

SWP No. 1928/2006
CMA No. 2424/2006

Date of decision: 04.06.2012

Nawab Din v. State of J&K and ors.

CORAM:

MR. JUSTICE J.P. SINGH.

Appearing Counsel:

For Petitioner(s) : Ms. Surinder Kour, Sr. Advocate with
Ms. Davinderpreet Kour, Advocate.

For Respondent(s) : Mr. Srishti Pal Mengi, Advocate.

i)	Whether approved for reporting in Press/Media	:	Yes/No
ii)	Whether to be reported in Digest/Journal	:	Yes/No

JUDGMENT

The petitioner has filed this Writ Petition seeking directions to the State and its functionaries in the Forest Department for his regularization in Government Service and release of salary with effect from September 2005.

The State-respondents contest the petitioner's Claim to regularization urging that having been engaged as a Casual Labourer, petitioner was not entitled to regularization in view of the provisions of *the Jammu and Kashmir Daily Rated Workers/Work Charged Employees (Regularisation) Rules, 1994*.

Considered the submissions of the learned counsel for the parties.

To support his Claim to regularization, the petitioner relies on the judgment delivered by this Court in Writ Petition, SWP No.1641/01 and the orders passed in COA(S) 25-A/02, which he and similarly situated persons had filed seeking directions against the State-respondents.

In the earlier round of litigation, this Court had issued directions against the State-respondents for petitioner's regularization in service proceeding on the premise that he was a *Daily Rated Worker*. Thus having accepted the findings and orders of the Court in the above two cases where the petitioner was held entitled to regularization in Government Service, the respondents' defense to the petitioner's plea seeking execution of the directions issued by the Court may not be justified.

The stand taken by the State-respondents that the petitioner was disentitled to regularization because he was engaged as Casual Labourer and not Daily Wager, cannot, therefore, be entertained for consideration in view of the principle of *resjudicata*.

The respondents, who were bound to comply with the directions of the Writ Court as also the orders passed in COA(S) 25-A/02, have failed to comply with the directions without any justifiable reason therefor.

The respondents are, therefore, required to comply with the directions issued in SWP No.1641/01 and the orders passed in COA(S) 25-A/02.

This Writ Petition, therefore, succeeds. It is, accordingly, allowed with costs quantified at Rs.10,000/- (Rupees Ten thousand).

A direction shall issue to the State-respondents to pass requisite orders for petitioner's regularization in service with effect from the date he became entitled thereto after completion of seven years' of continuous daily wage service. Remaining Arrears of salary, if any, be released forthwith in his favour.

(J. P. Singh)
Judge

Jammu:
04.06.2012
Vinod.