

**Central Administrative Tribunal
Jammu Bench, Jammu**



T.A. No. 382/2021
(S.W.P. No. 2678/2019)

Monday, this the 12th day of April, 2021

(Through Video Conferencing)

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

Dr. Ghulam Mohiuddin Yatoo,
Aged about 33 years,
S/o Habibullah Yatoo,
R/o Yatipora Palhalan Pattan,
District Baramulla.

(Mr. Masrat Iqbal, Advocate)

..Applicant

VERSUS

1. State of Jammu and Kashmir through,
Commissioner/Secretary to Govt. Higher Education
Department, Civil Secretariat, Jammu/Srinagar.
2. Nodal Principal,
Amar Singh College, Srinagar.
3. Principal,
Government Degree College, Beerwah.

..Respondents

(Mr. Amit Gupta, Additional Advocate General)

ORDER (ORAL)**Mr. Justice L. Narasimha Reddy:**

The applicant states that he was engaged as Teacher on contractual basis, on consolidated salary for the past several years. The Jammu & Kashmir Civil Services (Special Provisions) Act, 2010 (for short “the Act”) provides for regularization of temporary and daily wage employees, subject to certain conditions. However, the persons taken on academic arrangement are excluded from the purview of the Act. The applicant filed SWP No.2678/2019 before the Hon’ble High Court of Jammu & Kashmir with a prayer to set aside the Section 3 (b) of the Act, insofar as it excludes the persons taken on the academic arrangement, in the context of regularization; and to issue a writ of *mandamus* directing the respondents to extend to him, all the consequential benefits under the Act.

2. The respondents filed a detailed counter affidavit. They stated that the academic arrangements are made year after year, depending upon the strength and courses in various Institutions run by the Government; and the employees, who are already on their rolls. It is stated that the merit exhibited by the candidates in a particular year is also taken into account, for the purpose of renewing the contract and there is no scope of absorbing such candidates.



3. The SWP has since been transferred to the Tribunal in view of the reorganization of the State of Jammu & Kashmir and renumbered as TA No. 382/2021.

4. Today, we heard Mr. Masrat Iqbal, learned counsel for applicant and Mr. Amit Gupta, learned Additional Advocate General.

5. It is no doubt true that the Act provides for regularization of the employees, who are working in the Government establishments on *ad hoc* or daily wage basis, subject to certain conditions. Even while extending such benefit to different categories of employees, the Legislature kept the academic arrangements, outside the purview of the Act. The applicant challenges the validity of Section 3 (b) of the Act by submitting that the distinction sought to be maintained by the respondents, in the context of extending the benefit with retrospective effect, is without any basis.

6. Had the matter arisen before us for the first time, we would have certainly examined the question in detail. It is brought to our notice that the Division Bench of the Hon'ble High Court of Jammu & Kashmir in **State of Jammu & Kashmir v. Afshan Majid**, (2008 (2) JKJ 550) held that the academic arrangements

cannot be brought under the purview of the Act. The same situation obtains in this case also. Once the Hon'ble High Court turned down the challenge to Section 3 (b) of the Jammu & Kashmir Civil Services (Special Provisions) Act, 2010, we cannot entertain the very plea on that very issue.



7. We do not find any merit in this T.A. It is accordingly dismissed. There shall be no order as to costs.

(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

/sunil/ankit/dsn