

Government of Jammu & Kashmir
Forest, Ecology & Environment Department
Civil Secretariat, Jammu/Srinagar

Subject: Consideration of the claim of Shri Vidya Rattan Makhnotra in compliance with the order dated 29.03.2017 passed by the Hon'ble Court in SWP No. 2519/2012 titled Vidya Rattan Makhnotra Vs. State of J&K and another.

Government Order No:- 105 - JK(FST) of 2023
Dated: - 03.05.2023

Whereas, the above-named petitioner was appointed as Range Officer in the Forest (Territorial), on adhoc basis, for a period of six months vide Government Order No. 03-FST of 1985 dated 14.01.1985;

Whereas, subsequently, the adhoc services of petitioner was regularized vide Government Order No 218-FST of 1997 dated 10.04.1997, in relaxation of rules, after seeking approval of the Competent Authority;

Whereas, the petitioner had filed the afore-cited writ petition and had sought retrospective regularization of his services as Range Officer Grade-I, claiming to be similarly situated with some other officials and thus praying for analogous relief;

Whereas, the Hon'ble Court was pleased to dispose of the aforesaid writ petition vide its order dated 29.03.2017, operative part whereof is reproduced as under: -

"...respondents to consider the claim of the petitioner for regularization of his services from 14.01.1985 to 10.04.1997 on the analogy of similarly situated employees, namely Sh. Showkat Ali Choudary and Sh. Nisar Ahmad Kitchloo by a speaking order..."

Whereas, the issue involved was examined in the department and it came to fore that the initial appointment of the petitioner on adhoc basis was made after complete departure from the normal selection procedure and in violation of the constitutional mandate of Articles 14 and 16 of the Constitution of India;

Whereas, it is equally true that there was no specific policy/rule available at that relevant point in time, for regularization of adhoc services and, therefore, the petitioner was regularized, in relaxation of rules;

Whereas, the available records reveals that the petitioner was also paid all his dues for the adhoc services rendered by him prior to his regularization;

Whereas, on further scrutiny of records, it also came to fore that there is no parity between the appointment of petitioner with that of Mr. Nisar Ahmad Kichloo, who was appointed in the Wildlife Department on regular basis by the Hospitality and Protocol Department vide Government Order No. 04-H&P of 1984 dated 06.01.1984 read with Government Order No. 138-FST of 1989 dated 27.04.1989, while on the contrary, the petitioner was appointed on adhoc basis, as stipulated in his initial engagement order. Therefore, the petitioner cannot allege that he has been differentially treated as facts and

circumstances of both the cases do not suggest that the petitioner and Mr. Nisar Ahmad Kichloo were similarly situated.

Whereas, ante-dating regularization of petitioner has far-reaching administrative consequences and cannot be granted as there are adequate number of cases where regularization was effected on prospective basis, and mere regularization of an employee on retrospective basis as in case of Mr. Showkat Choudary attracts the principle that one wrong does not justify commission of another wrong, and

Whereas, the benefit of regularization granted in favour of the applicant itself is a concession granted by the Competent Authority and, therefore, the question of extending the concession by further granting retrospective regularization does not arise at all. The concession can never be claimed as a matter of right. The applicant having already been granted a benefit, in relaxation of rules, cannot claim any further undue benefit.

Now, therefore, keeping in view the afore-stated factual as well as legal position, claim of the petitioner having been considered in deference to order dated 29.03.2017 passed by the Hon'ble Court in SWP No. 2519/2012 titled Vidya Rattan Makhnotra Vs. State of J&K and another is found devoid of any merits. Accordingly, the claim of the petitioner is hereby rejected.

By Order of the Government of Jammu and Kashmir.

Sd/-

(Dheeraj Gupta), IAS

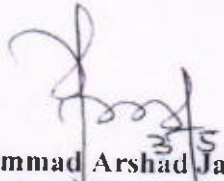
Principal Secretary to the Government

Dated: 03. 05.2023

No: FST-Lit/20/2023-02

Copy to the:-

1. Ld. Advocate General, J&K High Court, Jammu/Srinagar.
2. Principal Secretary to the Hon'ble Lieutenant Governor.
3. Commissioner/Secretary to the Government, General Administration Department.
4. Principal Chief Conservator of Forests & HoFF, J&K.
5. Joint Secretary, (J&K), Ministry of Home Affairs, Government of India.
6. Secretary to the Government, Department of Law, Justice and PA.
7. Director, Archives, Archaeology and Museums, J&K.
8. Deputy Legal Remembrancer, Forest, Ecology and Environment Department.
9. Private Secretary to the Chief Secretary, J&K.
10. PS to Principal Secretary to Government, Forests, Ecology & Environment Department.
11. l/c Website/Government Order file(w.3s.c)/Stock file.


(Mohammad Arshad Jan)

Under Secretary to Government

Forest, Ecology & Environment Department

