



Central Administrative Tribunal Jammu Bench, Jammu

T.A. No.6387/2020
(SWP No.1684/2004)

Monday, this the 8th of February, 2021

(Through Video Conferencing)

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Mohd. Jamshed, Member (A)

1. Abdul Rehman Bahroo, age 39 years
s/o Shri Rasool Bahroo
r/o Channari Tehsil Banihal, Distt. Doda
2. Shah Bilal Showkat Ali, age 30 years
s/o Sh. Gh. Nabi Shah, r/o Tethar
Tehsil Banihal Distt. Doda
3. Fayaz Ahmed Khan, age 31 years
s/o Gh. Mohd. Khan, r/o Zenihal
Tehsil Banihal, Distt. Doda
4. Javaid Iqbal Malik age 34 years
Tehsil Chamliwan Banihal Distt. Doda
5. Ghulam Jeelani, age 33 years
s/o Mohi-ud-din Giri
r/o Bankoot TRahsil Banihal
Distt. Doda

..Applicants

(Ms. Aruna Thakur, Advocate)

VERSUS

1. State of J&K through Commissioner/Secretary
Consumer Affairs & Public Distribution Deptt.
Civil Sectt., Srinagar
2. Director, CA & PD Deptt. Jammu
3. Asstt Director, CA&PD Deptt. Doda
4. Tehsildar Banihal, Distt. Doda

..Respondents

(Mr. Sudesh Magotra, Deputy Advocate General)

ORDER (ORAL)

Mr. Justice L. Narasimha Reddy:

The applicants state that they were engaged as Watchmen-cum-Chowkidars in various establishments of Public Distribution Department of Jammu & Kashmir in July, 1991. It is stated that ever since the said engagement, they were discharging the duties without any complaint. Placing reliance on SRO No.64 of 1994, the applicants prayed for regularization of their services. Earlier, they approached the Hon'ble High Court of Jammu and Kashmir by filing SWP No. 1511/1998, which was disposed of with certain observations and directions. It became the subject matter of an LPA (SW) No. 422/1999 also. When the contempt case was filed, the Hon'ble High Court declined to entertain the same. Thereafter, the applicant filed SWP No. 1684/2004, praying for a direction to the respondents to consider their cases in terms of SRO No.64 of 1994. They contend that once they are working continuously for a particular length of time, they are entitled to be extended the benefit of regularization.

2. On behalf of the respondents, a detailed counter affidavit is filed. They state that the applicants were entrusted with the duties of night watchmen, for certain duty hours, and they were free to work during day in any other establishments. It is also stated that the occasion to regularize the services of an employee would arise, if only the daily wage or a work charged

employee was working against a regular vacancy, and that the applicants do not fit into those parameters.

3. The SWP has since been transferred to the Tribunal in view of the reorganization of the State of Jammu and Kashmir and renumbered as TA No. 6387/2020.

4. We heard Ms. Aruna Thakur, learned counsel for applicants and Mr. Sudesh Magotra, Deputy Advocate General for respondents.

5. For the past about two decades, the applicants are making efforts to get regularized in the Government service. While the applicants contend that they are engaged on daily wages, the respondents state that the applicants were entrusted with watch and ward duty after office hours, and even that arrangement was made by the local officers.

6. In an earlier round of litigation, the Hon'ble High Court of Jammu and Kashmir, was not inclined to grant any specific relief to the applicants, mainly on the ground that they are not working against any sanctioned post. The SRO No.64 of 1994 is also to the effect that the regularization can be only of daily wage employee or work charged employee working against the sanctioned post.

7. It may be true that there was no sanctioned post when the applicants approached the Hon'ble High Court in the year 2004 or earlier thereto. However, in case the applicants are continuing to do the same work even by now, it cannot be said

that there was no post as such. The very fact that the arrangement remained for almost a quarter of century, discloses that it was not a stop gap arrangement or seasonal work. For all practical purposes, they deserve to be treated as a post in the establishment.

9. We, therefore, dispose of the T.A. directing the respondents that in case the applicants are still discharging the watch and wards duties under the respondents without any break ever since their engagement, their services shall be considered for regularization in terms of SRO No.64 of 1994, if they fit into the parameters mentioned therein. In case, the benefit is extended to the applicants, it shall be with prospective effect. The exercise in this behalf shall be completed within two months from the date of receipt of copy of this order. There shall be no order as to costs.

(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

February 8, 2021

/sunil/ankit/dsn