

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

**WP (C) No. 2379/2025
CAV No. 1169/2025**

1. UT of J & K through its Applicant(s)/Petitioner(s)
Principal Secretary to Govt.
Forest Department,
Civil Secretariat, UT of J & K at Jammu.
2. Commissioner Secretary to Govt.,
Finance Department,
Civil Secretariat, UT of J & K at Jammu.
3. Principal Chief Conservator of Forests,
J&K Govt., Jammu.
4. Chief Conservator of Forests,
J&K Govt., Jammu.
5. Divisional Forest Officer,
Ramnagar Forest Division,
Tehsil Ramnagar, District Udhampur.

Through :- **Mr. Vishal Bharti, Dy. AG**

v/s

1. Sukh Dev, Age 44 years, ...Respondent(s)
S/o Sh. Bodh Raj,
R/o Village Ossu, Tehsil & District Udhampur.
2. Dev Raj, Age 42 years,
S/o Sh. Ved Parkash,
R/o Village Dehari, Tehsil Ramnagar, District Udhampur.
3. Yash Paul, Age 52 years,
S/o Sh. Dina Nath,
R/o Village Ghordi, Tehsil Ramnagar, District Udhampur.
4. Shamsher Singh, Age 48 years,
S/o Sh. Chattaru,
R/o Village Bermin, Tehsil Ramnagar, District Udhampur.
5. Krishan Singh, Age 52 years,
S/o Moti Singh,
R/o Village Marta, Tehsil Ramnagar, District Udhampur.
6. Bodh Raj, Age 47 years,
S/o Sh. Mangat Ram,
R/o Village Khaghote, Tehsil Ramnagar, District Udhampur.
7. Chuni Lal, Age 54 years,
S/o Sh. Anant Ram,
R/o Village Hartaryan Balter, Tehsil Ramnagar,

District Udhampur.

Through :- **Mr. Sudershan Sharma, Advocate with
Mr. Achal Sharma, Advocate**

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

ORDER (ORAL)
30.08.2025

CAV No. 1169/2025

1. Heard learned counsel for the caveators.
2. ***Caveat stands discharged.***

WP (C) No. 2379/2025

1. The impugned in this petition, filed under Article 226 of the Constitution of India by the UT of J & K and four others, is an order and judgment dated 11.09.2024 passed by the Central Administrative Tribunal, Jammu Bench, Jammu [**“the Tribunal”**] in TA No. 8407/2020 titled “*Sukh Dev & Ors. Vs. State of J & K & Ors.*” whereby, the Tribunal has allowed the petition of the respondents and has held them entitled to the benefit of regularization under the provisions of SRO 64 of 1994.
2. Briefly stating the facts giving rise to the filing of this petition are that the respondents having been engaged prior to the year 1994 as daily rated workers in the Forest department and having completed seven years continued service approached this Court by way of a writ petition being SWP No. 2024/2011 seeking a direction to the petitioners herein to regularize their services in terms of Jammu & Kashmir Daily Rated Workers/Work Charged Employees (Regulations) 1994 issued vide SRO 64 of 1994. The writ petition

was disposed of by a learned Single Judge of this Court vide order dated 21.09.2012 directing the petitioners herein to accord consideration to the claim of the respondents for regularization in light of recommendations claimably made in their favour in accordance with rules governing the field. In compliance with the directions passed by the learned Single Judge, the claim of the respondents was considered by the petitioners and the same came to be rejected vide Order No. CCF/J/LO/F-52/11/1577-80 dated 06.02.2017 passed by the then Chief Conservator of Forests, Jammu. As is apparent from the consideration order, the claim was rejected solely on the ground that the engagement of the respondents was as casual labourers and, therefore, did not fall within the ambit of SRO 64 of 1994.

3. Feeling dissatisfied and aggrieved by the rejection order dated 06.02.2017 (supra), the respondents filed another writ petition being SWP No. 786/2017, which on transfer to the Tribunal after the promulgation of J & K Re-organization Act, 2019 and constitution of the Tribunal, was registered as TA No. 8407/2020. Before the Tribunal, it was not disputed by the petitioners that the respondents were engaged prior to 1994 and had been continuously performing their duties in the department of Forest without any break. It was, however, argued that under SRO 64 of 1994 only the daily rated workers and the work charged employees, who are engaged prior to the issuance of SRO 64 of 1994 and have completed continuous daily wage service of seven years are entitled to regularization. It

was also the stand of the petitioners that the respondents having been engaged as casual workers were not covered by the provisions of SRO 64 of 1994 and, therefore, were not entitled to be regularized. The decision of the empowered committee taken in 2nd meeting held on 07.12.2015 was relied upon by the petitioners before the Tribunal.

4. The Tribunal having considered the rival contentions and the material available on record came to the conclusion that there was no difference between casual labourers/daily wagers/CDLs/daily rated workers etc. as they all are performing the same type of work and are being paid minimum wages at the rates fixed by the Government from time to time. The Tribunal, thus, found the distinction drawn by the petitioners between the respondents and those engaged as daily wagers not acceptable.
5. In terms of the judgment impugned, the transfer application was allowed quashing the consideration order dated 06.02.2017 (supra) with a further direction to the petitioners to regularize the services of the respondents from the date they had completed their seven years of service on daily wage basis along with all consequential benefits. It is this judgment of the Tribunal which is called in question before us on the ground that the Tribunal has failed to appreciate the distinction between a 'casual worker' and a 'daily rated worker'.
6. It was argued that the respondents having been engaged as 'casual workers' were not covered by SRO 64 of 1994 which confers the

benefit of regularization only on the daily wagers/daily rated workers and those engaged on work charge basis.

7. The reliance was placed on the decision of the empowered committee taken in the 2nd meeting held on 07.12.2015 wherein the case of the respondents was rejected on the ground that they were ineligible for regularization under SRO 64 of 1994 having been engaged as casual workers.

8. **Having heard learned counsel for the parties and perused the material available on record, we are of the considered opinion that** the issue raised by the petitioners in this petition is no longer *res-integra* and is covered by a Division Bench judgment of this Court rendered in “*Ashok Kumar Vs. State of J & K*”, 2003 (II) SLJ 475 and also “*State & Ors. Vs. Anuradha*”, 2011 (1) JKJ 870. Paragraph 8 of the judgment in **Anuradha** is relevant for our purpose and is set out below:

“.....8. There is no scope for any disagreement with the Writ Court that mere nomenclature is not decisive for opining on status of a worker engaged in any of the Government Departments. The word "Casual" in the New Shorter Oxford Dictionary, is shown to mean "due to, or characterized by, or subject to chance" and the word "Casual Labourer/Worker" as "without permit employment, working when the chance comes". The engagement as Casual worker thus implies an engagement which may or may not continue depending upon the requirements. The expression "Casual Labourer/Worker" is denying under Rule 2(b) Jammu and Kashmir Daily Rated Workers/Work Charged Employees (WCE) Regularization Rules 1994, means a person who is engaged through an Appointment Order or otherwise on daily rated basis for rendering casual services to a Department. The "Daily Rated Worker" on the other hand, in terms of Rule 2(f) means a person engaged on daily wage basis at the rates sanctioned by the Government from time to time. The differences between the "Casual

Labour/Worker" and "Daily Rated Worker" thus lies in the nature of work rendered and also the rate of payment. While "Casual Labour/Worker" is engaged for rendering casual service to a Department and may be paid at any rate not necessarily the rate sanctioned by the Government, the "Daily Rated Worker" is not engaged for rendering casual service to a Department and is to be paid at the rate sanctioned by the Government from time to time.

In case, the worker is allowed to continue for sufficiently long time without his engagement being dependent upon chance or actual requirement of his service and is transferred from one position to another position, such worker, notwithstanding nomenclature used by the authority engaged, is to be taken as a daily wagger and not a casual worker. In the present case, though the respondent was engaged as casual labour, the respondent continued to serve in the Office of Rural Development Department, Udampur in different capacities after her initial engagement. The certificate issued by the Block Development Officer, Panchari dated 31st May, 1999 would show that the respondent worked as a "Daily Rated Typist" in the Office of Block Development Officer, Panchari from February, 1994 till the date of certificate i.e. 31st May, 1999. The Order No. DPOU/99-2000/753 dated 16th October, 1999 reveals that District Panchayat, Udampur attached the respondent mentioned in the order as a "Daily Wager" with the Office of District Panchayat Officer for one month with effect from 20-10-1999. The Deputy Director (Adm.) Rural Development Department, Jammu vide Order dated 5th October, 2000 submitted bio-data of the respondent, shown in the order Estt/Camp/6841-42 as a "Daily Rated Worker", along with two other computer knowing officials to the Secretary to Government, Rural Development Department, Srinagar. The Assistant Commissioner (Development) Udampur vide No. Acdu/Estt/02/9380-81 dated 31st March, 2001 certified the respondent a "Daily Wager" to have remained present in his office in the month of March, 2001. The Order No. 15-ACDU of 2010 dated 20th May, 2010 allotted funds to the tune of Rs.0.73/- lacs in favour of Block Officer, Panchari, to meet the pending wages of the respondent shown as "Daily Rated Worker". The Assistant Commissioner, (Development) Udampur vide No. Acdu/Estt-151/3690-91 dated 11-09-2001 sanctioned three weeks Maternity leave w.e.f. 06-08-2001 to 26-08-2001 under Article 157-A note-3 of the J&K Leave Rules 1979 in favour of the respondent. The Assistant

Commissioner (Development) Udhampur Vide No. ACDU/Estt/09-10/537 dated 29th May, 2009 attach the respondent- "Daily Rated Worker" with his office because of her having knowhow of the computers and directed her to work in the Accounts section of the office. Her wages were directed to be drawn by the Block Development Officer, Panchari.

The respondent was accordingly, relieved on 17th June, 2009 and under orders of Assistant Commissioner (Development) Udhampur remained attached with the office of Assistant Commissioner (Development), Udhampur during the months of November/December, 2009 and January/February, 2010. The official record pertaining to the service career of the respondent makes it sufficiently clear that the respondent was shifted/transferred from one office to another office and all along referred to as "Daily Rated Worker" and even granted Maternity Leave in terms of Article 157-A note-3 of the J&K Leave Rules 1979."

9. In the instant case, indisputably, the respondents were engaged in the services of the petitioners prior to 1994 and have been in its continuous service till date although, the nomenclature given to their engagement is "Casual Labourer", yet going by the fact that they have been continued for decades together and have been paid the minimum wages prescribed by the Government for unskilled workers per day and they cannot be treated differently from the 'daily rated workers'. The petitioners cannot deny the respondents the right to regularization which has accrued to them under SRO 64 of 1994 by terming them as "Casual Labourer" when they are actually and in essence working as daily rated workers. The term "Casual Labourer" itself conveys the engagement of casual nature and engagement cannot be casual which has continued for decades altogether without break.

10. The Tribunal has very correctly appreciated this aspect of the matter and accordingly, trashed the decision of the empowered committee that they are not eligible to be considered for regularization under SRO 64 of 1994.
11. This controversy was set at rest in the year 2003 itself and the position with regard to the nomenclature given to the daily rated workers by different departments has been debated and decided by this Court in number of judgments. It is pitiable that despite there being a clear enunciation of law on the subject, the petitioners are still taking this stand before the Tribunal and have the audacity to repeat the same before this Court.
12. For the foregoing reasons, **we find no merit in this petition and the same, is accordingly, dismissed with the cost of Rs. 20,000/- to be paid to the respondents.**

(Sanjay Parihar)
Judge

(Sanjeev Kumar)
Judge

JAMMU
30.08.2025
Manan

Whether the order is speaking : *Yes*
Whether the order is reportable : *Yes*