

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

Subject: Consideration of claim of the petitioners in compliance with the order dated 29.05.2010, passed by the Hon'ble High Court of Jammu & Kashmir & Ladakh at Jammu in SWP No. 1334/2010 titled Fulail Singh and others Vs State of J&K and others.

Government Order No:299-JK(FST) of 2024

Dated: 18.12.2024

Whereas, the petitioners namely Fulail Singh S/o Bhagat Ram R/o Kundal Paddar, Munshi Ram S/o Thaker Chand, Atholi Paddar, Ashok Kumar S/o Bhem Sen R/o Atholi Paddar, Sujan Singh S/o Hari Lal R/o Kukandrawan Paddar, Shamsheer Singh S/o Charan Das R/o Tatapani Paddar, Jagdir Singh S/o Charan Das Tatapani, Bodh Raj S/o Bhagat Ram R/o Atholi Paddar, Romesh Kumar S/o Amar Nath R/o Ishtiyari Paddar, Liaqat Ali S/o Shamsu-Din R/o Thatri, Peer Bakesh S/o Hashmin-Din R/o Noos Dool, Muni Ram S/o Hari Lal R/o Chishoti Padder, Abdul Rashid S/o Yar Mohammed R/o Kidroo Paddar, Jai Pal Singh S/o Ram Nath R/o Machail Padder, Phalwan Singh S/o Mal Chand R/o Machail Padder, Gori Lal S/o Janki Nath R/o Dundi Paddar, Dhani Ram S/o Gian Chand R/o Kukandrawan Paddar, Dev Raj S/o Kartar Singh R/o Sohal Paddar, Tirth Lal S/o Wazir Chand R/o Pandail Paddar, had approached the Hon'ble High Court through the medium of writ petition that came to be numbered as SWP No. 1334/2010 titled Fulail Singh and others Vs State of J&K and others

Whereas, the said writ petition was disposed of by the Hon'ble Court vide its order dated 29.05.2010, operative part whereof reads as under:-

"...respondents to treat the instant petition as representation on behalf of the petitioners for according consideration to the cause projected herein within a period of three months from the date the copy of the order, the writ petition and the annexures attached thereto are furnished to the respondents, which shall be the responsibility of petitioners only."

Whereas, Principal Chief Conservator of Forests, Jammu & Kashmir vide his communication No. PCCF/NG/Estt/1329 dated 04.05.2024, furnished the requisite information along with relevant documents to the department for further necessary action;

Whereas, the cases of the petitioners were examined and the following position has come to fore:

Sh. Fulail Singh has been engaged as Casual Daily Labour on 07/1992 by DFO Kishtwar. There is a break of 3 years in his services.

Sh. Munishi Ram has been engaged as Casual Daily Labour on 12/1992 by DFO Kishtwar. The qualification of the petitioner is Middle pass. There is a break of 3 years in his services.

Sh. Ashok Kumar has been engaged as Casual Daily Labour on 12/1991 by DFO Kishtwar. There is a break of 2 years and 1 month in his services.


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Sh. Sujan Singh has been engaged as Casual Daily Labour on 08/1991 by DFO Kishtwar. There is a break of 4 years and 2 months in his services.

Sh. Shamsher Singh has been engaged as Casual Daily Labour on 03/1992 by DFO Kishtwar. The qualification of the petitioner is Middle pass. There is a break of 3 years and 8 months in his services.

Sh. Jagdir Singh has been engaged as Casual Daily Labour on 11/1990 by DFO Kishtwar. There is a break of 6 years and 4 months in his services.

Sh. Bodh Raj has been engaged as Casual Daily Labour on 03/1992 by DFO Kishtwar. There is a break of 6 years and 3 months in his services.

Sh. Romesh Kumar has been engaged as Casual Daily Labour on 09/1992 by DFO Kishtwar. There is a break of 3 years and 6 months in his services.

Sh. Liaqat Ali has been engaged as Casual Daily Labour on 05/1993 by DFO Kishtwar. The qualification of the petitioner is Middle pass. There is a break of 3 years and 3 months in his services.

Sh. Peer Baksh has been engaged as Casual Daily Labour on 02/1992 by DFO Kishtwar. The qualification of the petitioner is Primary. There is a break of 4 years and 5 months in his services.

Sh. Mani Ram has been engaged as Casual Daily Labour on 12/1993 by DFO Kishtwar. The qualification of the petitioner is Middle pass. There is a break of 3 years in his services.

Sh. Ab Rashid has been engaged as Casual Daily Labour on 01/1994 by DFO Kishtwar. The qualification of the petitioner is Middle pass. There is a break of 2 years and 11 months in his services.

Sh. Jai Pal Singh has been engaged as Casual Daily Labour on 07/1992 by DFO Kishtwar. There is a break of 4 years in his services.

Sh. Pahlwan Singh has been engaged as Casual Daily Labour on 09/1992 by DFO Kishtwar. The qualification of the petitioner is Middle pass. There is a break of 3 years and 10 months in his services.

Sh. Gori Lal has been engaged as Casual Daily Labour on 01/1994 by DFO Kishtwar. There is a break of 3 years and 5 months in his services.

Sh. Dhani Ram has been engaged as Casual Daily Labour on 01/1994 by DFO Kishtwar. There is a break of 3 years and 8 months in his services.

Sh. Dev Raj has been engaged as Casual Daily Labour on 01/1994 by DFO Kishtwar. The qualification of the petitioner is Middle pass. There is a break of 2 years and 11 months in his services.

Sh. Tirath Lal has been engaged as Casual Daily Labour on 01/1994 by DFO Kishtwar. The qualification of the petitioner is Middle pass. There is a break of 2 years and 6 months in his services.

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Whereas, rule 4 of the Jammu and Kashmir Daily Rated Workers/ Work charged Employees (Regularization Rules), 1994, notified vide SRO 64 of 1994, provided the eligibility conditions for regularisation under SRO 64 of 1994 and clause (f) of rule 4 provided as under:

"... (f). that he has completed seven years continuous period of working as Daily Rated Worked or Work charged Employee or partly as Daily Rated Worked or partly as Work charged Employee..."

Whereas, it is evident from the above stated rule that in order to be eligible for regularization under the provisions of SRO 64 of 1994, it is obvious that all the conditions stipulated therein are mandatorily required to be fulfilled, and non-fulfilment of any of the stipulated pre-conditions would render a person ineligible for regularization;


Whereas, the petitioners have huge gap in services and as such do not fulfill all the requisite conditions as stipulated therein in SRO 64 of 1994, which makes the claim of the petitioners unsustainable for claiming the benefit of SRO 64 of 1994;

Whereas, notwithstanding the above stated position, the policies/legislative enactments relating to regularization of services, including SRO 64 of 1994 have been repealed by the Government vide S.O 514 dated 06.10.2023 which is a policy decision taken by the Government. S.O 514 dated 06.10.2023 provides as under:

S.O. 514. :- In exercise of the powers conferred by proviso to Article 309 of the Constitution of India and all other enabling provisions in this behalf, the Lieutenant Governor is pleased to direct that the "Jammu and Kashmir Daily Rated Workers/Work Charged Employees (Regularization) Rules, 1994" notified vide SRO 64 of 1994 dated 24.03.1994; "Jammu and Kashmir Casual and Other Workers-Regular Engagement Rules, 2017" notified vide SRO 520 of 2017 dated 21.12.2017 and all other rules, regulations, notifications, bye-laws, orders etc. pertaining to regularization of engagement of Daily Rated/Work Charged/Casual/Seasonal/Adhoc/Consolidated or other worker(s) are hereby repealed. All the pending cases shall stand abated and no fresh cases shall be entertained."

Whereas, the aforesaid policy decision has not been taken by the Government with regard to a particular case but is of a general nature, which is applicable to all those cases where regularization of services was pending consideration till the taking of the aforesaid policy decision. Therefore, the petitioner, who otherwise also was not eligible for regularization under SRO 64 of 1994, is not entitled to the benefit of the policy that stands repealed by the Government in the Finance Department with a further decision in this regard that all pending cases shall stand abated and no fresh cases shall be entertained. Reliance in this regard is placed on judgment dated 21.07.2023 passed by the Division Bench of Hon'ble High Court of J&K and Ladakh at Srinagar in CCP(D) No. 08/2022 titled Ishfaq Tantray Vs. Khalid Jahangir, operative part whereof reads as under:

"...since a policy decision was taken by the Administration at the higher level before such a right has accrued to the petitioners for getting appointed, we are of the view that failure to appoint the petitioners on the basis of the selection process which has been directed to be completed by the Division Bench, cannot be said to amounting to commission of


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contempt of the Court under the Contempt of Courts Act, 1971, as the act of the respondents cannot be said to be wilful disobedience of the order of the Division Bench dated 10.05.2013 passed in LPA No. 184/2012..."

Whereas, the policies/legislative enactments regarding regularization under SRO 64 of 1994 has been repealed by the Government vide S.O 514 dated 06.10.2023 and thus as on this date there are no rules/law existing under which regularization can be done and it is no longer res integra that regularization cannot be done in the absence of any specific legislation or rules. Further it has been laid down by the Hon'ble Apex Court in its judgment dated 07.10.2021 passed in Civil Appeal No's. 5689-5690 of 2021 titled Union of India and /Others Vs. Ilmo Devi and others that "...As per the settled position of law, the regularization can be only as per the regularization policy declared by the State/ Government and nobody can claim the regularization as a matter of right de hors the regularization policy..."

Now, therefore, keeping in view the afore-stated position, claim of the petitioners having been considered in compliance with the order dated 29.05.2010, passed by the Hon'ble High Court of Jammu & Kashmir & Ladakh at Jammu in SWP No. 1334/2010 titled Fulail Singh and others, Vs State of J&K and others, for regularization of their services under SRO 64 of 1994 (repealed law) is found meritless. Accordingly, claim of the petitioner is rejected.

By order of Government of Jammu and Kashmir.

Sd/-

(Shalindra Kumar)IAS

Principal Secretary to the Government
Forest, Ecology & Environment Department.

No. FST-Lit/90/2023-02-Forest Department

Dated :- 18.12.2024.

Copy to the:-

1. Principal Secretary to the Hon'ble Lieutenant Governor, J&K
2. Principal Secretary to the Government, Finance Department.
3. Commissioner/Secretary to the Government, General Administration Department, J&K.
4. Principal Chief Conservator of Forests/HoFF, J&K.
5. Secretary to the Government, Law, Justice & Parliamentary Affairs Department, J&K.
6. OSD to Hon'ble Minister, Department of Forest, Ecology & Environment .
7. Pvt. Secretary to Chief Secretary, J&K
8. PS to Principal Secretary to Government, Forest, Ecology & Environment Department, J&K.
9. Incharge Website.
10. Government Order file.

Raj Kumar
(Raj Kumar)

Under Secretary to the Government