

**CENTRAL ADMINISTRATIVE TRIBUNAL
JAMMU BENCH, JAMMU**

Hearing through video conferencing



T.A. No. 61/570/2020 (SWP.No.2307/2002)
&
M.A.No.61/778/2020 in T.A.No.61/570/2020

Dated: this the 3rd day of November, 2020

**HON'BLE MR. JUSTICE L. NARASIMHA REDDY, CHAIRMAN
HON'BLE MR. MOHD. JAMSHED, MEMBER (A)**

Miss Kawaljeet Kour D/o Late S. Harbans Singh R/o Mohalla Sareen
Ward No. 3, Poonch, Age 31 years.

.....Applicant

(Advocate: Mr.P.N.Bhat, Not present)

Versus

1. State of J&K through Principal Secretary, Health and Medical Education, Jammu.
2. Director Health Service, Jammu.
3. Chief Medical Officer, Poonch.
4. District Tubercloses Officer, Poonch.

.....Respondents

(Advocate: Mr. Amit Gupta, Addl. Advocate General)



ORDER ORAL

JUSTICE L. NARASIMHA REDDY, CHAIRMAN

The applicant states that she was engaged on ad hoc basis as Junior Assistant in the office of DTC, Poonch, on 01.01.1998 and thereafter she is being continued on the basis of the orders of extension issued from time to time. She filed SWP.No.201/1999 before the Hon'ble High Court of Jammu & Kashmir, when he apprehended that his services may not be continued.

2. It is stated that though she is entitled for the benefit of regularization, the respondents did not extend the same and artificial breaks were being created. Placing reliance on the judgment rendered by the Hon'ble Supreme Court in *Secretary, State of Karnataka & Others v. Uma Devi & Others* in Appeal (Civil) Nos.3595-3612/1999, dated 10.04.2006, and certain orders passed by the Hon'ble High Court of Jammu & Kashmir, she filed SWP.No.2307/2002 with a prayer to direct the respondents to regularize her services and to allow her to work as Junior Assistant on regular basis. An interim order was passed on 09.09.2020 that in case the applicant is still in service, she shall be allowed to continue and be paid wages for the period she actually worked, in accordance with the rules.



3. The SWP has since been transferred to this Tribunal on re-organization of the State of Jammu & Kashmir into Union Territory and re-numbered as TA.No.570/2020.

4. Today, when the case is listed, there is no representation for the Applicant. Since it is one of the oldest cases, we have perused the record.

5. The applicant claims that she was engaged as Junior Assistant by the respondents way back in the year 1998, on adhoc/contract basis and is being continued from time to time. Extensive reference is made in the Writ Petition, to various orders passed by the Hon'ble Supreme Court, conferring benefit on such category employees.

6. In Uma Devi's case, the Hon'ble Supreme Court disapproved the practice of appointing employees on contractual basis, against regular vacancies. As a one time measure, a direction was issued to consider the cases of such employees, who continued on casual basis for 10 years or more, for regularization, in case they hold requisite qualifications and if their appointment was against regular vacancy. We are not aware as to whether any scheme was evolved by the respondents. In the absence of such scheme, the only relief which the applicant can claim is that the respondents be restrained from replacing her with another contract/adhoc employees and to pay



her the minimum of the pay scale. Barring that the Tribunal cannot give any specific direction for regularization. If any scheme is evolved in this behalf, the case of the applicant shall also be considered, in accordance with law.

7. We therefore dispose of this OA directing that in case the applicant is still in service, the respondents shall consider her case for regularization, if there exists a scheme framed for that purpose. If such a scheme does not exist, the respondents shall not replace the applicant with another contractual/adhoc employee. There shall be no order as to costs.

(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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