



Government of Jammu and Kashmir
Forest, Environment & Ecology Department

Subject:-Implementation of Judgment dated 09.11.2017 passed by the Hon'ble High court in SWP 2680/2017 titled Om Parkash V/s State and Others.

Government Order No: 123 -FST of 2019
Dated: 09 - 04 - 2019

Whereas, Sh. Om Parkash the petitioner and some others were engaged as motivators(Non Existent posts) in the erstwhile Social Forestry Project on a monthly honorarium ofRs.200 per month.

Whereas, as the project was wound up vide Government Order No.640-GAD of 2001, dated 14.06.2001. The committee constituted for the implementation of the winding up process observed that the role of the Motivators has become superfluous and they should be disbanded.

Whereas, vide Social Forestry Order No.216-46/Est.PD/DW dated 09.07.2002, all Motivators were disengaged in light of directions of Administrative Department vide letter No.FST/NG/SF/41.89 dated 29.06.2001.

Whereas, vide Government Order No.481-FST of 2004, dated 28.10.2004 Social Forestry Project was deemed to have been converted into Social Forestry Department and inter-alia, all posts which were proposed to be reverted back to forest Department continued to be borne on plan funds.

Whereas, the disengaged Motivators, Challenged the dis-engaged order before the Hon'ble High Court by way of Writ Petition bearing SWP No.2680/2017 prayed for quashing their disengagement.

Whereas, the Hon'ble High Court on 09.11.2017 disposed of the writ petition with the following directions.

".....The petitioners were appointed as Motivators in the erstwhile Social Forestry Project in the year 1982 on the fixed Salary and they continued to work for several number of years i.e. between 15to 20 years without being absorbed on regular basis and without service benefits.

Accordingly to the respondents, the project is no more learned counsel for the petitioners states that the petitioners have worked in the Government Project for long in vain.

Be that as it may, the petitioners plead that there should be some form of benefits given to them for the long number of years they have served together with retirement benefits etc.

Their services should be reckoned in a proper manner and they should not be left to fend without any form of Social security. The petitioners have not made a representation so far, hence, they are permitted to made representation to the authority to accord consideration to their claim.

Mr. Rohit Kapoor, learned AAG states that the claim will be considered in the light of law applicable to the case of the petitioners including that of the recent decision of the Hon'ble Supreme Court in case titled "State of Karnatka and ors V/s Uma Devi and ors. Reported as 2006 (4)SCCI and "State of Punjab V/s Jagjit Singh reported as 2017(1)SCC148....".

Whereas, in the past, Hon'ble court disposed of such writ petition viz SWP No.2515/2002, 1056/2006, 102/2008 and 830/2010 through a common judgment dated 07.11.2016. Abstract of the said court order is reproduced hereunder;

"In view of the submissions made by learned counsel for the parties and as agreed to by them, the writ petitions are disposed of with the directions to the Secretary, Forest Department that in case petitioners submit a detailed representation with regard to grievances within a period of two weeks time from the date of receipt of certified copy of the order passed, Secretary Forests Department shall consider the cases of the petitioners in the light of the order dated 28.10.2004 by a speaking order within a period of three months from the date of receipt of such a representation. Needless to state that the Secretary, forest Department shall bear in mind the recommendations which may have been made in favour of the petitioners by officers of the Department and while deciding the claim of the petitioners for payment of salary for the period for which they have rendered their services shall bear in mind the principles of equal pay for equal work as well as claim of the petitioners with regard to revision of pay. Needless to state that the cases of the petitioners for re-engagement shall be considered in light of the order dated 28.10.2004 without being influenced by order of termination dated 09.07.2002.

With the aforesaid directions, the writ petitions are disposed of alogwith all connected MPs".

Whereas, these petitioners have approached the Forest department through the medium of representation which where examined in the department and the matter was referred to Finance/Planning department for regularization of Motivators. The both of the departments have not agreed for regularization of these Motivators on the plea that these Motivators were engaged under social forestry programme as part time workers honorarium and can not be treated at par with the DRWs for purposes of regularization in terms of

Government Order No.26-F of 1994 dated 31.01.1994 read with SRO 64 of 1994.

Whereas, these Motivators were not engaged against any created posts, but were supposed to work voluntarily on an honorarium.

Whereas, the department after examining/considering the representation submitted by the petitioners observed that there is no provision regarding regularization of the service of these petitioners or there is such direction in the government Order No.481-FST of 2004 dated 28.10.2004.

Whereas, there is no merit in the claim of the petitioners that their case has been recommended by the officer of the department for regularization.

Now therefore, in Compliance to the judgment dated 09.11.2017 in SWP No.2680/2017 and MP No.1/2017, in the above mentioned clubbed writ petitions and in view of the facts mentioned herein above, the petitioners have been considered and found devoid of any merit. Hence rejected.

By order of the Government of Jammu & Kashmir.

-Sd/-

(Manoj Kumar Dwivedi) IAS
Commissioner Secretary to Government
Department of Forests, Ecology and Environment

No. FST/Lit/SF/158/20176

Dated: - 09 -04-2019.

Copy to the:-

1. Principal Secretary to Government Finance Department.
2. Commissioner/Secretary to Government, General Administration Department.
3. Secretary to Government, Department of Law, Justice & Parliamentary Affairs.
4. Director, Social Forestry, J&K Jammu.
5. Director Archives, Archeology and Museums.
6. OSD with the Hon'ble Advisor (K) to the Hon'ble Governor.
7. Private Secretary to Commissioner/Secretary to Government, Forest, Environment and Ecology Department.
8. Concerned.
9. Government Order file(w.2.s.c)

(Umesh Sharma)

Under Secretary to Government
Forest, Environment & Ecology Department.