Sr. No. 82

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

CJ Court

Case: WP(C) No. 3503/2026
CM No. 7812/2026

Decided on: 03.11.2026.
Uploaded on:05.11.2026.

UT of J&K and others .....Appellant(s)/Petitioner(s)

Through :- Ms. Monika Kohli, Sr. AAG with
Ms. Malvika Gupta, Assisting counsel

v/s

Girdhari Lal and others .....Respondent(s)

Through :-

CORAM: HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE RAJNESH OSWAL, JUDGE

ORDER (ORAL)
03.11.2026

1. Ms. Monika Kohli, learned Sr. AAG has submitted that the impugned order passed by the learned Central Administrative Tribunal (CAT), Jammu Bench on 05.02.2026, suffers from an infirmity that, ordinarily, while the Jammu and Kashmir Civil Services (Special Provisions) Act, 2010 (for short 'the Act of 2010'), would apply and Section 5 of the Act of 2010 would entitle the persons to be regularized, after he completes seven years of service, in terms of Section 5(v) of the Act of 2010, but Section 3(d) of the Act of 2010, puts an exception to the application of the Act, in cases of part-time or seasonal employees, including those whose wages are paid from out of the local funds or contingent grants.

2. Ms. Kohli submits that there is a statutory bar, therefore, the learned CAT could not have given such directions of regularization on completion of seven years in the regular service. However, when Ms. Kohli was posed with a question, as to whether the exception, carved out in Section 3(d) of the Act of 2010, is not hit by the precedent law of ***Mushtaq Ahmed Sohail***, she fairly submitted that the issue of exception provided in Section 3(d) of the Act, has been decided and such nomenclature would no more disentitle a person from seeking regularization, if he, otherwise, falls under the purview of Section 5(v) of the Act of 2010. Relevant paragraphs of the judgment dated 20.12.2012 passed by Division Bench of this Court in LPASW No.33/2010 titled **'State of J&K & Ors. V. Mushtaq Ahmad Sohail & Ors'**, reads as follows:

> ***"15.*** *Again another aspect regarding writ petitioners is that they are stated to have been engaged as casual labours. The question for consideration is as to whether they, in-effect, were casual labours or under the style of casual labourers, in effect, they were working as daily rated workers. Casual labour/Worker and Daily Rated Worker are defined under Section 2(b) and (f) of the Rules of 1994, which reads as under:-*
>
> > *"(b) "Casual Labour/Worker" means a person who is engaged through an appointment order or otherwise on daily rated basis for rendering casual services to a Department.*
> >
> > *(f) "Daily Rated Worker" means a person engaged on daily wage basis at the rates sanctioned by the Government from time to time."*
>
> ***16****. The marking difference in between two clauses is that the engagement of the casual labour has to be occasional otherwise daily wages payable to the daily rated workers or the casual labours is the same but casual labour will get daily wages only for such period for which he shall be occasionally*

engaged whereas engagement of daily rated workers is not on occasional basis.

17*. In the instant case, writ petitioners styled to have been engaged as casual labours, in-effect, were daily rated workers because they were not engaged occasionally. They have been working continuously. Division Bench of this Court in the reported judgment, as referred above, at para 40 have dealt with the position of casual labours, same is reproduced herein-below;*

> ***"CASUAL EMPLOYEES:***
>
> *The cases of casual employees be also examined. In this regard, it would be apt to note the dictionary meaning of the work 'casual'. In Black's Law Dictionary, Sixth Edition, the meaning of word 'casual' has been defined as "occurring without regularity", "occasional", "impermanent" and "as employment for irregular periods".*
>
> *A perusal of above meaning would indicate that where an employee has continued to work for sufficiently long period, then, it would not be apt to call him having been appointed on casual basis. As a matter of fact, this aspect of the matter was considered in Piara Singh's case (supra). The relevant observations made in para 51 of the judgment stand already noticed above. For facility of reference, the relevant observations made in this paragraph are being quoted again:-*
>
> *"...If a casual labourer is continued for a fairly long spell say two or three years- a presumption may arise that there is a regular need for his services. In such a situation, it becomes obligatory for the authority concerned to examine the feasibility of his regularization, while doing so, the authorities*

ought to adopt a positive approach coupled with an empathy for the person...."

18. *In view of the observations of the Hon'ble Apex Court quoted above, the writ petitioners having been working for long period are also entitled to be considered for regularization.*

19. *For the reasons stated hereinabove, the appeal is dismissed, judgment impugned dated 05.02.2010 providing for according consideration to the cases of the writ petitioners for regularization of their services is maintained. The appellants are directed to consider cases of the writ petitioners for regularization within three months from today."*

3. This court is bound by the precedent law discussed in the preceding paragraphs and thus, the sole reason, raised by Mrs. Kohli, learned Sr. AAG, cannot be accepted because it stands already decided by virtue of decision rendered by this Court in *Mushtaq Ahmed Sohail (supra)*.

4. No further indulgence is called for and the petition is, accordingly, **dismissed,** along with connected application.

(RAJNESH OSWAL) JUDGE

(DR. PUSHPENDRA SINGH BHATI) CHIEF JUSTICE

JAMMU
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I attest to the accuracy and
integrity of this document