

HIGH COURT OF JAMMU AND KASHMIR
AT SRINAGAR

LPASW No. 121/2015

Date of Order: 07.07.2015

1. State of Jammu and Kashmir through Commissioner-cum-Secretary to Government, Sericulture Department, Civil Secretariat, Jammu/Srinagar.
2. Director Sericulture Department, Tulsi Bagh, Srinagar.
3. Deputy Director Sericulture Department, Budgam.

.....Appellants

Versus

Naba Lone aged 41 years Son of Rahman Lone
Resident of Chakpora, Budgam.

.....Respondent

Coram:

**Hon'ble Mr. Justice N. Paul Vasanthakumar, Chief Justice
Hon'ble Mr. Justice Ali Mohammad Magrey, Judge**

Appearing counsel:

For the Appellant(s) : Mr. Sajad Mir, Dy. Advocate General.
For the Respondent(s) : Mr. Syed Manzoor, Advocate.

N. Paul Vasanthakumar, CJ

1. This appeal is filed by the State against the order made in SWP no. 2152/2014 dated 06.03.2015 wherein the prayer made by the respondent for regularization of his services having been rejected, was quashed with a direction to process the claim of the respondent in view of the direction issued in SWP no. 99/2010 and consider and issue appointment order in favour of the respondent by

appointing him on any Class IV post within a period of four weeks.

2. The case of the respondent before the learned Single Judge was that he was engaged as a Casual Labourer in the year 1986 in Sericulture Department. His name was sent to the 1st appellant by appellant nos. 2 and 3 for regularization along with six others in terms of SRO 64 of 1994 as the respondent and others have completed more than seven years continuous service. The 1st appellant rejected the proposal submitted by stating that respondent and others were not Daily Wagers and therefore they are not entitled to get the benefit under SRO 64 of 1994. According to the respondent the said issue was considered in SWP no. 87/1999 by this Court wherein services of the petitioners having more than 18 years as Casual Labour and respondents therein were directed to consider the claim for regularization in terms of the judgment passed in SWP no. 437/1997 and LPA No. 438/1998 decided on 16.08.1998.
3. The respondent earlier approached this Court by filing SWP No. 2411/2013, seeking directions for regularization of his services and this Court by order dated 11.03.2014 directed the appellants to consider the regularization of the respondent and others in terms of SRO 64 of 1994

with further direction to adhere to the Jammu and Kashmir Sericulture (Subordinate) Service Recruitment Rules, 1979. Thereafter the claim of the petitioner was rejected which order was challenged by the respondent and the learned Single Judge allowed the writ petition by noticing the fact that appellants have regularized the services of similar placed persons who were also recommended for regularization by the appellant nos. 2 and 3. The learned Single Judge also noticed that the person whose name was figuring below the respondent was granted regularization even though he was also engaged as a Casual Labourer. The learned Single Judge while allowing the writ petition also gave a factual finding that in the list furnished the respondent's name figured at serial no. 6 shown to have been engaged from 06.12.1986 and one Ali Mohammad Bhat, whose name figured at serial No.7 was also shown to have been engaged on the same date. Said Ali Mohammad Bhat has been regularized pursuant to the Court judgment and he was appointed in Class IV vacancy as Mulberry man in the pay scale of Rs. 2550- 3200 by order dated 10.08.2012. Considering the said undisputed facts the learned Single Judge allowed the writ petition. The learned Single Judge also noticed that similar matters

were allowed by this Court in SWP no. 99/2010 by order dated 29.09.2010 which was challenged in LPA which was also dismissed by order dated 25.04.2011, against which SLP (Civil) no. 13173/2012 was preferred which was also dismissed on the ground of delay and on merits.

4. Mr. Sajad Mir, learned Deputy Advocate General even though admitted to argue the matter on merits but he was unable to point out any distinguishing feature with regard to the appointment of the respondent with that of said Ali Mohammad Bhat. He further submitted that said Ali Mohammad Bhat approached the Court and for implementing the said order he was accommodated as Class IV employee. The said fact having been admitted and the respondent's name having been shown at serial no.6, and the person figuring at serial no. 7 having been accommodated as Class IV employee, the learned Single Judge was justified in allowing the writ petition and directing the appellants to process the claim of the respondent in view of the direction issued in SWP no. 99/2010 and consider and issue appointment order in favour of the respondent by appointing him on any Class IV post within a period of four weeks. We are unable to find any reason to interfere with the order of the learned Single Judge. The appeal is without merit and is

dismissed. The appellants are directed to implement the order passed by the learned Single Judge within a period of four weeks from the date of receipt of copy of this order.

5. No costs.

(Ali Mohammad Magrey) (N. Paul Vasanthakumar)
Judge Chief Justice

SRINAGAR
07.07.2015
Anil Raina, Secy