

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR
(Through Virtual Mode)

SWP No. 2243/2015

IA No. 01/2015[01/2015]

Nusrat Jan

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

Through: Mr. Mehdi, Advocate vice
Mr. M. M. Dar, Advocate

Vs

State of J&K & Ors.

..... Respondent(s)

Through: Mr. Ilyas Nazir Laway, GA
(through VC)

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

ORDER

22.05.2026

01. In this petition, the petitioner is *inter alia* seeking a direction to the respondents not to disengage/terminate her services till her case is considered by the respondents for regularization as per the J&K Civil Services (Special Provisions Act 2010) ("the Act of 2010"). The petitioner also seeks a direction to the respondents to allow her to continue as Office Assistant on consolidated wages of Rs. 2100/-, per month and enhance the same by taking into consideration the minimum wages payable for workers under the Minimum Wages Act.
02. Briefly stated the facts which leads to filing of this petition are that the petitioner who was 10+2 came to be engaged as Office Assistant on consolidated wages of Rs. 2100/-, per month by the then Executive Officer, Municipal Committee Chadoora vide order No. MC/CHD/Estt/09/28 dated 15.04.2008. She was not engaged on the basis of any advertisement

notification or a selection process conducted by the respondents. She continued to perform her duties and was paid consolidated wages till September, 2011. She was not allowed to continue after that nor was she paid any wages.

03. Feeling aggrieved, the petitioner filed the instant petition seeking the reliefs which I have referred to hereinabove. The writ petition is contested by the respondents. In the objections filed, it is pleaded that the then Executive Officer Municipal Committee, Chadoora appointed the petitioner against a non-existence post, by adopting a method which could be turned as 'pick and choose'. It is submitted that she attended her duties till September 2011 and was paid the wages. She thereafter, left the job. It is also pleaded by the respondents that the Executive Officer had no authority to distribute public employment on the basis of a pick and choose method and acting in violations of Article 14 and 16 of the Constitution of India.
04. Having heard learned counsel for the parties and perused the material on record, I am of the considered opinion that engagement of the petitioner as Office Assistant on consolidated wages of Rs. 2100/- by the then Executive Officer, Municipal Committee, Chadoora was pure and simple a temporary and need based engagement. The engagement of the petitioner was not against any available vacancy as is clearly evident from the order of engagement of the petitioner dated 15.04.2008. If that be the position, the petitioner cannot be said to be covered by the Act of 2010. The petitioner, as is evident from the record, is out of action since October, 2011 and in absence of any right conferred upon her to continue beyond September, 2011, by any statutory or non-statutory order, petitioner cannot claim to

continue as a consolidated worker for all times to come. The entire focus of the case of the petitioner is upon the provisions of the Act of 2010, which, as explained above, is not applicable to the case of the petitioner, who was never appointed against any substantive vacant post of Office Assistant.

05. For the aforesaid reasons, I do find any merit in this petition, the same is, accordingly, *dismissed*.

(Sanjay Parihar)
Judge

(Sanjeev Kumar)
Judge

Jammu
22.05.2026
Meenakshi