

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

WP(C) No. 2134/2025

CAV No. 1013/2025

1. UT of J&K th.
Commissioner/Secretary to the Govt,
Floriculture Deptt.
2. Director Floriculture, Garden and
Parks Department, Jammu

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

Through: Mr. Suneel Malhotra, GA.

vs

Bindu Devi @ Bindu
W/o Lt. Raj Singh (Original Appellant)

..... Respondent(s)

Through: Mr. F. A. Natnoo, Advocate.

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

**ORDER
06.08.2025**

1. This petition, by the Union Territory of Jammu and Kashmir and Director, Floriculture, Garden and Parks, Jammu, is directed against an order and judgment dated 02.04.2025, passed by the Central Administrative Tribunal Bench, Jammu ("**the Tribunal**") in TA No. 61/2126/2020 titled *Bindu Devi Vs. UT of J&K and Ors.*, whereby the Tribunal has allowed the petition of the respondent and quashed order No. 349 of 2018 dated 03.02.2018, passed by petitioner No. 2 in compliance of judgment dated 09.11.2016 passed in SWP No. 310/2016 and directed the petitioners herein to regularize the services of husband of the respondent, namely, Raj Singh from the date of completion of seven years of service with all benefits including the arrears. The Tribunal has further directed that all the arrears, which

were payable to the deceased-employee, shall be released in favour of the respondent, the wife of the deceased-employee.

2. The judgment impugned is challenged by the petitioners on multiple grounds. However, before we advert to the grounds of challenge urged by Mr. Suneel Malhotra, learned counsel for the petitioner, a brief sketch of the factual background, leading to the filing of this petition would be worthwhile.
3. The respondent was engaged as a daily-rated worker on 01.02.1991, though, he was sometimes styled as “special labour” and sometimes a “casual labour”. He continued in the engagement for pretty long time and completed more than seven years of continuous service as such. The case of the respondent was submitted by the concerned Directorate to the Administrative Department for regularization in terms of SRO 64 of 1994, but the same was rejected by the Finance Department for the reasons which are contained in the communication of the Administrative Department bearing No. BPE/Flori/39/2014 dated 28.07.2015. The claim of the respondent for regularization was rejected on the sole ground that he was engaged as a “special labour” and not a “daily-rated worker” and therefore, was not entitled to regularization in terms of SRO 64 of 1994.
4. Feeling aggrieved, the respondent filed SWP No. 310 of 2016, seeking *inter alia* a direction to the competent authority to consider his case for regularization by treating him as a daily-rated worker. The respondent relied upon a Division Bench judgment of this Court

passed *State of J&K and Ors. Vs. Anuradha*, (2011) 1 JKJ 870(HC).

The writ petition was disposed of vide order dated 09.11.2016. The impugned order, rejecting the claim of the respondent for regularization dated 28.07.2015, was quashed and a direction was issued to the competent authority to consider the case of the respondent for regularization in terms of the Division Bench judgment passed in the case of *Anuradha* (supra) by passing a speaking order.

5. The aforesaid judgment attained finality when the letters patent appeal filed by the State came to be dismissed. In compliance with the judgment dated 09.11.2016 (supra), the case of the respondent for regularization was considered by the Directorate of Floriculture, Jammu and vide order No. 349 of 2018 dated 03.02.2018, the same was rejected again on the same ground that the respondent was in the engagement of the petitioners as 'labourer' and not even a 'casual labourer'. The Director, Department of Floriculture, Jammu, however, observed that the case of the respondent could be considered in terms of SRO 520 dated 21.12.2017. It is this order of consideration dated 03.02.2018, which was called in question by the respondent in TA No. 2126 of 2020. The Tribunal, has, vide order and judgment impugned, allowed the TA.
6. It needs to be noticed that during the pendency of TA before the Tribunal, the original petitioner-Raj Singh passed away on 05.01.2025 and was substituted by her wife, the respondent herein.

7. It is in this background and feeling aggrieved by the judgment passed by the Tribunal, the petitioners are before us invoking extraordinary writ jurisdiction vested in this Court under Article 226 of the Constitution of India.
8. Having heard learned counsel for the parties and perused material on record, we are of the considered opinion that the judgment passed by the Tribunal is factually and legally correct and the view taken by the Tribunal on the basis of judgments of this Court, particularly the judgment passed in the case of Anuradha, is well founded and unexceptionable. The claim of the respondent for regularization under SRO 64 of 1994 has been time and again rejected on the sole ground that he was engaged as a “special labour” and not a daily-rated worker and therefore, was not falling within the ambit of SRO 64 of 1994.
9. Though the plea was earlier rejected by this Court and the order passed on the aforesaid reasoning and ground was quashed, yet the petitioners persisted with their misconceived notion and passed an order of rejection of the claim of the respondent for regularization on the self-same ground. The passing of the order dated 03.02.2018, which was subject matter of challenge before the Tribunal, was, on the face of it, contemptuous and ought to have been dealt with accordingly.
10. Be that as it may, the Tribunal having surveyed the entire case law on the subject came to the conclusion that the nomenclature given to an

employee is not a determining factor, but it is the actual work and the duties performed by such an employee. If an employee, who is even engaged as a labourer continues for decades together and such daily wage employee cannot be said to be either a seasonal labour or a casual labour. The fact that the respondent remained in the service of petitioners since 01.02.1991, till his death somewhere in the year 2025, is itself a proof of the fact that he was continuously working as per his engagement with the respondents and was performing the job akin to the job performed by a daily-rated worker. It is not the case of the petitioners that he was either a part time employee or was being paid the wages other than a daily wage.

11. Viewed from any angle, the respondent was all along working as a daily-rated worker and has, thus, qualified to be regularized as Helper under SRO 64 of 1994 after completion of continuous daily wage service of seven years. The Tribunal has elaborately discussed the case law on the issue and we do not intend to reiterate the same in this judgment.
12. Suffice it to say that the respondent, who was engaged as a labourer in the year 1991 to perform the services of a daily wager on 01.02.1991, acquired a right of consideration to be regularized under SRO 64 of 1994 on completion of seven years of services as such. This issue stands already clinched by a judgment of learned Single Judge dated 09.11.2016 passed in SWP No. 310/2016, which stands upheld by the Division Bench by rejecting the letters patent appeal

filed thereagainst by the petitioners. The issue was, therefore, no longer open to be raised by the respondents.

13. To be fair to Mr. Suneel Malhotra, learned GA, we would like to address a new point raised by him for the first time before us. He submits that in the absence of Permanent Resident Certificate (PRC) possessed by the respondent, regularization order could not have been issued in his favour. We find this ground taken before us, or even before Tribunal, totally preposterous. In none of the rejection orders passed by the petitioners, there is even a whisper to this aspect of the matter. Be that as it may, the respondent, who is found entitled to regularization has to fulfil the requirements of SRO 64 of 1994 and his regularization ordered by the Tribunal is always subject to fulfilment of requisite formalities required for permanent employment with the Government.
14. For the foregoing reasons and also for the elaborate reasons contained in the judgment impugned, we find no merit in this petition and the same is, accordingly, **dismissed**.

(Sanjay Parihar)
Judge

(Sanjeev Kumar)
Judge

Jammu
06.08.2025
Vishal Sharma