

IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

SWP 1494/2017
CM(5113/2023) CM(800/2024)

MOHAMMAD ASHRAF GANAI AND ORS Petitioner(s)

Through: Mr. Muzaim Nasir, Adv.
vice Mr. Z A Qureshi, Sr. Adv.

V/s

STATE OF JK AND ANR Respondent(s)

Through: Mr. Shahbaz Sikander, AAG

Coram:

Hon'ble Mr. Justice Rajnesh Oswal, Judge

JUDGMENT(ORAL)

08.10.2026

1. The petitioners had earlier filed writ petition bearing SWP No. 2335/2014 titled *Mohammad Ashraf Ganai and Ors. Vs. State of J&K and Others* which was disposed of by this Court in terms of order dated 21.07.2015 with following directions:

“This writ petition is disposed of and respondents are directed to consider the claim of the petitioners for regularization of his service in view of the stand taken by respondent No. 2 at para -f of the counter

affidavit. Necessary orders in accordance with Policy/rules in this behalf be passed within eight weeks from the date copy of this order is served.”

2. As the judgment was not complied with, the petitioners were constrained to file contempt petition, bearing CCP No. 357/2016 and thereafter Order No. PDC/108 of 2016 dated 31st August 2016 was issued by respondent No.2 whereby services of the petitioners were regularized in the pay band of Rs. 9300-34800 with Grade Pay of 4200/- against the post already held by them.
3. The petitioners have now come up with this writ petition with grievance that their services ought to have been regularized from the date of completion of two years of contractual engagement i.e. 25.04.2015 and not from the date of regularization i.e. 01st September 2016. The petitioners are also banking upon the stand taken by the official respondents in para (f) of the counter affidavit filed by the respondents in the earlier writ petition wherein it was specifically stated that *“the petitioners have just completed two years of contractual service in the corporation and have filed this petition before completion of the*

- requisite period besides completion of requisite satisfactory service in the corporation to be rendered by them as was required by the policy of the State Power Development Corporation J&K for consideration of the case of the petitioners who claim their regularization in service in the respondent Corporation*". It is also urged by the petitioners that the petitioners are also entitled to get service benefits for the period they have worked as daily rated engineers i.e. 50% of the service as daily rated Engineers has to be counted for their service benefits by the Corporation.
4. Accordingly, the petitioners have prayed that the respondents be directed to regularize the services of the petitioners against the post of Junior Engineers (Electrical) retrospectively from 25.04.2015 i.e. the day the petitioners completed two years of service, instead with immediate effect i.e. from the day Order No. PDC/108 of 2016 dated 31.08.2016 was issued.
5. The respondents have filed counter affidavit stating therein that the Administrative Department vide letter No. PDD/1-38/2011 dated 12.04.2013 conveyed administrative approval for the appointment of Sh. Shamim Ahmad Khan, Farooq Ahamd Koka, Avtar Singh Bali, Sajad Ahmad Tak, Malik Shabir Ahmad, Irfan Asif, Mohd. Ashraf Ganai and Pervaiz

Mukhtair, daily rated Junior Engineers (Electrical) on contractual basis in JKSPDC with immediate effect. Accordingly, Chairman of the Board approved engagement of the said Engineers on contractual basis vide Approval No. PRS/CM/456/2013 dated 22.04.2013. Pursuant to this approval, JKSPDC vide order dated 25.04.2013 accorded sanction to the engagement of these eight Daily Rated Junior Engineers (Electrical) of Power Development Department as Junior Engineer (Electrical) in JKSPDC on contract basis with prospective effect for a period of one year. Thereafter, vide Communication dated 16.07.2014, JKPDC advised the concerned Drawing and Disbursing Officers to draw the salary of these eight contractual Engineers (Electrical) till the matter is placed before the MFC at an appropriate time for consideration of their regularization under the J&K Civil Services (Special Provision) Act, 2010. It is further stated that these contractual Junior Engineers filed a service writ petition bearing SWP No. 2335/2014 for regularization of their services on the analogy of others and this Court vide order dated 21.07.2015 directed the respondents to consider the claim of the petitioners for regularization of their services in

view of the stand taken by the respondent No. 3 in para (f) of the counter affidavit. It is also stated that the JKPDC advertised the posts of Junior Engineers Civil, Mechanical and Electrical in 2011, 2013 & 2019 and after conducting the common test, interview, the candidates were appointed initially for a period of two years on contractual basis. After satisfactory completion of two years of services, they were regularized whereas the case of the petitioners is not the same viz-a-viz contractual appointees, as they were engaged after the selection process. It is stated that the petitioners are back door entrants to the service. Thereafter, Managing Director vide order dated 31.08.2016 regularized the services of these eight petitioners subject to confirmation by the Board. Accordingly, the Board in its 73rd Meeting held on 03.10.2017 confirmed the action taken by the Managing Director. It is also the stand of the respondents that under Clause 5(v) of the Special Provisions Act, 2010, no contractual employee can be considered for regularization unless the said employee completes seven years of continuous services. In the present case, the petitioners were regularized on 31.08.2016 in compliance to the court direction without serving seven years

- and in fact, were regularized after serving 03 years, 4 months and 19 days. In para (7) of the objections filed earlier, it is stated that the case of the petitioners for regularization was considered as one time exception to the Special Provisions Act, 2010.
6. Rejoinder affidavit has been filed by the petitioners stating therein that after serving the Government for 12 years in the Power Development Department, the services of the petitioners were placed at the disposal of the J&K State Power Development Corporation vide Government Order No. 266-PDD of 2012 dated 05.09.2012. This order was not given effect to but in view of the approval of the Government on 12.04.2013, the appointment orders of the petitioners as Junior Engineers on contractual basis in J&K State Power Development Corporation were issued and accordingly, they were given benefits of Government Order dated 26.11.2009 whereby the salary of the petitioners was enhanced from the date of their appointment. It is further stated that the regularization was directed by the Court in view of the policy in vogue for regularization of its employees who had completed two years of contractual service and the judgment

- was passed on the admission of this fact by the respondents.
- Now the respondents cannot come up with a plea that the regularization of the petitioners was made as one time exception to J&K Civil Services Regulation (Special Provisions) Act, 2010.
7. Learned counsel for the petitioners submitted that once the respondents considered the petitioners' case for regularization on par with contractual appointees engaged through a due selection process, they cannot discriminate against the petitioners in comparison to those appointees.
8. *Per contra*, learned counsel for the respondents submits that the policy pursuant to which the contractual appointees were engaged after due selection process was not at all applicable to the case of the petitioners and in fact, the benevolence was shown by the respondents to regularize the petitioners as a one time exception to the Act of 2010 as such, the present writ petition deserves to be dismissed.
9. Heard learned counsel for the parties and perused the material on record.
10. The sole grievance of the petitioners is that once the respondents have themselves regularized the services of the

petitioners on the analogy of the contractual employees engaged by the respondents after due selection process, the respondents at this stage are estopped from asserting that the petitioners are back door appointees and their regularization was directed as one time exception to the Act of 2010.

11. As already mentioned above, in para (f) of the counter affidavit filed by the respondents in the earlier writ petition, it was the stand of the official respondents that the petitioners had filed the petition before completion of the requisite period besides completion of requisite satisfactory service in the Corporation. The relevant para of order dated 31.08.2016 whereby the petitioners were regularized is extracted as under:

“Now therefore in pursuance of the various court orders and in light of the recommendations of the committee headed by Executive Director (Civil) JKSPDC, subject to the confirmation by the Board of Directors of JKSPDC, the following Junior Engineer (Contractual) who have completed two years satisfactory and uninterrupted services which shall be certified by the present controlling officers are hereby regularized as Junior Engineers (Electrical) in pay band of 9300-34800

*with GP 4200 against the posts already held by them
with immediate effect:*

S/Shri

- 1. Mohammad Ashraf Ganai*
- 2. Sajad Ahmad Tak*
- 3. Avtar Singh Bali*
- 4. Shameem Ahmad Khan*
- 5. Malik Shabir Ahmad*
- 6. Farooq Ahmad Koka*
- 7. Parvaiz Mukhtar*
- 8. Irfan Aasif*

*The release of grade in the relevant time scale shall be
subject to the outcome of the verification of the certificates
and other relevant documents required for the purpose as
per norms/policy in vogue in the JKSPDC, to be carried
over by the Corporate Office.*

*In case anything adverse is reported against any of the
above Junior Engineers or anything found unbecoming of
a Public Servant in the APRs this order shall be treated as
cancelled in ab initio so far it pertains to the concerned.*

12. The tone and tenor of the order dated 31.08.2016 clearly
demonstrates that the Policy of regularization as applicable to
the contractual appointees selected after due selection process,

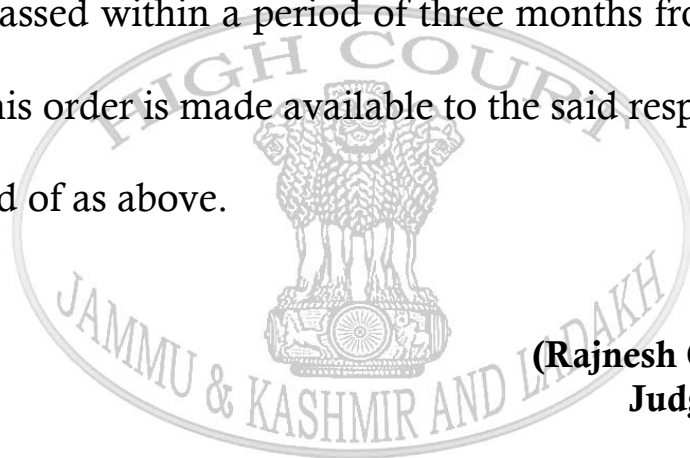
seems to have been applied in the case of the petitioners as well for the purpose of regularization of their services, as no other policy has been brought to the notice of this court pursuant to which the petitioners have been regularized after rendering satisfactory service of two years. Moreso, the order dated August 31, 2016, makes no mention that the petitioners' regularization was directed as a one-time exception to the provisions of the 2010 Act.

13. The respondents, in order to oppose the writ petition, cannot build a new case by asserting that the regularization of the services of the petitioners was directed as a one-time exception to the provisions contained in the Act of 2010, particularly when the same is nowhere reflected in the order dated 31.08.2016.

14. A circular annexed by the petitioners in CM No. 800/2024 provides that upon regularization, contractual service shall be counted as service in JKSPDC. Though applicable to engineers and geological staff recruited pursuant to Advertisement Notice dated 02.06.2011, the date of issuance of the said circular does not appear on record.

15. Be that as it may, the present writ petition is disposed of by directing respondent No. 2 to consider the claim of the petitioners for regularization of their services w.e.f. 25.04.2015 in accordance with Policy pursuant to which they were regularized. This court is sanguine that the appropriate orders shall be passed within a period of three months from the date a copy of this order is made available to the said respondent.

16. Disposed of as above.



(Rajnish Oswal)
Judge

SRINAGAR

08.10.2026

Aasif

Whether the order is speaking: Yes/No

Whether the order is reportable: Yes/No