

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

Subject: CPSW No. 8/2016 in SWP 390/2014 titled Yaseen Shah & others V/s Rakesh Gupta & others.

**Government Order No. : 51--JK(FST) of 2022
Dated : 11-04-2022**

Whereas, 13 casual labourers had filed a writ petition bearing SWP No. 390/2014 titled 'Yaseen Shah & others Vs State of J&K and Others' before the Hon'ble High Court at Jammu seeking inter-alia following relief:-

"Mandamus, commanding the respondents to bring the process of regularization of the services of the petitioners as Class-IV to its logical conclusion by directing immediate regularization of the petitioners as Class-IV in Forest department w.e.f the dates the petitioners have attained eligibility for such regularization on completion of their seven years of service.

Issue a writ in the nature of prohibition restraining the respondents from regularization the service of any other junior service colleague of the petitioners pick and choose basis till the case of the petitioners for their regularization is brought to its logical conclusion."

Whereas, the said writ petition was disposed of by the Hon'ble High Court, Jammu threshold vide its judgment/order dated 13.03.2015 with the following directions:-

"This petition at its admission stage is disposed of with a direction to the respondents that they shall finalize the process to accord consideration to the cases of the petitioners in accordance with relevant rules and regulations as are in vogue and to pass appropriate orders as shall be warranted within a period of six weeks from the date copy of the order is served upon them."

Whereas, pursuant to the above said order/judgment dated 13.03.2015, the department examined the case of the petitioners and sought information/relevant documents from the Principal Chief Conservator of Forests, J&K. Accordingly, the clubbed proposal including the petitioners herein was referred to the Finance Department for placing the same before the Empowered Committee for their regularization/creation of posts; and

Whereas, the Finance Department placed the cases of the DRWs/CLW including the petitioners in the 10th meeting of Empowered Committee (Constituted vide Government order No. 139-F of 2015 dated 19.08.2015) under the Chairmanship of Commissioner/Secretary to the Government, Finance Department on 09.03.2017. The Empowered Committee while considering the matter has raised some observation/deficiencies in the cases of the petitioners; and

Whereas, the department vide communication No.FST/NG/58/2017 dated 08.06.2017 forwarded the minutes of the Empowered Committee dated 09.03.2017 to PCCF with a request to respond to the queries put forth by the Empowered Committee under rules and furnish the requisite information/documents to the Administrative department as per minutes for further necessary action; and

Whereas, in response the PCCF, J&K vide its communication No. PCCF/NG/Estt/6pi/487/826 dated 25.02.2021 has forwarded the information to Administrative Department for considering their regularization under SRO-64 of 1994; and

Whereas, in the above said proposal the PCCF has not furnished the initial engagement orders or MRs of the 1st month. Thereafter, the department examined the cases of the petitioners in-depth and vide communication No. FST/Lit/41/2022-2-Forest Department dated 01.04.2022 requested the PCCF to furnish the requisite information as per given format to the Administrative Department immediately; and

Whereas, on receipt of information/documents vide communication No. DFO/PFD/27-29 dated 04.04.2022, the case was again examined in the Department and during scrutiny of the documents furnished by the PCCF/DFO, Forest Division Poonch; it has come to fourth that the petitioners have actually been engaged as Casual Labourers. Out of which three petitioners namely- Yaseen Shah, Mohd. Sharief and Jamal-ud-din were later on have been converted as DRWs without any reason/cogent grounds at the level of DFO, which is not permitted under Law. Furthermore, the said three petitioners have more than 10 years breaks each;

Whereas, sub-rule (3) of Rule 1 of SRO-64 of 1994, makes it clear that the SRO-64 applies only to "Daily Rated Workers/Work Charged Employees" engaged in any Government Department and does not cover casual laborers/seasonal laborers.

Now, therefore, after thoughtful consideration of the above said facts, records pertaining to the case of the petitioner, the Hon'ble High Court directions dated 13.03.2015 passed in SWP No. 390/2016 read with order dated 07.03.2022 passed in CPSW No. 08/2016, it has been found that the petitioners were engaged as Casual Labour and have huge breaks, and cannot be regularized under SRO-64 of 1994. As such, their claim after due consideration under relevant rules is found devoid of any merit and cannot be considered.

By order of the Government of Jammu and Kashmir.


Sd/-
(Sanjeev Verma) IAS
Commissioner/Secretary to the Government

No: - FST/Lit/41/2022-02-Forest Department

Dated: 11.04.2022

Copy to the:-

1. Principal Chief Conservator of Forests (HoFF), J&K, Jammu.
2. Director, Archives, Archeology & Museum, J&K Jammu
3. Mr. Dewaker Sharma, Ld. Deputy Advocate General, J&K High Court, Jammu.
4. Divisional Forest Officer, Poonch Forest Division, Poonch.
5. Pvt. Secretary to Commissioner/Secretary, Department of Forest, Environment and Ecology.
6. Petitioners.
7. I/c Website, Department of Forest, Environment and Ecology.
8. Government Order file (w.2.s.cs)
9. Stock file.


(Vivek Phonsa) JKAS
Deputy Secretary to the Government