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Government of Jammu & Kashmir  
Department of Forest, Ecology & Environment  
Civil secretariat, J&K

Subject:- Consideration of claim of petitioners in compliance with the order dated 14.03.2023 passed by the Hon'ble Court in WP(C) No. 1386/2021 titled Abdul Rashid Dar and others Vs. Union Territory of J&K and others.

Government Order No: 41 -JK(FST) of 2025  
Dated: 21.02.2025

**Whereas**, petitioners namely, Abdul Rashid Dar S/o Gh. Ahmad Dar R/o Shahgund, Bandipora, Ab. Ahad Parray S/o Abdul Aziz Parray R/o Hajin, Bandipora, Abdul Majeed Rather S/o Abdul Gaffar Rather R/o Hajin Bandipora, Abdul Rouf Qadri S/o Gh. Nabi R/o Srinagar, Abdul Majeed Parray S/o Gh. Mohd. Parray R/o Hajin Bandipora, Mohd Sultan Rather S/o Abdul Karim Rather R/o Shahgund Bandipora, Mohd Sidque Mallah S/o Gh. Mohd Malla R/o Shairabad Pattan, Arshid Rasool Basoo S/o Gh. Rasool Basoo R/o Hajin Bandipora, Tanveer Ali S/o Shair Ali R/o Belna Baramulla, Mohd. Yousuf Sofi S/o Mohd Mukhtar Sofi R/o Brar Bandipora, Abdul Gani Sofi S/o Gh. Mohmmad Sofi R/o Brar Bandipora, Abdul Hameed Rather S/o Gh Ahmad Rather R/o S.K. Balla, Abdul Hameed Pandit S/o Ab. Rehman Pandit R/o Safapora, Manzoor Ahmad Malik S/o Ali Mohd Malki R/o Safapora, Mohd Amin Bhat S/o Gh Mohammad Bhat R/o Ashamm, Mohd Maqbool Sheikh S/o Mohd Subhan R/o Takiyar, Mohd Subhan Rather S/o Mohd Ramzan R/o Chandergir, Gh Nabi Bhat S/o Mohd Abdullah R/o Chandergir, Gh Rasool Rather S/o Sonullah R/o Chandergir, Ghulam Rather S/o Salam Rather R/o Chandergir had approached the Hon'ble High Court through the medium of a writ petition that was numbered as WP(C) No. 1386/2021 titled Abdul Rashid Dar and others Vs UT of J&K and others, seeking therein direction upon the respondents for regularization of their services under SRO 64 of 1994;

**Whereas**, the writ petition (supra) was disposed of by the Hon'ble Tribunal vide its order dated 14.03.2023, operative part whereof reads as under:-

*"...Viewed in the above context, it will be futile to keep this petition pending on board and the same is accordingly, disposed of with a direction to the respondents to consider the claim of petitioners for regularization of their services in accordance with SRO-64 of 1994 or any*

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*other scheme in vogue, within a period of two months from the date certified copy of this order is served upon respondents.”;*

**Whereas**, Principal Chief Conservator of Forests, Jammu & Kashmir vide his communication No. PCCF/NG/Estt/1875 dated 25.06.2024, 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:-

**(i) Sh. Abdul Rashid Dar** has been engaged as DRW on 07.09.1985 by DFO Bandipora. The qualification of the petitioner is Middle pass. The petitioner has not completed continuous seven years of service which is one of the essential mandatory conditions to be fulfilled so as to be entitled for regularization under the provisions of SRO 54 of 1994.

**(ii) Sh. Abdul Ahad Parray** has been engaged as DRW on 01.08.1987 by DFO Bandipora. The qualification of the petitioner is Middle pass. The petitioner has not completed continuous seven years of service which is one of the essential mandatory conditions to be fulfilled so as to be entitled for regularization under the provisions of SRO 64 of 1994.

**(iii) Sh. Abdul Majeed Rather** has been engaged as DRW on 18.01.1988 by DFO Bandipora. The qualification of the petitioner is Middle pass. The petitioner has not completed continuous seven years of service which is one of the essential mandatory conditions to be fulfilled so as to be entitled for regularization under the provisions of SRO 64 of 1994.

**(iv) Sh. Abdul Rouf Qadri** has been engaged as DRW on 03.06.1993 by DFO Bandipora. The qualification of the petitioner is Middle pass. The petitioner has not completed continuous seven years of service which is one of the essential mandatory conditions to be fulfilled so as to be entitled for regularization under the provisions of SRO 64 of 1994.

**(V) Sh. Abdul Majeed Parray** has been engaged as DRW on 05.08.1989 by DFO Bandipora. The qualification of the petitioner is Matric. The petitioner has not completed continuous seven years of service which is one of the essential mandatory conditions to be fulfilled so as to be entitled for regularization under the provisions of SRO 64 of 1994.





**(vi) Sh. Mohd Sultan Rather** has been engaged as DRW on 01.06.1992 by DFO Bandipora. The petitioner is illiterate. The petitioner has not completed continuous seven years of service which is one of the essential mandatory conditions to be fulfilled so as to be entitled for regularization under the provisions of SRO 64 of 1994.

**(vii) Sh. Mohd Sideeq Malla** has been engaged as DRW on 01.03.1993 by DFO Bandipora. The qualification of the petitioner is Matric. The petitioner has not completed continuous seven years of service which is one of the essential mandatory conditions to be fulfilled so as to be entitled for regularization under the provisions of SRO 64 of 1994.

**(viii) Sh. Arshad Rasool Basoo** has been engaged as DRW on 18.09.1988 by DFO Bandipora. The qualification of the petitioner is Matric. The petitioner has not completed continuous seven years of service which is one of the essential mandatory conditions to be fulfilled so as to be entitled for regularization under the provisions of SRO 64 of 1994.

**(xiv) Sh. Mohammad Yousuf Sofi** has been engaged as DRW on 01.08.1987 by DFO Bandipora. The petitioner is illiterate. The petitioner has not completed continuous seven years of service which is one of the essential mandatory conditions to be fulfilled so as to be entitled for regularization under the provisions of SRO 64 of 1994.

**(x) Sh. Abdul Gani Sofi** has been engaged as DRW on 01.02.1987 by DFO Bandipora. The petitioner at the time of initial engagement was 17 years old. The qualification of the petitioner is Middle pass. The petitioner has not completed continuous seven years of service which is one of the essential mandatory conditions to be fulfilled so as to be entitled for regularization under the provisions of SRO 64 of 1994.

**(xi) Sh. Abdul Hamid Rather** has been engaged as DRW on 01.02.1991 by DFO Bandipora. The qualification of the petitioner is Matric. The petitioner has not completed continuous seven years of service which is one of the essential mandatory conditions to be fulfilled so as to be entitled for regularization under the provisions of SRO 64 of 1994.

**(xii) Sh. Abdul Hameed Pandith** has been engaged as DRW on 01.06.1992 by DFO Bandipora. The qualification of the petitioner is Matric. The petitioner has not completed continuous seven years of service which is one of the essential mandatory conditions to be fulfilled so as to be entitled for regularization under the provisions of SRO 64 of 1994.



**(xiii) Sh. Manzoor Ahmad Malik** has been engaged as DRW on 01.06.1992 by DFO Bandipora. The qualification of the petitioner is Matric. The petitioner has not completed continuous seven years of service which is one of the essential mandatory conditions to be fulfilled so as to be entitled for regularization under the provisions of SRO 64 of 1994.

**(xiv) Sh. Mohd Amin Bhat** has been engaged as DRW on 02.03.1993 by DFO Bandipora. The qualification of the petitioner is Matric. The petitioner has not completed continuous seven years of service which is one of the essential mandatory conditions to be fulfilled so as to be entitled for regularization under the provisions of SRO 64 of 1994.

**(xv) Sh. Mohd Maqbool Sheikh** has been engaged as DRW on 26.03.1993 by DFO Bandipora. The petitioner is illiterate. The petitioner has not completed continuous seven years of service which is one of the essential mandatory conditions to be fulfilled so as to be entitled for regularization under the provisions of SRO 64 of 1994.

**(xvi) Sh. Mohd Subhan Rather** has been engaged as DRW on 01.05.1992 by DFO Bandipora. The petitioner at the time of initial engagement was 17 years old. The qualification of the petitioner is Middle pass. The petitioner has not completed continuous seven years of service which is one of the essential mandatory conditions to be fulfilled so as to be entitled for regularization under the provisions of SRO 64 of 1994.

**(xvii) Sh. Ghulam Nabi Bhat** has been engaged as DRW on 01.06.1992 by DFO Bandipora. The qualification of the petitioner is 6<sup>th</sup> pass. The petitioner has not completed continuous seven years of service which is one of the essential mandatory conditions to be fulfilled so as to be entitled for regularization under the provisions of SRO 64 of 1994.

**(xviii) Sh. Tanveer Ali** has been engaged as DRW on 01.01.1993 by DFO Bandipora. The qualification of the petitioner is Matric. The petitioner has not completed continuous seven years of service which is one of the essential mandatory conditions to be fulfilled so as to be entitled for regularization under the provisions of SRO 64 of 1994.

**(xiv) Sh. Ghulam Rasool Rather** has been engaged as DRW on 01.05.1992 by DFO Bandipora. The qualification of the petitioner is 4<sup>th</sup> pass. The petitioner has not completed continuous seven years of service which is one of the essential mandatory conditions to be fulfilled so as to be entitled for regularization under the provisions of SRO 64 of 1994.



**(xx) Sh. Ghulam Rather** has been engaged as DRW on 01.06.1992 by DFO Bandipora. The qualification of the petitioner is Middle pass. The petitioner has not completed continuous seven years of service which is one of the essential mandatory conditions to be fulfilled so as to be entitled for regularization under the provisions of SRO 64 of 1994.

**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 regularization 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 mandatory required to be fulfilled, and non-fulfillment of any of the stipulated pre-conditions would render a person ineligible for regularization;

**Whereas**, the petitioners have not completed continuous seven years of service which is one of the essential mandatory conditions to be fulfilled so as to be entitled for regularization under the provisions of SRO 64 of 1994 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; and

**Whereas** the GAD vide its O.M. dated 23.02.2021 has conveyed that the regularization schemes are under administrative scrutiny and the issue is required to be placed before Establishment-cum- Selection Committee for taking a decision in the matter.

**Whereas**, the provisions of equality enshrined in the Constitution of India deal with the right to equality among its subjects and prohibits/prevents from any sort of discrimination among the equals. In terms of these provisions the state shall not deny to any person equality before the law or equal protection of the laws and assures equality of opportunity in matters of public employment, whereas, the legislative policies/enactment/rules framed for engagement/regularization of the DRWs gave discretion in the hands of the officials to engage people on daily wage basis and such discretion was totally unguided and was exercised by the officials while engaging the DRWs on their whims and caprices and there was no defined criteria, as such, the

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engagement of the petitioners as casual labours was against the principles of equality enshrined in the Constitution of India. Reliance in this regard is placed on judgment dated **10.04.2006 passed in Secretary, State Of Karnataka and others Vs Uma Devi and others** whereby the Hon'ble Supreme Court has held that engagement/appointment without giving an opportunity to the people/public at large in matter of public employment as violative of right to equality as enshrined under the provisions of Constitution of India. Although, there may be occasions when the sovereign State or its instrumentalities will have to employ persons, in posts which are temporary, on daily wages, as additional hands or taking them in without following the required procedure, to discharge the duties in respect of the posts that are sanctioned and are required to be filled in terms of the relevant procedure established by the Constitution, however, the fact is that that such engagements cannot be used to defeat the very scheme of public employment. All the engagements made illegally are void-ab-initio and the same would not give any justifiable right to the illegal appointee to claim regularization; and

**Whereas**, the Administrative Department Forest, Ecology & Environment in similar cases has taken up the matter with the General Administration Department and the General Administration Department vide its U.O dated 18.07.2023, advised as under:

*"Returned. The Department is intimated that the matter with regard to regularization schemes was referred to Finance Department for their opinion. The later vide their U.O. No. FD- Code/445/2021-02-345 dated 01-05-2023 conveyed as under:*

*'Returned: The General Administration Department, in consultation with Department of Law, Justice and Parliamentary Affairs, has firmed up the following view:*

- a. *All the engagements made illegally are void ab-initio and the same would not give any justiciable right to the illegal appointee to claim regularization. The said principle has been upheld by the Hon'ble Supreme Court in State of Karnataka V/s Uma Devi and the ratio of the said case can be taken as a defense before the concerned forum to deny regularization of an illegal engagement.*
- b. *where the Hon'ble Court have passed directions, in a particular case for regularization of an engagement and contempt proceedings have been initiated, the Department may project and express the inability to implement the said directions, in view of the fact that such action would contravene and infract the express directions laid down in Uma Devi case and other similar binding precedents.'*

*Accordingly, the department is advised to proceed further in the matter."*

*✓*

*OK*

**Now, therefore,** keeping in view the afore-stated position, claim of the applicants having been considered in compliance with the order dated order 14.03.2023, passed by the Hon'ble Central Administrative Tribunal, Srinagar-Bench in O.A No. 1170/2022 titled Abdul Rashid Dar and others Vs UT of J&K and others, for regularization of their services under SRO 64 of 1994 is found meritless. Accordingly, claim of the petitioners is rejected.

**By order of Government of Jammu and Kashmir.**


Sd/-  
(Sheetal Nanda) IAS  
Commissioner/Secretary to the Government

No. FST-Lit/81/2021-02

Dated: 21 .02.2025.

Copy to the:-

1. Principal Chief Conservator of Forests & HoFF, J&K.
2. Principal Secretary to the Hon'ble Lieutenant Governor, J&K.
3. Joint Secretary (J&K and Ladakh), Ministry of Home Affairs, Government of India.
4. Commissioner/Secretary to the Government, General Administration Department.
5. Secretary to the Government, Law, J & PA Department, J&K.
6. Director, Archives, Archaeology and Museums, J&K.
7. OSD with Hon'ble Minister for Forest, Ecology & Environment Department.
8. Pvt. Secretary to Chief Secretary, J&K
9. Pvt. Secretary to Commissioner/Secretary to the Government, Forest, Ecology and Environment Department.
10. Incharge Website.
11. Government Order file (w.2.s.c.).

  
(Abid Khan) 21/02/2025  
Under Secretary to the Government  
