

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

Subject: Consideration of the claim of the petitioners in compliance with the order dated 31.07.2015 passed by Hon'ble Court in SWP No. 1286/1998 titled Bashir Ahmed Chopan and others Vs. State of J&K and others.

Government Order No: 34 JK (FST) of 2024

Dated: 01.02.2024

Whereas, the petitioners had filed a writ petition numbered as SWP No. 1286/1998 titled as Bashir Ahmed Chopan and others Vs. State of J&K and others, seeking therein, *inter alia*, direction upon the respondents for regularization of their services under SRO 64 of 1994;

Whereas, the writ petition (supra) came to be disposed of by the Hon'ble Court vide its order dated 31.07.2015, operative part whereof reads as under: -

"...As the issue has been taken note of 1st respondent being the competent authority is directed to consider the issue on making a joint representation by the petitioner explaining from which date they were engaged, at what place and date when they were disengaged. On receipt of the representation, the 1st respondent shall get a report from other respondents and verify as to whether petitioners are satisfying the consideration as contained in SRO 64 of 1994 for regularization of their services and if they satisfy the same, orders of the regularization be passed in their favour..."

Whereas, in compliance with aforesaid direction of the Hon'ble Court, claim of petitioners was examined and it came to fore that the petitioners were engaged as Casual Labours on need basis in IWDP Project between the period 04/1994 to 04/1997 and continued up to November, 1997. As such, the petitioners remained on rolls for 03 years or even less in some cases. Further, the petitioners have been paid their due wages up to November, 1997;

Whereas, as regards SRO 64 of 1994 is concerned, which, although, stands repealed as on date, same applied to Daily Rated Workers/Work Charged Employees engaged in any government department as was provided under sub-rule (3) of rule 1 of SRO 64 of 1994, which is reproduced herein below: -

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"(3) They shall apply to the Daily Rated Workers/ Work Charged Employees engaged in any government department."

Whereas, the regularization under SRO 64 of 1994 was subject to fulfillment of eligibility conditions as laid down under rule 4 of SRO 64 of 1994 and one of the eligibility conditions as provided under clause (f) of rule 4 of SRO 64 of 1994 was 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 worker and partly as work charged employee."

Whereas, as is evident from the above-stated rule position, the benefit of SRO 64 of 1994 was available to those Daily Rated Workers/Work Charged Employees who were engaged and working in the government department and should have completed seven years continuous period of working as Daily Rated Worker or Work Charged Employee, besides fulfilment of other laid down eligibility conditions;

Whereas, the petitioners were engaged as Casual Labours in IWDP Project, which was not a government department and was time specific. As such, SRO 64 has no applicability in respect of the petitioners who were engaged purely on need basis in a project that stands closed. It is no longer *res integra* that if the engagement is in connection with a particular project, the services of the persons employed in a project would come to an end on closure of the project. Reliance in this regard is placed on judgments dated 22.04.2009 passed by the Apex Court in Md. Abdul Kadir and another Vs Director General of Police and others; and judgment dated 24.08.2022 passed by the Delhi High Court in LPA No.284/2021 titled Rabel Guharoy Vs. Union of India and others.;

Whereas, notwithstanding the fact that SRO 64 of 1994 is not applicable to the petitioners, the petitioners otherwise do not fulfil the eligibility condition of seven years continuous period of working given that the petitioners have worked for a period of 03 years or even less in some cases and are no longer working in the department in any capacity from November, 1997 onwards. Therefore, the petitioners who have worked in the past purely on need basis in a project that was period specific and are no longer working in the department in any capacity from November, 1997 onwards have no right to claim the benefit of SRO 64 of 1994. Further, in order to be eligible for regularization under SRO 64 of 1994, the

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person should be working in the department and should fulfill the eligibility criteria laid down therein, however, the petitioners are not working in the department from the year 1997 onwards and are, therefore, not entitled to the benefit of SRO 64 of 1994;

Now, therefore, in compliance with the order dated 31.07.2015 passed by the Hon'ble Court in SWP No. 1286/1998 titled Bashir Ahmed Chopan and others Vs. State of J&K and others, claim of the petitioners has been considered and is found devoid of any merit. Accordingly, claim of the petitioners is hereby rejected.

By order of the Government of Jammu and Kashmir.

Sd/-

(Dheeraj Gupta) IAS

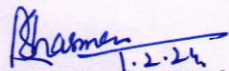
Financial Commissioner (Additional Chief Secretary)

Dated: 01.02.2024

No: FST-Lit/108/2021-02

Copy to the: -

1. Commissioner Secretary to the Government, General Administration Department.
2. Pr. Chief Conservator of Forests, (HoFF), J&K. He is requested to file compliance report in the matter on the strength of this Government Order.
3. Secretary to the Government, Department of Law, J & PA.
4. Private Secretary to Financial Commissioner (Additional Chief Secretary), for kind information of Financial Commissioner (Additional Chief Secretary)
5. Petitioners.
6. Government Order file.


(Raj Kumar Sharma)

Under Secretary to the Government.

