

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

WP(C) No. 3354/2025

CM No. 9032/2025

Union Territory of J&K & Ors.

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

Through: Mr. Allaud Din Ganie, AAG.

Vs

Bashir Ahmad Shah

..... Respondent(s)

Through: None.

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

ORDER

19.05.2026

1. In this petition filed by the Union Territory of Jammu and Kashmir and others under Article 226 of the Constitution of India, an order and judgment dated 15.04.2025, passed by the Central Administrative Tribunal Srinagar Bench, Srinagar, [Tribunal] in ***O. A No. 731/2023 titled, 'Bashir Ahmad Shah Vs UT of J&K and Ors,'*** has been challenged before the Court.

2. Before we advert to the grounds of challenge urged by Mr. Ganai, learned AAG, we deem it appropriate to set out facts as are relevant to the disposal of the controversy raised in this petition.

3. The respondent herein, came to be engaged as Daily Wager/Daily Rated Worker (DRW) in the Department of Rural Development on 1st May 1990 and continues to perform his duties without any break or interruption. The Government of Jammu and Kashmir came up with scheme of regularization of Daily Rated Workers who had completed seven years continuous service and were otherwise eligible to be appointed against Class IV posts. The scheme was given statutory character by promulgating Jammu and Kashmir Daily Rated Workers/Work Charged Employees (Regularization) Rules, 1994 issued vide SRO 64 of 1994.

4. The respondent herein, who completed seven years continuous services as Daily Rated Workers on 01.05.1997 became entitled to benefits of regularization, envisaged under SRO 64 of 1994. His case was processed by his immediate officers in the Department of Rural Development and placed before the Empowered Committee for taking appropriate decision with regard to his regularization. It seems that when no decision was taken by the respondents for long, the respondent herein, approached this Court by way of **SWP No. 1892/2016**, seeking *inter-alia* a direction to the petitioners herein, to regularize his services as Class-IV in the Department of Rural Development w.e.f., from the date he completed seven years of continuous service.

5. The aforesaid writ petition was contested by the respondent herein and the same was disposed of by learned Single Judge of this Court, vide order dated 27.04.2017 directing the petitioners herein, to consider the claim of the respondent for his regularization in accordance with SRO 64 of 1994. In compliance with the judgment dated 27.04.2017 (*supra*), the case of the respondent herein was considered by the competent authority and same was turn down vide Government Order No. 148-JK (RD&PR) of 2023 dated 06.03.2023. The case of the respondent herein, for regularization was not acceded to by the Government primarily on the ground that SRO 64 of 1994 which provided for regularization of Daily Rated Workers having rendered continues service of seven years was found by the respondents to be violation of Articles 14, 15 and 16 of the Constitution. This view was taken by the Government purportedly on the basis of an opinion rendered by the Department of Law, Justice and Parliamentary Affairs.

6. The Government Order dated 06.03.2023 *supra* was called in question by the respondent herein, in O. A No. 731/2023 filed before the

Tribunal. The O.A filed by the respondent herein, was contested by the petitioners herein, on the similar grounds as were taken while rejecting his claim in terms of order impugned.

7. The Tribunal having considered the rival contentions of the parties and perused the material on record came to the conclusion that the respondent herein, having been engaged as Daily Rated Worker on 01.05.1990, was entitled to the benefit of regularization of services as Class IV in Department of Rural Development w.e.f., from completion of seven years of continues service, and therefore, the said benefit could not have been denied to the respondent on the ground that SRO 64 of 1994 itself was unconstitutional. The O.A was thus, allowed and a direction was issued to the respondents to regularize the services of the petitioner as per the provisions of SRO 64 of 1994 from the date the respondent had become eligible for such regularization. The Tribunal, however, denied the benefit of back wages by applying the principle of ‘no work no pay’. It is this judgment of the Tribunal which is called in question before us.

8. Having heard Mr. Allahud Din Ganie, learned AAG appearing for the petitioner and perused the material on record, we are of the considered opinion that the judgment passed by the Tribunal is flawless and does not call for any interference. The benefits of 64 of 1994 which envisages regularization the services of Daily Rated Workers who have completed seven years of services subject to fulfillment of other eligibility conditions cannot be denied to the respondent on the ground that SRO 64 of 1994, issued by the Government is in violation Articles 14, 15 and 16 of the Constitution of India.

9. It needs no emphasis that SRO 64 of 1994 has not only been issued by the Government but the same has been implemented and thousands of daily rated workers meeting the requirements of SRO 64 of 1994 have been

regularized. It is not the case of the petitioners that they ever reviewed the issuance of SRO 64 of 1994 or took any decision with regard to the same. SRO 64 of 1994 cannot be termed by the petitioners as un-constitutional only for denying the benefit of regularization envisaged under said SRO in favour of the respondent.

10. We fail to understand as to how the Department of Law, Justice and Parliamentary Affairs could declare statutory rules issued by the Governor in exercise of powers under Proviso to 124 of the Constitution of Jammu & Kashmir as un-constitutional or violative of Articles 14, 15 and 16 of the Constitution of India. It seems that with a view to denying the rightful claim of the respondent for regularization, the petitioners herein, came up with a stand which, to say the least, was preposterous and worthy of outright rejection. The Government cannot term Statutory Rules issued in accordance with law as unconstitutional that too after implementing them to the benefit of thousand beneficiaries.

11. The respondent, as is held by the Tribunal, completed seven years continuous service on **13.04.1997**, and therefore, was entitled to be regularized w.e.f., 01.04.1998, i.e., in the financial year immediately after completion of seven years of service.

12. For all this reason, we find no merit in this petition, the same is accordingly, ***dismissed***.

(Sanjay Parihar)
Judge

(Sanjeev Kumar)
Judge