
(2001) 04 J&K CK 0002

In the Jammu And Kashmir High Court

Case No : Service Writ Petition (SWP) No. 1777 Of 1997

Abhinav Sharma and others

APPELLANT

Vs

State and others

RESPONDENT

Date of Decision : 30-04-2001

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2001) KashLJ 525

Hon'ble Judges : T.S.Doabia, J

Bench : Single Bench

Advocate : S.Sethi, H.A.Siddiqui, Advocates appearing for the Parties

Judgement

T.S. Doabia, J.—Petitioners submit that they had performed duties during the election and as per the Government policy, they should be

absorbed in Government service. It is submitted that they are eligible for appointment as pharmacist/Medical assistant.

2. The stand taken by the official respondents is that the post of Medical Assistant is a selection post and has to be filled in accordance with the

Rules i.e. SRO 20 of 1992, with regard to the performance of election duties, it is submitted that all those persons who performed such duties

were paid their wages and no further right accrues to the them.

3. This Court in the case reported as 1999 KLJ 17, Abdul Gani Rather vs. State of J and K and others, considered the implication of Government

Order No. 355GAD of 1996 dated 30th April'96. The submission made was that all those employees who have taken part during the

parliamentary as well as Assembly elections are entitled to get their services regularized. This was being opposed. What was observed by this

Court in para 5 of the judgement is being reproduced below:

... Lastly, it was argued by the counsel for the respondents that the incentive given to employees is only for daily wagers, not for adhoc

appointees. He has laid stress on this point that appointees in stopgap arrangements are not covered by the notification. I have considered this

contention of the learned counsel for the respondents and have found that this argument also is not tenable. Firstly on the ground that the

notification which is annexure PII to the petition opens with the words that sanction is hereby accorded to the adoption and grant of package of

incentive for State Government employees, including daily wage earners. Thus it is manifest to show that the incentives is not only for daily wagers,

but to other employees of the state government of such nature which can easily include the adhoc appointees. This apart, we have to go to the

spirit of the Notification. Spirit of the notification is clear enough to show that the incentive was given to such employees who were not regular, if

they would participate in the election duties at the peril of their lives, the government is relaxation of rules under took to regularize their services. I

wonder how this incentive could be clubbed and confined only to the daily wagers when the notification itself says that it applied to all employees,

including daily wagers. So the argument of the learned counsel for the respondents has no force...

4. The aforementioned observations are fully applicable to the facts of this case also. The petitioners having performed the election duties are

entitled to regularizations of their services, in terms of the judgement noticed above. The respondent authorities are accordingly directed to

consider the claims of the petitioners in terms of judgement referred to above and pass appropriate order within a period of two months from the

date, a copy of this order is made available to the respondents by the petitioners.

5. Disposed of accordingly. 30042001