Principal Secretary to Govt., PDD, Civil
Secretariat, Srinagar/Jammu.
3. Joint Electricity Regulatory Commission,
J&K and Ladakh, Panama Chowk, Jammu
th. its Secretary.
4. Chairman Joint Electricity Regulatory
Commission, Panama Chowk, Jammu.
5. Secretary, Joint Electricity Regulatory
Commission, J&K and Ladakh, Panama
Chowk, Jammu.

Through: Ms. Monika Kohli, Sr. AAG.
Mr. Raman Sharma, AAG.
Ms. Sagira Jaffar, assisting counsel to
Mr. Ravinder Gupta, AAG.

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

JUDGMENT (ORAL)

18.08.2025

Sanjeev Kumar 'J'

1. Impugned in this petition, filed by the petitioner-Poonam Rani under Article 226 of the Constitution of India, is an order/judgment dated 21.01.2022 passed by the Central Administrative Tribunal, Jammu [“**the Tribunal**”] in OA No. 61/514/2021 titled *Poonam Rani Vs. UT of J&K and Ors.* whereby the Tribunal has dismissed the OA of the petitioner on the ground that the same is barred by limitation and also

that her employer i.e. Electricity Regulatory Commission stands wound up.

2. Before we advert to the grounds of challenge urged by Mr. Jasbir Singh Jasrotia, learned counsel for the petitioner, we deem it appropriate to give brief resume of the factual antecedents leading to the filing of this petition.
3. Vide Government Order No. 443-GAD of 2006 dated 10.04.2006, the Government authorized the Chairman, J&K State Electricity Regulatory Commission (SERC) to fill up three sanctioned posts, including one post of Steno-cum-Computer Operator on contractual basis for a period of one year from open market with a clear direction that the post shall be immediately referred to the J&K Service Selection Board for making the selection. It is not clear whether the posts, including the post of Steno-cum-Computer Operator, were ever referred to the Service Selection Board or not.
4. Be that as it may, pursuant to the authorization given by Government, the SERC vide Order No. 39/J&KSERC/2006 dated 28.12.2006 engaged the services of the petitioner as Steno-cum-Computer Operator for a period of three months and extendable for one year on the basis of satisfactory performance. This contractual engagement of the petitioner was extended from time to time, however, the last extension in favour of the petitioner was made by SERC vide order dated 31.03.2009 for a period of six months, which ended on 30.09.2009. The petitioner was even permitted to continue to serve beyond that period by the SERC in terms of Government Order No. 1328-GAD of 2009 dated 24.09.2009. This is how the petitioner

continued to perform her duties as Steno-cum-Computer Operator on contractual basis till the year 2019, when the SERC came to be wound up in terms of Government Order No. 1146-GAD of 2019 dated 23.10.2019.

5. It needs to be noticed that with a view to providing for regularization of the employees appointed on *ad hoc*, contractual or consolidated basis, the then State of J&K enacted the J&K Civil Services (Special Provisions) Act, 2010, which, *inter alia*, provided for regularization of services of *ad hoc*, contractual or consolidated employees having completed seven years of continuous service on the appointed day i.e. the date of commencement of Act of 2010 (for short, the Act of 2010). Proviso second of Section 5 further provided that any *ad hoc*, contractual or consolidated appointee, who had not completed seven years of service on the appointed day, would continue as such, till completion of seven years and would be entitled to regularization under the Act thereafter.
6. The petitioner, who was continuing in the contractual appointment, completed seven years of continuous service as such on 03.01.2014. With a view to conferring the benefit of regularization under the Act of 2010, the case of the petitioner was processed by SERC and sent to the Member Secretary, Empowered Committee under the communication of the Secretary, SERC bearing No. JKSERC/42-C/1240-43 dated 06.01.2014. The copy of the case was also sent to the administrative department i.e. the Power Development Department for necessary action.

7. It seems that the administrative department of PDD referred the matter of regularization of the petitioner to the General Administration Department, but the same was turned down on the ground that in view of provisions of Section 3(c) of the Act of 2010, the case of the petitioner did not fall within the purview of the Act of 2010 providing for regularization of services of *ad hoc*, consolidated or contractual employees.
8. Ordinarily, at this stage, the petitioner ought to have agitated the matter in the competent Court of law. However, she was seemingly persuaded not to do so as the SERC once again took up the matter with the administrative department for reconsideration of the case of the petitioner for regularization on the ground that SERC did not fall outside the purview of the applicability of the Act of 2010 for the reason that it had not framed any rules and regulations governing its functioning.
9. The matter ought to have been reconsidered by the Government in light of the communication of SERC bearing No. JKSERC/42-C/290 dated 29.06.2015. It seems that the case of the petitioner along with others was placed before the Empowered Committee for taking appropriate decision with regard to her regularization, but the same was once again turned down by the Empowered Committee on the same ground that the Act was not applicable to SERC. This is evident from the decision of the Empowered Committee taken in its 44th meeting held on 31.12.2014.
10. It is thus evident that the matter was never placed before the Empowered Committee again, particularly in the light of the

clarification given by SERC by re-submitting the case of the petitioner for regularization. The SERC, to whom the petitioner had rendered her services, did not relent and continued to make recommendations to the Government for her regularization under the Act of 2010.

11. While the petitioner was waiting for favourable outcome from the Government, particularly in the light of strong recommendation made by the SERC in her favour, the SERC came to be wound up vide Government Order No. 1146-GAD of 2019 dated 23.10.2019. As a result of winding up of the SERC, all the staff posted there and drawn from various departments was sent back to their respective departments. The petitioner, who was yet to be regularized and who was yet to become a member of Government service was left high and dry.
12. It is at this stage, when the petitioner thought of knocking the doors of justice. She approached the Tribunal by way of OA No. 514 of 2021, which has been dismissed by the Tribunal in terms of judgment/order impugned in this petition on the grounds which we have already indicated hereinabove.
13. Having heard learned counsel for the parties` and perused material on record, we are of the considered opinion that the judgment impugned passed by the Tribunal is totally flawed, and therefore, cannot be sustained.
14. Indisputably, the petitioner came to be engaged as Steno-cum-Computer Operator on contractual basis by the SERC on the authorisation given by the General Administration Department of the

Government of Jammu and Kashmir. The engagement of the petitioner was against a sanctioned post. She was allowed to continue in the contractual engagement by the Commission by giving her extensions from time to time. In the year 2014, she completed seven years of continuous service and became entitled to regularization under the Act of 2010. The SERC, having found the petitioner eligible to the benefit of regularization under the Act of 2010, submitted the complete case to the Government for passing of appropriate orders. The case was turned down by the Government only on the ground that in terms of Sub-Section (c) of Section 3, the Act of 2010 was not applicable to the autonomous bodies like SERC.

15. With a view to find out justification in the stand of the Government in denying the benefit of regularization to the petitioner, we have carefully gone through the provisions of Section 3 of the Act of 2010 in its entirety.

16. Section 3, for facility of reference is reproduced hereunder:-

3. Application of the Act.- The provisions of this Act shall apply to such posts under the Government as are held by any person having been appointed on *ad hoc* or contractual basis including those appointed on consolidated pay provided that such appointments have been made against the clear vacancies, but shall not apply to:-

- a) Persons appointed in terms of Government Order No. 125-GAD of 2001, dated 01.02.2001, on contract basis in the personal sections of Ministers or other authorities enjoying the status of a Minister;
- b) Persons appointed on tenure posts co-terminus with the life of the project or Scheme of the State or Central Government, as the case may be, and those appointed on

academic arrangement for a fixed term in any Government Department;

- c) Non-governmental agencies or autonomous bodies or public sector undertakings or corporations or government companies or societies or other local authorities which have their own rules and regulations governing their functioning; and**
- d) Part-time or seasonal employees including those whose wages are paid from out of the local funds or contingent grants.**

17. From perusal of Section 3(c), it is abundantly clear that only such non-Government agencies/autonomous bodies and public sector undertakings/corporations etc. are kept out of the purview of the Act of 2010, that may have their own rules and regulations governing their functioning.
18. Admittedly, the SERC, from its constitution till it was wound up, has failed to frame any rules and regulations of its own governing its functioning. The entire regular staff, which was posted in the SERC was drawn from different departments. The three sanctioned posts, including the one occupied by the petitioner was, however, authorized to be filled up by way of contractual arrangement by none other than the Department of General Administration. The authorization from the GAD was required only for the reason that SERC did not have its own rules and regulations governing its functioning including the appointment of any staff to run its affairs.
19. The communication of SERC bearing No. JKSERC/42-C/290 dated 29.06.2015 addressed to the Principal Secretary to Government, Power Development Department, Government of Jammu and

Kashmir, is self-speaking and clears the doubts, if any with regard to the status of rules and regulations of the Commission.

20. Had the matter been placed before the Empowered Committee in the light of the communication of SERC dated 29.06.2015, perhaps the result would have been different.
21. Be that as it may, the Governemnt having rejected the case once was reluctant to reopen it despite strong persuasion made by SERC from time to time through its recommendations.
22. As is evident, Section 3(c) was no impediment in the way of respondents to order regularization of the petitioner giving her the benefit of Act of 2010. The SERC, for the reasons given above, was not an autonomous body/statutory corporation as envisaged under Section 3(c) to which the provisions of the Act of 2010 were not applicable.
23. Viewed thus, the right to regularization under the Act of 2010, which accrued to the petitioner in the year 2014, upon completion of seven years of continuous service, as contractual appointee, cannot be said to have been taken away by the winding up of SERC, upon coming into operation of the J&K Reorganization Act, 2019 and the repeal of J&K State Electricity Act, 2010.
24. Had the petitioner been regularized in time, she, too, could have been taken back by the GAD and adjusted in some Government department. We are also not convinced by the observation of the Tribunal that there was inordinate delay by the petitioner in approaching the Tribunal for redressal of her grievance.

25. It is true that the case of the petitioner stood rejected by the respondents for regularization, though on a wrong premise, in the year 2014, yet the matter was again processed by SERC and taken up with the Government giving legitimate hope to the petitioner that her grievance would be redressed and addressed by the competent authority in the light of the material provided by the SERC.
26. It, however, did not happen for couple of years and in the meanwhile, with the coming into force of J&K Reorganization Act, 2019 and the repeal of J&K State Electricity Act, 2010, the SERC was wound up leaving the petitioner high and dry.
27. For the foregoing reasons, we find merit in this petition and the same is, accordingly, **allowed**. The judgment impugned passed by the Tribunal is set aside and the OA is disposed of with following directions:
- (i) That the petitioner, having worked as Steno-cum-Computer Operator against a clear vacancy continuously for a period of seven years as contractual appointee, is entitled to the benefit of regularization under the Act of 2010 and that the SERC does not fall within the ambit of Section 3(c) of the Act of 2010.
 - (ii) The case of the petitioner shall be reconsidered by the Empowered Committee in the light of the communication of SERC dated 19.06.2017 (supra) as also the observations, which we have made hereinabove within a period of four weeks from the date a copy of this judgment is served upon the respondents.

- (iii) The petitioner, subject to fulfilling of other eligibility conditions provided under the Act of 2010, shall be regularized prospectively from the date of issuance of formal order of regularization and she shall be posted in any of the Government departments or in the Joint Electricity Regulatory Commission, J&K, provided such post is available in the new Commission.

(Sanjay Parihar)
Judge

(Sanjeev Kumar)
Judge

Jammu
18.08.2025
Vishal Sharma

