

(2003) 04 J&K CK 0016

In the Jammu And Kashmir High Court

Case No : Service Writ Petition (SWP) No. 483 of 2003 and CMP No. 750 of 2003

Naznina Akhter

APPELLANT

Vs

State of Jammu & Kashmir and Others

RESPONDENT

Date of Decision : 10-04-2003

Acts Referred:

Citation : (2003) 2 JKJ 522

Hon'ble Judges : Yash Paul Nargotra, J

Bench : Single Bench

Advocate : M.H. Attar, for the Appellant; Nemo, for the Respondent

Final Decision : Dismissed

Judgement

Y.P. Nargotra, J.—The petitioner was initially appointed as Laboratory Bearer on adhoc basis for 89 days by Govt. order dated

31.7.2001. She continued to be so appointed successively for each spell of 89 days until her last order dated 16.10.2002, again for 89 days and

this way her appointment on adhoc basis ended on 13.1.2003.

2. The petitioner on the strength of Govt, Order No. 285 GAD of 2001 dated 6.11.2001 seeks through the present writ petition a direction to the

respondents to allow her to continue on the said post for completing seven years, so as to become entitled to regularisation.

3. The question arising for consideration is whether the case of the petitioner is governed by the said Govt. order. The relevant paras of the said

order are being reproduced hereunder:--

....Whereas, a number of appointments have also been made on adhoc basis in different Govt. Departments and the Govt. is of the view that their

cases also need be considered in the light of the broad principles discussed by

the Hon'ble Court in its judgment referred to the above i.e. they be also considered for regularization after putting in seven years continuous service like daily wagers appointed prior to 31.1.1994.

Now therefore, it is hereby ordered that all adhoc appointees non-gazetted posts recruited from time to time beyond 29.12.1988 till the date of

issue of this order who are still in service be considered for regularization after completing seven years of continuous service from the date of

appointment dispensing with reference of posts held by them to service Selection Board subject to the following conditions, that.....

4. The learned Counsel for the petitioner submits that the expression 'who are still in service' would imply that adhoc appointee who was in service

on 6.11.2001 (the date of passing the Govt. order) after having been appointed beyond 1988 has to be allowed to continue for period of seven

years, so that he/she can be regularised.

5. In my view the interpretation suggested by the learned counsel is erroneous. The expression 'who are still in service' have to be interpreted by

taking into consideration the scope and the object of the Govt. order in issue which is explicit in para one above quoted. The daily rated workers

engaged prior to 31.4.1994 were made eligible for regularization under J&K Daily Rated Workers Regularization Rules, 1994, but adhoc

employees similarly appointed had not been extended such benefit therefore, feeling the necessity of extending such benefits to adhoc employees,

also the Govt. passed the Govt. order dated 6.11.2001. Under this order an adhoc employee who was appointed prior to 31.1.1994 and after

29.12.1988 and was in service on the date of passing of the Govt. order dated 6.11.2001, was made eligible to be considered for regularization

after completion of seven years of continuous service from the date of appointment.

6. The petitioner was appointed only on 31.7.2001 and is not even continuing in service on the basis of any order of a competent authority, as

such, is not entitled to the benefit of Govt. order dated 6.11.2001.

7. The writ petition of the petitioner, as such has no merit and is hereby dismissed in limine alongwith the CMPs.