

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

Date of Pronouncement: 25.02.2026

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SWP NO.2133/2017 WP(C) No.319/2024

MOHAMMAD MUZAMIL TANTRAY ...Petitioner/Appellant(s)

Through: Mr. Saqib Amin Parray, Advocate.

Vs.

STTE F JK AND ORS. ...Respondent(s)

Through: Mr. Ilyas Nazir Laway, GA.

CORAM:

HON'BLE MR JUSTICE JAVED IQBAL WANI, JUDGE

ORDER (ORAL)

25.02.2026

1. Petitioner in the instant petition, filed under Article 226 of the Constitution states to have been working as Junior Engineer (Electric) in the respondent corporation initially having been engaged vide order dated 03.08.2005 on contractual basis, in pursuance whereof the petitioner joined his duties and his contractual term of engagement came to be extended by the respondents from time to time vide orders dated 04.03.2006, 20.05.2006, 18.07.2007 and 11.02.2008, whereafter the petitioner herein could not continue to render his services in the respondent Corporation due to domestic problems.

2. It is further stated that the petitioner, however, came to be re-engaged as Junior Engineer by respondents on 15.02.2011, having regard to the services rendered earlier in the respondent Corporation, and upon subsequent re-engagement of the petitioner, the salary of the petitioner was enhanced to Rs.13,500/- P.M, in terms of order dated 30.01.2015.

3. It is next stated that the petitioner, after the re-engagement, continued to discharge his duties in the respondent Corporation for a considerable period of time and requested the respondents for regularization of his services on the analogy of similarly circumstanced engagees namely Firdous Jan, Jai Kishan and Ashraf Ganai and others and that on account of failure of the respondent Corporation to regularize the services of the petitioner, SWP No.1421/2013 came to be filed by petitioner herein before this Court, which writ petition, however, came to be dismissed on 12.04.2016 by this Court observing that the petitioner has been working on need basis and not on contractual basis, feeling aggrieved of the said dismissal of the petition, the petitioner herein filed LPA No.89/2016 before this Court which came to be allowed on 01.08.2017, and the writ court judgment came to be set aside while holding that the petitioner has been working against a clear vacancy on contractual basis and, as such, is entitled to regularization, not only under the provisions of Jammu and Kashmir Special Provisions Act 2010 (for short 'the Act of 2010'), but also on the analogy of similarly situated persons.

4. It is further stated by the petitioner that subsequent to passing of the judgment dated 01.08.2017 in the aforesaid LPA, the respondents passed a speaking order dated 08.09.2017 stating therein that the petitioner has not completed seven years of services as contractual employee, therefore could not be regularized in terms of the Act of 2010, and that his case for regularization would be placed before the Board of Directors for regularization upon his completion of seven years of service and dissatisfied with the said consideration order, petitioner herein preferred SWP No. 2133/2017 before this Court calling in question the said consideration order, besides seeking other reliefs.

5. It is stated that in the meantime, the petitioner also filed a contempt petition for enforcement of the Division Bench judgment/Order dated 01.08.2017, wherein the respondents being contemnors therein filed statement of facts accompanied with a consideration order dated 16.12.2023 rejecting the claim of the petitioner herein on the ground that the services of the petitioner herein could not be regularized in terms of Act of 2010 as the petitioner has been engaged after the cut-off date provided in the said Act of 2010 and aggrieved with the said order, the petitioner herein preferred WP(C) No. 319/2024.

6. **Reply** in both the petitions has been filed by the respondents wherein the orders under challenge are being defended and dismissal of the petitions is being sought, fundamentally on the ground that the petitioner herein has been engaged after coming into being of the Act of 2010, i.e. 29.04.2010, and therefore the petitioner cannot be extended the benefits of regularization and also that the Act of 2010 has been repealed, in view of coming into being of Reorganization Act 2019.

Heard counsel for the parties and perused the record.

7. According to the counsel for the petitioner, the initial claim lodged by petitioner herein for regularization was based upon the premise that the respondent Corporation regularized the services of the various other Junior Engineers engaged after the engagement of the petitioner in 2013 and regularized their services in the year 2016, ignoring the claim of the petitioner herein for said regularization.

Counsel for the petitioner would further submit that the respondents even now wrongly declined the claim of the petitioner herein for regularization in terms of the Act of 2010 as once the respondents themselves in the earlier round of litigation had conceded to the claim of the

petitioner for regularization and had stated that the same would be placed for confirmation before the Management and Finance Committee and thereafter to be ratified by Board of Directors.

8. On the contrary, counsel for the respondents while controverting the submissions of counsel for the petitioner would reiterate the stand taken by the respondents in the replies filed to the petitions and would pray for dismissal of the petition.

9. It is an admitted fact that in the earlier round of litigation, respondents acknowledged the claim of the petitioner for regularization and specifically provided that the said claim of the petitioner would be placed before the Management and Finance Committee being the Empowered Committee in terms of the Act of 2010, and thereafter before the Board of Directors of the respondent Corporation for its ratification and therefore in presence of the said stand taken by the respondent corporation in the earlier round of litigation, the respondents cannot now decline the claim of the petitioner for regularization on any ground whatsoever, including on the ground urged in the order dated 16.12.2023 impugned in WP(C) No.319/2024.

10. Besides there is no denial to the fact that the Board of Directors of the respondent corporation in its 68th meeting held on 20.02.2013 adopted the Act of 2010 for regularization of its employees vide order No. JKSPDC/9154-57 dated 12-03-2013, and it is not in dispute that the petitioner was reengaged as Junior Engineer Electrical on 15.02.2011 prior to the adoption of the Act of 2010 by the respondent Corporation in 2013 and in terms of the provisions of the Act of 2010 the petitioner even has completed 07 years from 2011 to 2018 and thus rendered eligible for regularization. Even otherwise also, the Reorganization Act came into being on 31.10.2019, and up till the said date, the petitioner admittedly has

completed 07 years of service, as such, before coming into being of Reorganization Act of 2019 read with S.O.1229(E) of 2020 dated 31.03.2020, petitioner has already completed seven years of service, rendered him eligible and entitled for regularization.

11. Thus, the only inescapable conclusion that can be drawn is that the respondents have unfairly, unreasonably inasmuch as discriminately denied the petitioner regularization of his services under the Act of 2010.

12. Having regard to the aforesaid position, the petitions succeed and are accordingly disposed of as under:

- i) Respondents are directed to accord effective consideration to the claim of the petitioner for regularization in terms of the Act of 2010 and extend him all consequential benefits to which the petitioner herein would be entitled thereto, as expeditiously as possible, preferably within a period of eight weeks from the date a copy of this judgement and order is produced by the petitioner before the respondents.
- ii) In view of above, impugned Order No.356-JK(PDC) of 2023 dated 16.12.2023 shall stand quashed.

13. Disposed of.

(JAVED IQBAL WANI)
JUDGE

SRINAGAR
25.02.2026
Ishaq

Whether the order is speaking ?
Whether approved for reporting ?

Yes/No
Yes/No