

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

Subject:- Consideration of the claim of Shri Ghulam Hassan Bhat S/O Mohammad Yousuf Bhat R/O Baitengo, Tehsil Sopore, District Baramulla, in compliance with the order dated 31.12.2016 passed by the Hon'ble Court in SWP No. 2172/2016 titled Ghulam Hassan Bhat Vs. State of J&K and others.

**Government Order No: - 81 -JK(FST) of 2024
Dated: - 28 .03.2024**

1. *Whereas*, Shri Ghulam Hassan Bhat S/O Mohammad Yousuf Bhat R/O Baitengo, Sopore, Baramulla (hereinafter referred to as 'petitioner') had approached the Hon'ble Court through the medium of writ petition numbered as SWP No. 2172/2016 titled Ghulam Hassan Bhat Vs. State of J&K and others, seeking therein direction upon the respondents for regularization of his services and release of his legitimately earned wages;
2. *Whereas*, the writ petition (supra) came to be disposed of by the Hon'ble Court vide its order dated 31.12.2016, which reads as under:-

*“At request of counsel for the petitioner, this writ petition along with connected IAs is disposed of and respondents are directed to release the legally earned wages of the petitioner within four weeks from the date copy of this order is served. Respondents are further directed to consider claim of the petitioner for being enlisted in the list of persons, whose services are required to be regularized.
Disposed of along with connected IAs.”; and*
3. *Whereas*, based on available records, the matter was examined in compliance with the aforesaid direction of the Hon'ble Court and following factual/legal position came to fore:-
 - i. That the petitioner had averred in his writ petition to have been engaged and continuously working in the respondent department as Casual Labour w.e.f. 11/1999 and had further averred that the respondent department had paid him wages in piece meals and there are unpaid wages due to the petitioner, which is entirely misleading and factually incorrect. As per the report furnished by the Pr. Chief Conservator of Forest (HoFF), J&K vide his communication No. PCCF/Lit/11/SWP/2016/681 dated 11.03.2024, petitioner has not worked as Labourer for the period from 10/1999 up to 10/2012 in Ningli Range.



- ii. That the petitioner in his writ petition had relied his claim upon communications dated 26.08.2002 and dated 15.09.2011, allegedly issued by the Range Officer, Ningli, Sopore and addressed to the Divisional Forest Officer concerned, which formed annexures to the writ petition. It is mentioned in the aforesaid communications dated 26.08.2002 and dated 15.09.2011 that the petitioner has been allowed to continue as Casual Labour and no wages have been paid to the petitioner w.e.f. date of initial engagement i.e., 11/1999. It is further mentioned in the aforesaid communication dated 26.08.2002 that total amount payable is Rs 53,550/- and Divisional Forest Officer concerned has been requested by the Range Officer concerned in the subsequent communication dated 15.09.2011 to approach the higher authority for allotment of funds, for payment of pending wages as no wages have been paid to the petitioner. However, as per the report furnished by the Pr. Chief Conservator of Forest (HoFF), J&K vide his communication No. PCCF/Lit/11/SWP/ 2016/681 dated 11.03.2024, the above referred to communications dated 26.08.2002 and dated 15.09.2011 that were forming annexures to the writ petition **do not form part of the official record of Ningli Range and are thus fake and fabricated, meaning thereby, that the petitioner had played fraud and also misled the Hon'ble Court, and had thereafter managed to obtain the order dated 31.12.2016 passed in the writ petition, by placing on record before the writ Court the communications that are fake and fabricated and that did not form part of official record of the respondent department.**
- iii. That the petitioner had produced fake and fabricated documents before the writ court in support of his claim and had filed pleadings, duly verified and affirmed, based on the aforesaid fake and fabricated documents and had thereby induced the Hon'ble Court in entertaining his writ petition, which is a punishable offence, **for which appropriate action warranted under law shall ensue as the Pr. Chief Conservator of Forests (HoFF), J&K has been advised vide communication No. FST-Lit/307/2023-02 dated 26.03.2024 to have the matter taken up with the appropriate agency, for further necessary action warranted under law.**
- iv. That the petitioner has only worked for a period of one year and eleven months in toto w.e.f. November, 2012 up to September, 2023 with frequent long breaks totalling 2979 days approximately. The legitimately earned wages, for the period the petitioner has worked in the department, stand released in favour of the petitioner and thus, there are no pending wages due to the petitioner as he has not worked for the rest of the period, as reported by the Pr. Chief Conservator of Forest (HoFF), J&K vide his communication No. PCCF/LO/111/2016/230 dated 29.01.2024. Also, it is

a matter of record that there is no specific engagement order in favour of the petitioner.

- v. That there was no policy vis-a-vis regularization of Casual Labour on the date of passing of aforesaid order dated 31.12.2016 and there is no such policy existing as on date. Further the Hon'ble Supreme Court vide 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 has held that "...As per the settled proposition 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 dehors the regularization policy..." Therefore, going by the ratio laid down by the Apex Court, petitioner is not entitled to the benefit of regularization in absence of any regularization policy on the subject.

Now, therefore, keeping in view the afore-stated position, claim of the petitioner having been considered in compliance with the order dated 31.12.2016 passed by the Hon'ble Court in SWP No. 2172/2016 titled Ghulam Hassan Bhat Vs. State of J&K and others, for regularization of his services and release of alleged unpaid wages is found meritless. Accordingly, claim of the petitioner is rejected.

By order of the Government of Jammu and Kashmir.

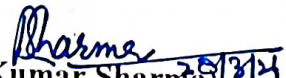
Sd/-
(Dheeraj Gupta) IAS,
Financial Commissioner (Additional Chief Secretary)

No: - FST-Lit/307/2023-02-Forest Department

Dated: - 28 .03.2024

Copy to the: -

1. Principal Secretary to the Hon'ble Lieutenant Governor, J&K
2. Commissioner Secretary to the Government, General Administration Department, Civil Secretariat, Jammu/Srinagar.
3. Secretary to the Government, Department of Law, Justice & PA, Civil Secretariat, Jammu/Srinagar.
4. Principal Chief Conservator of Forests, J&K . He is requested to have the compliance report filed on the strength of this Government Order.
5. Private Secretary to the Chief Secretary, J&K.
6. Private Secretary to the Financial Commissioner (Additional Chief Secretary), Forest, Ecology Environment Department, for kind information of the Financial Commissioner (Additional Chief Secretary).
7. Government Order file.


(Raj Kumar Sharma) 28/3/24
Under Secretary to the Government

