

**HIGH COURT OF JAMMU AND KASHMIR
AT JAMMU**

SWP No.1934/2017
CM Nos.2163/2019,
6647/2019 & 9324/2019

Mohd. Shabir

....Petitioner(s)

Through:- Mr. Z.A.Mughal, Advocate

v/s

State of J&K and others

...Respondent(s)

Through:-Mr. K.D.S.Kotwal, Dy. AG

Coram: HON'BLE MR. JUSTICE SANJEEV KUMAR, JUDGE

ORDER

1. In this petition, the petitioner has assailed the order issued by Superintending Engineer, Hydraulic Circle, Poonch, the respondent No.3, vide his No.01 of 2017-18 dated 02.06.2017, whereby case of the petitioner, upon consideration in compliance to the judgment dated 09.02.2017 passed in SWP No.941/2016, has been rejected.

2. The case of the petitioner, as projected by the petitioner, is that he came to be engaged as Casual labourer/line man w.e.f. 01.01.2005 for ensuring supply of drinking water to the inhabitants of village Dara Dhullian. It is claimed that ever since he has been continuously performing his duties with the respondent-department and has by now completed more than 15 years. He came to this Court by way of SWP No.941/2016 seeking *inter alia* a direction to the respondents to consider his case for regularization. The writ petition aforesaid was disposed of by this Court vide order dated 09.02.2017, directing the respondents to consider the claim of the petitioner, as projected by him in his writ petition, in terms of the

Division Bench Judgment dated 20.12.2012 passed in LPA(SW) No.166/2011, provided the same was applicable to the case of the petitioner.

3. In compliance to the judgment aforesaid, the respondents considered the case of the petitioner and found that he was not a casual labourer working with them regularly but was engaged only in May, 2011 to execute the work of laying/fitting of pipes against payment of Rs.156/- per day. It is, thus, concluded that the case of the petitioner was not covered by the judgment of the Division Bench rendered in the case of LPA(SW) No.166/2011. Accordingly, the case of the petitioner, upon consideration, was rejected. It is this consideration order dated 02nd June, 2017 passed by respondent No.3, which is subject matter of challenge in this petition.

4. The respondents have filed their objections and have reiterated their stand, which they have taken in the consideration order. Engagement of the petitioner in the year 2005 has specifically been denied. Feeling dissatisfied with the response filed by the respondents, the petitioner moved an application to place on record the supplementary affidavit to put the true facts on record.

5. On the strength of supplementary affidavit, it is argued that the petitioner is in continuous service of the respondents and, therefore, even if, he may not be found entitled to regularization in terms of SRO 64 of 1994 or the Division Bench Judgment of this Court, he is now covered by SRO 520 of 2017 dated 21.12.2017.

6. Having heard learned counsel for the parties and perused the record, I am of the view that the petitioner's challenge to the consideration order impugned is not maintainable. The order of consideration passed by respondent No.3 in compliance to the judgment of this Court dated

09.02.2017 is perfectly legal, as any person engaged as daily wager in the year 2005 or 2006 is not entitled to the benefit of regularization, even if, he has completed 07 years' continuous service. The respondents have correctly considered the case of the petitioner and found him not entitled to the regularization. However, in the given facts and circumstances and taking note of the later development of coming into force of SRO 520 of 2017, the relief claimed by the petitioner is moulded and this petition is disposed of by providing that the case of the petitioner for his regular engagement in terms of SRO 520 of 2017 shall be considered by the respondents, provided he is eligible and falls within the ambit of aforesaid SRO.

Let a decision in this regard be taken by the respondents within a period of two months from the date a certified copy of this order is served upon them. It is made clear that this Court has not expressed any opinion with regard to the actual date of engagement of the petitioner and same shall be subject to verification of record of the respondents.

(Sanjeev Kumar)
Judge

Jammu
28.02.2020
Vinod

Whether the order is speaking: Yes/No
Whether the order is reportable :Yes/No