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Government of Jammu & Kashmir  
Department of Forest, Environment & Ecology,  
Civil Secretariat  
[www.jkforestadm.nic.in](http://www.jkforestadm.nic.in)

**Subject:-** Implementation of Judgment dated 27.09.2017 read with order dated 29.01.2019 passed by the Hon'ble Division Bench of High Court at Jammu in the case CPLPA No. 04/2018 in LPASW No. 99/2017 titled Ved Parkash Sharma V/s Saurabh Bhagat.

**Reference:** Approval of the State Administrative Council Decision No. 74/7/2019 dated 28.02.2019

Government Order No:- 145 -FST of 2019  
Dated:- 24 -05-2019

Whereas, the instant case is regarding regularization of the services of the petitioner namely Ved Parkash Sharma S/O Late Devi Dass Sharma R/O Ward No. 02 Bagnot, Rajouri, under the provisions of SRO 64 of 1994; and

Whereas, the Pr. Chief Conservator of Forests, J&K Jammu vide communication dated 06.07.2018 has forwarded a communication of the then Divisional Forest Officer, Nowshera Forest Division, Nowshera, bearing NO. DFO/NSR/3324-26 dated 04.01.2018, wherein it is mentioned that One Sh. Ved Parkash Sharma S/O Devi Dass Sharma R/O Bagnoti Tehsil Nowshera was engaged as casual labour for a period of 89 days w.e.f. 25.03.1989. It has been verified from the concerned Divisional Forest Officer, Nowshera that the petitioner has worked for 89 days, and has been paid wages as per their cash book. Thereafter, he remained absent upto 24.11.1995. Again on 25.11.1995, the petitioner resumed duty as casual labour (Gunman) with 04 months absents w.e.f. 25.11.1995 to 31.03.1996. During the year 1996-97 and 1997-98 the petitioner has worked as casual labour (Gunman) with 08 days absents in each financial year; from 1998-99 to 2015-16, the petitioner has worked as casual labour with 07 days absent in each financial year upto 2014-15 and during 2015-16, the petitioner remained absent for the month of Sept. 2015 and 06 other days throughout the financial year 2015-16. The petitioner has continued upto ending 08/2017 and thereafter has remained absent. Since Sh. Ved Parkash casual labour was not within the minimum and maximum age limits as prescribed for the appointment in Govt. services as such he was not eligible for regularization under rule 4 sub-section(f) of SRO 64; and

Whereas, in the year 2006, Sh. Ved Parkash Sharma, Casual Labour in the Nowshera Forest Division filed a writ petition bearing SWP No. 544/2006 before the Hon'ble High court of J&K seeking claiming for regularization under SRO 64 of 1994; and

Whereas, the Hon'ble Court on 22.05.2012 passed following order in the aforesaid writ petition which reads as under:

***"Petitioner claims to have been appointed as casual labour initially for a period of 89 days on 25.03.1989 in the respondent department. It is positive case of the petitioner that he was ever since continued to discharge his duties without***

*interruption and that he is entitled to regularization having rendered services for the last 23 years. The writ petition is, at request, disposed off, with a direction to the respondents to accord consideration to the regularization of the petitioner of course in accordance with the rules and having regard to the service rendered by the petitioner and take a decision in the matter with in eight weeks from date of copy of order is served on the respondents."*

Whereas, in pursuance of the aforesaid order of the Hon'ble Court, as informed by the Pr. Chief Conservator of Forests J&K, the claim of the petitioner was considered and rejected vide order issued under endorsement No. 10550-59 dated 22.06.2013 issued by the then Divisional Forest Officer, Nowshera on the basis that his age was not within minimum and maximum age limit for appointment in Government services and the petitioner was a casual labour so that there was no Government policy to regularize the casual labour in the Govt. Services; and

Whereas, the petitioner aggrieved by the above stand of the department has again in the year 2015, filed another writ petition bearing SWP No. 598/2015 before the Hon'ble High Court claiming for his permanent absorption in Govt. services. The Hon'ble High Court passed an order dated 29.03.2017 with the remarks that the petitioner was not within the minimum and maximum age limit for appointment in Govt. services so that the writ petition fails and was accordingly dismissed; and

Whereas, the petitioner again challenged the writ courts order dated 29.03.2017 before the Ld. Division Bench of the Hon'ble High Court of J&K at Jammu through the medium of LPA bearing NO. 99/2017;and

Whereas, the Hon'ble Division Bench of the Hon'ble High Court at Jammu has disposed of the aforesaid LPA on 27.09.2017 with the following directions; and

**"In view of the aforesaid analysis, the appeal preferred by appellant is accepted. The order impugned dated 29.03.2017 is set aside. The respondents are directed to accord consideration to the case of appellant for regularization with effect from 01.04.2003 i.e the financial year following the year in which the appellant completed 07 years continuous service. It is further made clear that in case on the date of his initial engagement as daily wager i.e. 25.11.1995, if the appellant had crossed the maximum age prescribed for employment in the Government service, the respondent No.1 being the administrative department shall consider the case of the appellant for age relaxation. It is further made clear that the consideration to be accorded to the appellant would be in line with and in the light of observations made herein above. Needless to say that the appellant, upon his regularization with effect from 01.04.2003 shall also be entitled to all consequential benefits. The matter is very old and the consideration as directed cannot book any further delay. Respondents, therefore, shall do the needful as directed above**

**within a period of 06 week from the date, a certified copy of this order is made available to the respondents. The appeal is accordingly allowed in the above terms."**

Whereas, in pursuance to aforesaid order/judgment passed in LPA. No. 99/2017, the Appellant represented before the Department vide representation dated Nil for taking appropriate steps; and

Whereas, that after examining the appellant's representation; the Administrative Department vide communication dated 06.12.2017 invited the attention of the Pr. Chief Conservator of Forests, and the Chief Conservator of Forests, Jammu towards above mentioned communication of this Department and requested them to furnish the detailed report in the matter; and

Whereas, Pursuant to this, vide communication NO. 20.11.2018, the Pr. Chief Conservator of Forests, J&K, has submitted the detailed report. After proper examination of the same, the matter was taken up with the Department of Law, Justice & PA vide UO FST/Lit/141/2017 dated 20.07.2018 for necessary sanction for filing of SLP before the Hon'ble Supreme Court against the judgment dated 27.09.2017 passed in CPLPA No. 04/2018; and

Whereas, the Department of Law, Justice & Parliamentary Affairs vide UO. No. LD (Lit) 2017/225-FST Dated 08.08.2018 has conveyed the following advice:

**"The Department is advised to furnish the following information to enable this Department to examine the case further within one week positively:-**

- a) Certified copy of judgment dated 27.09.2017 passed by the Hon'ble High Court in the instant case.**
- b) Cogent grounds for accord of sanction for filing of SLP against the order dated 27.09.2017.**
- c) Why the case was not examined under SRO 64 of 1994;**
- d) Date from which the petitioner has remained absent;**
- e) Copy of engagement order & date of birth of the petitioner when first appointment was made by the Department for 89 days;**
- f) Whether the petitioner is still continuing in the Department till yet against which order after he remained absent; and**
- g) Whether DFO is competent authority to reject the claim of the petitioner without seeking approval of the Administrative Department."**

Whereas, thereafter the Department vide communication dated 16.08.2018, followed by reminder dated 28.11.2018 invited the attention of the Pr. Chief Conservator of Forests, J&K towards the above advice of the Department of Law, Justice & PA, with the request to furnish the requisite information to this Department within two days positively. Besides he was requested to file the compliance report before the Hon'ble High Court at Jammu; and

Whereas, the Department after examining the detailed report furnished by the Pr. Chief Conservator of Forests, J&K vide communication dated 28.11.2018, and also communication No. SAAG/HAS/18/11594 dated 30.11.2018 of Sh. H.A.Siddiqui, Sr. Addl. Advocate General, again referred the matter to the Department of Law, Justice & PA vide UO No. FST/Lit/141/2017 dated 01.01.2019, for advice for filing of SLP before the Hon'ble Supreme Court of India; and

Whereas, the Department of Law, Justice & PA vide UO NO. LD(Lit)2018/188-SC/Fst dated 09.01.2019 has conveyed the following advice:

**"Department is advised to file SLP against the judgment dated 27.09.2017 passed by the Hon'ble Division Bench of J&K High Court at Jammu in LPASW No. 99/2017 MP No. 01./2017 titled Ved Prakash Sharma V/s State of J&K & Ors. However, the department is further advised to explain the delay before the court and take the case seriously otherwise SLP will be dismissed in limini."**

Whereas, the Department vide communication dated 15.01.2019 invited the attention of the Pr. Chief Conservator of Forests, J&K towards the above advice of the Department of Law, Justice & Parliamentary Affairs, with the request to depute an officer well conversant with the facts of the case alongwith relevant records to the office of Sh. G.M. Kawoosa, Addl. Standing Counsel for J&K State for filing of SLP against the judgment dated 27.09.2017; and

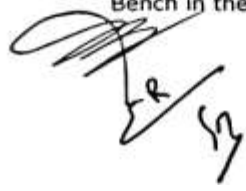
Whereas, it is Pertinent to mention here that the Department has received a copy of order dated 31.12.2018 passed by the Hon'ble High Court in the case CPLPA No. 04/2018 in LPASW No. 99/2017 titled Ved Parkash Sharma V/s Saurabh Bhagat and others. The operative part of the order is reproduced hereunder:-

**"Despite our last order, compliance report has not been filed. The matter remains pending since 27.09.2017.**

**In this background, let Commissioner/Secretary to Government, Forest Department, Government of Jammu and Kashmir (respondent No.01), remain present in the Court on the next date of hearing.**

**List on 29th of January, 2019."**

Whereas, in pursuance to the above order of the Hon'ble Court, the Department filed compliance/status report as well as the application seeking for exemption from personal appearance of the Commissioner/Secretary to Government, Forest, Environment and Ecology Department, with the plea that the Department has sought sanction from the Department of Law, Justice & Parliamentary Affairs for filing of SLP before the Hon'ble Apex Court against the judgment dated 27.09.2017 passed by the Hon'ble Division Bench in the instant case; and



Whereas, the Hon'ble Court again on 29.01.2019 passed order in the case CPLPA No. 04/2018 in LPASWP No. 99/2017 titled Ved Parkash V/s Saurabh Bhagat & Ors with the following directions:

- "1) Despite orders dated 26<sup>th</sup> of November, 2018, and 31<sup>st</sup> of December, 2018, both noting non compliance of the time bound order passed on 27<sup>th</sup> of September, 2017, the respondents have still not filed compliance to the directions. There is no compliance even of the specific direction that the Commissioner/Secretary to Government, Forest Department, Government of Jammu and Kashmir shall remain present in person in court if the order is not complied.**
- 2) Instead report dated 28<sup>th</sup> of January, 2019, has been filed claiming to be a "Compliance/Status report", on behalf of respondent No.1. The stand in this report to say the least, in fact, is admitted non compliance of all orders passed by this Court. We were inclined to proceed in the matter under the Contempt of Courts Act against all persons responsible. However, Mr. D.C.Raina, learned Advocate General who happens to be present in Court requests for leave to withdraw this compliance/status report and give one very last opportunity to the respondents to comply with the order passed on 27<sup>th</sup> of September, 2017.**
- 3) Let the compliance report be positively filed before us within two weeks from today.**
- 4) List on 20<sup>th</sup> of February, 2019.**
- 5) A copy of this order be provided to Mr. D.C.Raina, Learned Advocate General, under the sale and signatures of Bench Secretary of this Court."**

Whereas, while hearing the case on 29.01.2019 the Hon'ble Division Bench of High Court has not entertained the compliance/status report as well as exemption application submitted by the Department, and as such has sought the personal appearance of Commissioner/Secretary to Govt. Forest, Environment & Ecology Department before the Hon'ble Court. Meanwhile, on the intervention of Ld. Advocate General, J&K Jammu, the personal appearance of Commissioner/ Secretary to Govt. Forest Environment & Ecology Department was dispensed, however a detailed order has been passed in the contempt case wherein two weeks time has been granted to Department for complying, Division Benches order dated 27.09.2017, thereafter file the compliance report before the Hon'ble Division Bench within two weeks time as the case is listed for hearing on 20.02.2019; and

Whereas, in pursuance of the order dated 29.01.2019 passed by the Hon'ble Division Bench of High Court, and with the prior approval from the Advisor(K) to the Hon'ble Governor Incharge Forest, Environment & Ecology Department; the Department vide UO No.FST/Lit/141/2017 dated 31.01.2019 has taken up the matter with the Department of Law, Justice & Parliamentary, for their advice/concurrence in the instant case, before taking up the matter with the General Administration Department for placing the



same before the State Administrative Council for its approval, in relaxation of rules, as the case is listed for hearing on 20.02.2019; and

Whereas, the Department of Law, Justice & Parliamentary Affairs vide UO No. LD (Lit) 2017/225-Fst dated 01.02.2019 dated 01.02.2019 has conveyed the following advice:

**"In view of the coercive orders of the court there is no option but to comply the judgment of Division Bench dated 27.09.2017. As such, the Forest Department has to consider the case of Shri. Ved Parkash Sharma for regularization in relaxation of rules including age relaxation. The Department should also take steps for filing of SLP at the earliest. The implementation of the judgment would be subject to outcome of SLP."**

Whereas, the Department vide communication dated 01.02.2019 invited the attention of the Pr. Chief Conservator of Forest, J&K Jammu towards the above advice of the Department of Law, Justice & PA and requested him to furnish the requisite information alongwith the complete details of the petitioner for processing the case for further necessary action in pursuance to Hon'ble Court order as well as opinion of the Department of Law, Justice & Parliamentary Affairs; and

Whereas, the Pr. Chief Conservator of Forests, J&K Jammu vide communication dated 02.02.2019 has provided a detailed report alongwith the requisite documents viz. Engagement order, Report of DFO, Nowshera, Affidavit filed in LPA, documents determining the age of the petitioner for further necessary action; and

Whereas, as far the present case is concerned, the coercive orders of the court there is no option but to comply the judgment dated 27.09.2017 passed by the Hon'ble Division Bench of High Court in case LPASW No. 99/2017 titled Ved Parkash V/s Saurabah Bhagat & Ors, as such, the case of the petitioner needs consideration for regularization in relaxation of rules including age relaxation; and

Whereas, the Department after examining the case of the petitioner in light of the opinion quoted above of the Department of Law, Justice & Parliamentary Affairs tendered in the instant case and also in compliance to Judgment dated 27.09.2017 read with order dated 29.01.2019 passed by the Hon'ble Division Bench of High Court at Jammu in the case CPLPA No. 04/2018 in LPASW No. 99/2017 titled Ved Parkash Sharma V/s Saurabh Bhagat forwarded following proposal vide U.O dated 11.02.2019 to the General Administration Department for approval of the Competent Authority:-

**I/ Sanction is hereby accorded to the Creation of one post of Helper in the pay scale of 4440-7440+1300 G.P(Pre-revised) for regularization of the services of Shri Ved Parkash S/o Late Devi Dass Sharma R/o Ward No. 02 Bagnot, Rajouri w.e.f. 01.04.2003 in relaxation of rules:**

Handwritten signature and initials, possibly 'ER' and 'SM', are present below the text.

**II/ Relaxation of Upper age limit of 17 years 01 month and 16 days, in term of Rule 4© of SRO 64 of 1994 of the Jammu and Kashmir Daily Rated Workers (Regularization) Rule, 1994.**

**Subject to the outcome of SLP filed before the Hon'ble Supreme Court of India.**

Whereas, the State Administrative Council vide Decision No. 74/7/2019 dated 28.02.2019 conveyed the approval of the Competent Authority of above mentioned proposal.

Now, therefore , sanction is hereby accorded to the :-

**Creation of one post of Helper in the pay scale of 4440-7440+1300 G.P(Pre-revised) for regularization of the services of Shri Ved Parkash S/o Late Devi Dass Sharma R/o Ward No. 02 Bagnet, Rajouri w.e.f. 01.04.2003 in relaxation of rules:**

**II/ Relaxation of Upper age limit of 17 years 01 month and 16 days, in term of Rule 4© of SRO 64 of 1994 of the Jammu and Kashmir Daily Rated Workers (Regularization) Rule, 1994.**

**Subject to the outcome of SLP filed before the Hon'ble Supreme Court of India.**

However, the regularization of services of Ved Parkash S/O Late Devi Dass Sharma R/O Ward No. 02 Bagnet, Rajouri, as Helper in the pay scale 4400-7440+1300 GP (pre-revised), in relaxation of rules in the Forest Department (territorial) from the date he has completed seven years of service i.e w.e.f 01.04.2003, be treated as one time exception and not as an analogy, which is being issued in pursuance to orders of the Hon'ble Court.

By Order of the Government of Jammu and Kashmir

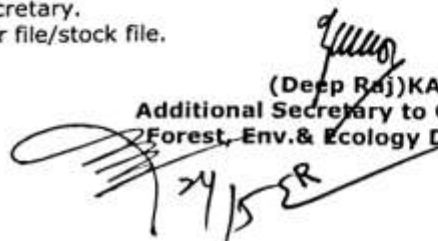
**Sd/-**  
**(Manjod Kumar Dwivedi) IAS**  
Commissioner/ Secretary to Government  
Department of Forest, Environment and Ecology

No:-FST/Lit/141/2017

Dated:- 24 -05-2019

Copy to the :-

1. Principal Secretary to Hon'ble Governor J&K,
2. Pr. Chief Conservator of Forests, J&K Jammu.
3. Director, Archives, Archaeology & Museums, J&K, Jammu.
4. Deputy Secretary (Legal) Forest Department.
5. Pvt. Secretary to the Advisor (K) for kind information of the Advisor(K).
6. Pvt. Secretary to the Ld. Advocate General, J&K State for information to the Ld. Advocate General.
7. Pvt. Secretary to Commissioner/Secretary, Forest Env.& Ecology Department for information to the Commissioner/Secretary.
8. Pvt. Secretary to Commissioner/Secretary to Government, General Administration Department for information to the Commissioner/Secretary.
9. Government Order file/stock file.

  
**(Deep Raj) KAS,**  
Additional Secretary to Government,  
Forest, Env. & Ecology Department.