

**CENTRAL ADMINISTRATIVE TRIBUNAL
JAMMU BENCH, JAMMU**

Hearing through video conferencing

O.A. No. 61/107/2020

This the 31st day of August 2021

HON'BLE MR. RAKESH SAGAR JAIN, MEMBER (J)
HON'BLE MR. ANAND MATHUR, MEMBER (A)



1. Mohd Rayaz, Age 29 years, S/o Ahmad Khan, Group (D) Daily Wager, NG, R/o Rajdhani Tehsil, Manjakote, District Rajouri.
2. Mohd Arif Khan, Age 36 years, S/o Bashir Khan, Group (D) Daily Wager (NG), R/o Rajdhani Tehsil Manjakote District Rajouri.
3. Mohd Zahir, Age 29 years, S/o Mohd Sher, Group (D) Daily Wager (NG), R/o Rajdhani Tehsil Manjakote District Rajouri.
4. Abdul Shabir Age 30 years, S/o Mohd Sadiq, Group (D) Daily Wager (NG), R/o Rajdhani Tehsil Manjakote District Rajouri.
5. Mushtaq Hussain, Age 30 years, S/o Mohd Shafi Group (D) Daily Wager (NG), R/o Rajdhani Tehsil Manjakote District Rajouri.
6. Mohd Kafait, Age 26 years, S/o Mohd Shabir, Group (D) Daily Wager (NG), R/o Jamola Tehsil Manjakote, District Rajouri.
7. Mohd Shahid, Age 26 years, S/o Mohd Shabir, Group (D) Daily Wager (NG), R/o Jamola Tehsil Manjakote, District Rajouri.
8. Shahroom, Age 34 years, S/o Mohd Sadiq, (Group (D) Daily Wager (NG), R/o Saroola Tehsil Manjakote, District Rajouri.
9. Mohd Sageer, Age 40 years, S/o Fazal Hussain, Group (D) Daily Wager (NG) R/o Panjgrian Tehsil Manjakote District Rajouri.
10. Mehmood Khan, Age 31 years, S/o Mohd Jamil, Group (D) Daily Wager (NG), R/o Panjgrian Tehsil Manjakote District Rajouri.
11. Mohd Raiz Age 42 years, S/o Mohd Iqbal, Group (D) Daily Wager (NG), R/o Kotli Kalaban Tehsil Manjakote District Rajouri.



12. Nisar Ahmad Age, 30 years, S/o Mohd Khan, Group (D) Daily Wager (NG) R/o Ghambir Mughlan, Tehsil Manjakote, District Rajouri.
13. Abida Kouser, Age 29 years, D/o Mohd Safiq, Group (D) Daily Wager, NGR/o Ghambir Mughlan, Tehsil Manjakote, District Rajouri.
14. Mohd Khaliq, Age 29 years, S/o Mohd Khan, Group (D) Daily Wager, (NG) R/o Derari Tehsil Manjakote, District Rajouri.
15. Rasalit Hussain, Age 40 years, S/o Dil Mohd, Group (D) Daily Wager (NG),. R/o Mangal Near Tehsil Manjakote District Rajouri.
16. Mohd Farooq Age 29 years, S/o Mohd Aslam, Group (D) Daily Wager (NG), R/o Mangal Nar Tehsil Manjakote, District Rajouri.
17. Raoof Ahmad, Age 30 years, S/o Mohd Raiz, Group (D) Daily Wager (NG) R/o Derari Tehsil Manjakote, District Rajouri.
18. Shakeel Ahmad Age 27 years, S/o Basharat Hussain, Group (D) Daily Wager (NG) R/o Mangal, Nar Tehsil Manjakote, District Rajouri.
19. Karamat Hussain, Age 31 years, S/o Raj Mohd, (Group (D) Daily Wager (NG), R/o Saroola Tehsil Manjakote, District Rajouri.
20. Mohd Altaf Age 42 years, S/o Mohd Qasim, Group (D) Daily Wager, (NG),. R/o Panglar, Tehsil Kotranka District Rajouri.
21. Gian Singh, Age 34 years, S/o Chain Singh, Group (D) Daily Wager (NG), R/o Panglar, Tehsil Kotranka, District Rajouri.

.....Applicants

(Advocate:- Mr. A A Khan)

Versus

1. Union Territory of Jammu and Kashmir, through its Commissioner cum Secretary, Jal Shakti Department, Civil Secretariat, Jammu/Srinagar.
2. Director Finance, Jal Shakti Department, Civil Secretariat, Jammu/Srinagar.
3. Chief Engineer, Jal Shakti Department, B.C. Road, Jammu.
4. Superintending Engineer, Jal Shakti Department, Hydraulic Circle, Rajouri.
5. Executive Engineer, Jal Shakti PHE, Division Rajouri

.....Respondents

(Advocate: Mr. Sudesh Magotra, learned D.A.G.)

ORDER**[ORAL]****(Delivered by Hon'ble Mr. Anand Mathur, Member-A)**

Learned counsel for the applicants submits that circular bearing no. 30 PW/Hyd of 2012 dated 03.04.2012 and 17-PW (Hyd) of 2013 dated 09.04.2013 were issued by the respondents for engagement of persons as casual labour who donate their land for construction of water tanks, pump rooms etc. In accordance with the aforesaid circulars, the applicants donated their land to the PHE Department. Meanwhile, the Government issued an order bearing no. 43-F of 2015 dated 17.03.2015 ordering imposition of ban on engagement of casual/seasonal labourers in government department/state owned PSUs by withdrawing Government Orders Nos. 239-F of 2005 dated 29.01.2005, 138-F of 2013 dated 23.05.2013 and 105-PD of 2010 dated 25.10.2020, however, the circular bearing no. 30-PW (Hyd) of 2012 dated 03.04.2012 and circular no. 17 – PW (Hyd) of 2013 dated 09.04.2013 were never withdrawn. In the year 2015, the respondents started harassing the applicants by not allowing them to perform their duties, hence, the applicants approached the Hon'ble High Court by filing SWP No. 1498/2016, 1716/2017, 1631/2016, 387/2017 and the Hon'ble High Court passed interim directions directing the respondents to maintain status quo with regard to engagement of the applicants as casual labourers. Thereafter, the applicants were allowed to perform their duties as casual labourers. He further submits that as per Rule 10 (1) of the SRO 520 of 2017, the order no. 43-F of 2015 dated 17.03.2015 shall continue to remain enforce and according to Sub Rule 2, new engagement in any department can be made with prior permission of the Chief Minister through Finance Department and according to Rule 11 (b), the land donors who have donated their land free of cost to the government shall be eligible for engagement as casual labourer, those land donors who have donated their land after



31.12.2001 were not eligible for engagement as casual labourer. However, the respondents in garb of Govt. Order No. 43-F of 2015 dated 17.03.2015 issued the impugned order dated 26.05.2020, whereby the concerned Drawing and Disbursing Officer has been directed not to release wages to workers who have been engaged in the department in lieu of land donated to the department by or before 17.03.2015. The applicants are aggrieved of the said order and hence, the present O.A. seeking quashment of the aforementioned order.

2. We have heard Mr. A A Khan, learned counsel for the applicants and Mr. Sudesh Magotra, learned D.A.G. for the respondents and perused the records.

3. Looking to the facts and circumstances of the case, we dispose of the O.A. with direction to the respondents to release the wages in favour of the applicant, if due, provided that the applicants have worked under the muster rolls of the respondents for the period they are seeking wages. In case there is some hindrance in releasing the wages in favour of the applicants, the respondents need to pass a reasoned and speaking order. Let this exercise be completed within a period of two months from the date of receipt of a certified copy of this order.

4. No order as to costs.

(ANAND MATHUR)
MEMBER (A)

(RAKESH SAGAR JAIN)
MEMBER (J)

Arun