Serial No. 81
Supplementary Cause List

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU
(Through Virtual Mode)
WP(C) No. 3460/2026

UT Of J And K Th Commissioner Secretary To Govt Planning And Development Department And Others **…Appellant/Petitioner(s)**

Through: Mr. Sumeet Bhatia, Advocate.

Vs.

Tariq Hussain **...Respondent(s)**

Through:

CORAM:
HON'BLE MR. JUST+ICE SANJEEV KUMAR, JUDGE
HON'BLE MR. JUSTICE M A CHOWDHARY, JUDGE

ORDER
31.10.2026

1. Impugned in this petition is the order and judgment dated 5th February 2026, passed by the Central Administrative Tribunal, Jammu Bench, Jammu hereinafter referred to as [("the Tribunal")], in T.A. No. 47 of 2022, whereby the Tribunal allowed the petition filed by the respondent and directed the petitioners herein to regularize his services as a Driver under the J&K Daily Rated Workers/Work-Charged Employees (Regularization) Rules, 1994, issued vide SRO 64 of 1994, with effect from 1st May 2000, i.e., the date on which the respondent was stated to have completed seven years of continuous service.

2. The Tribunal further held the respondent entitled to consequential benefits, including time-bound promotion, if

any, earned by him under the J&K Civil Services (Higher Standard Pay Scale Scheme) Rules, 1996, along with other consequential benefits, including notional seniority, pay fixation and all retirement benefits.

3. At the outset, it requires to be clarified that the respondent could not have been directed to be regularized as a Driver under SRO 64 of 1994, as the said Rules provide for regularization against a Class-IV post. To this extent, the direction issued by the Tribunal requires modification. The remaining findings and directions of the Tribunal call for no interference.

4. Briefly stated, the facts leading to the filing of the present petition are that the respondent was initially engaged as a Driver on a casual basis for a period of 89 days, at the rate of Rs. 30/- per day, for driving vehicle bearing registration No. JK02E-8333, attached to the office of the Chief Planning Officer, Doda.

5. The said engagement was extended vide order dated 7th September 1993, issued by the District Development Commissioner, Doda. Ever since his initial engagement, the respondent continued to perform the duties of a Driver, though on a casual/daily-wage basis, until his superannuation.

6. With a view to conferring the benefit of regularization upon daily-rated workers/work-charged employees, the

Government of Jammu and Kashmir framed the J&K Daily Rated Workers/Work-Charged Employees (Regularization) Rules, 1994, issued vide SRO 64 of 1994.

7. The respondent completed seven years of continuous service on 28th April 2000 and, therefore, became entitled to be considered for regularization in terms of SRO 64 of 1994.

8. The case of the respondent was forwarded by respondent No. 2, namely, the Director General, Economics and Statistics, Jammu, vide communication dated 9th September 2009, along with the cases of other consolidated/casual labourers and daily-rated workers, for consideration of regularization. Certain recommendations were also made in favour of the respondent in the year 2011.

9. Despite the aforesaid recommendations, the case of the respondent for regularization was not considered, constraining him to file SWP No. 1041 of 2007 before this Court, seeking, inter alia, a direction to the petitioners to regularize his services in terms of SRO 64 of 1994.

10. The said writ petition appears to have been withdrawn by the respondent after recommendations were made in his favour by the competent authority. While permitting the withdrawal, this Court granted liberty to the respondent to file a fresh representation before the petitioners.

11. The respondent continued to pursue his claim by submitting representations from time to time, which were duly endorsed

and recommended by his superior officers. However, no formal order regularizing his services was ever passed by the petitioners.

12. This compelled the respondent to two more petitions, being SWP No. 1065 of 2016 before this Court, seeking, inter alia, a direction to the petitioners to regularize his services as a Driver under SRO 64 of 1994 with effect from 1st May 2000, along with all consequential benefits.

13. Upon the coming into force of the J&K Reorganisation Act, 2019, and the constitution of the Tribunal, the aforesaid writ petition came to be transferred to the Tribunal and was registered as T.A. No. 47 of 2022. The Tribunal disposed of the same in terms of the judgment impugned in the present petition.

14. The impugned judgment has been called into question by the petitioners primarily on the ground that the Tribunal failed to appreciate that the respondent, having been engaged by the District Development Commissioner, was not entitled to the benefit of regularization under SRO 64 of 1994, as the District Development Commissioner lacked the competence and authority to engage daily wagers.

15. Having heard learned counsel for the petitioners and perused the material available on record, it is necessary to first notice the admitted facts.

16. Indisputably, the respondent was engaged as a casual worker to perform the duties of a Driver in terms of order dated 29th April 1993, passed by the District Development Commissioner, Doda.

17. As is evident from the order dated 29th April 1993, the respondent was held entitled to daily wages at the rate of Rs. 30/-, which was the minimum wage prescribed for a skilled worker during the relevant period under the Minimum Wages Act.

18. The wages payable to the respondent were enhanced from time to time so as to bring them in conformity with the rates of wages fixed by the Government under the Minimum Wages Act.

19. The respondent has continuously performed the duties of a Driver on minimum wages for a period exceeding three decades, without even a single day's break in his service.

20. As rightly held by the Tribunal, the respondent acquired the right to regularization under SRO 64 of 1994 upon completion of seven years of continuous service.

21. In the present case, the respondent completed seven years of continuous service as a daily-rated worker on 28th April 2000 and, therefore, became entitled to be regularized with effect from the commencement of the next financial year, i.e., 1st April 2001, as clearly envisaged under SRO 64 of 1994.

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22. However, the respondent was not extended the benefit of regularization, which compelled him first to submit representations before the petitioners and thereafter to approach this Court.

23. The petitioners have compelled the respondent to approach the Court repeatedly, and the present proceedings perhaps constitute the third round of litigation which the respondent has been forced to pursue against them.

24. The only plea raised by the petitioners to resist the respondent's claim for regularization is that he was not engaged by a competent authority.

25. It was vehemently contended by Mr. Bhatia, learned counsel appearing for the petitioners, that the District Development Commissioner, Doda, did not possess the competence to engage daily wagers. However, learned counsel could not bring to our notice any Government order providing for delegation of powers to different officers for engagement of daily wagers.

26. As a matter of fact, the engagement of daily wagers was nothing but a backdoor entry into service, followed by statutory orders issued by the Government from time to time for their regularization.

27. There could not have been any authority or competence conferred upon an officer to make backdoor appointments.

Such engagements were need-based and were made by local officers in exigencies of service.

28. In the present case, the vehicle attached to the office of the Chief Planning Officer was without a regular Driver, and, therefore, the services of the respondent were engaged to meet the requirement.

29. We could have understood the petitioners' stand had the Deputy Commissioner, Doda, or any other higher officer in the Economics and Planning Department taken immediate steps to dispense with the services of the respondent instead of allowing him to continue for decades together.

30. We can take judicial notice of the fact that similar engagements made by various officers, particularly Executive Engineers in the Engineering Departments, have already been regularized by extending to such employees the benefit of SRO 64 of 1994.

31. In these circumstances, it is too late in the day for the petitioners to contend that the respondent, having been engaged in the year 1993 by an allegedly incompetent authority, cannot be extended the benefit of regularization envisaged under SRO 64 of 1994.

32. We are, however, in agreement with learned counsel for the petitioners that the respondent can be offered regular appointment only against a Class-IV post, in accordance with the provisions of SRO 64 of 1994.

33. Having regard to the fact that the respondent has been made to work as a Driver for three decades, we are not inclined to interfere with the direction issued by the Tribunal insofar as it recognizes the respondent's entitlement arising out of the continuous extraction of services from him as a Driver on payment of minimum wages prescribed for skilled labour over such a long period. Such conduct would be nothing short of exploitation of labour, which is prohibited by the Constitution of India.

34. It is a fit case where the petitioners could have been subjected to heavy exemplary costs for dealing with a citizen in a manner prohibited by law.

35. We fail to understand what prompted the petitioners to contest the claim of the respondent when they have already regularized thousands of similarly situated persons by extending to them the benefit of SRO 64 of 1994, without raising any objection regarding the competence of the officers who had made such daily-rated engagements.

36. Be that as it may, the time has come to put a quietus to this litigation.

37. In view of the facts and circumstances of the case, and without saying much about the manner in which the Government has acted, we dispose of this petition with a direction to the petitioners to issue an order regularizing the services of the

respondent against a Class-IV post, immediately and forthwith, preferably within a period of two months.

38. The regularization of the respondent shall take effect from 1st April 2001, and he shall be entitled to all consequential benefits, including arrears of salary, pay fixation and in-situ promotions, if any, available to him under the J&K Civil Services (Higher Standard Pay Scale Scheme) Rules, 1996.

39. We make it further clear that, in the event the present judgment is not complied with within a period of two months, the entire amount payable to the respondent shall carry interest at the rate of 6% per annum from the date the respective amounts became due.

40. With the aforesaid modification, the judgment of the Tribunal is modified to the extent indicated hereinabove, and the present petition is disposed of accordingly.

(M A CHOWDHARY)
JUDGE

(SANJEEV KUMAR)
JUDGE

SRINAGAR
31.10.2026
"Shaista-PS"