

(2002) 10 J&K CK 0012
In the Jammu And Kashmir High Court
Case No : LPA No. 133 of 2002

Susheela Aziz

APPELLANT

Vs

State of Jammu & Kashmir and Others

RESPONDENT

Date of Decision : 30-10-2002

Acts Referred:

Citation : (2010) 4 JKJ 140

Hon'ble Judges : T.S. Doabia, J;B. L. Bhat, J

Bench : Division Bench

Final Decision : Allowed

Judgement

1. The facts which are not in dispute are that the appellant came to be appointed against the vacancy of a teacher which arose when one Miss Nuzhat Parveen proceeded on leave. Later on the appellant came to be adjusted against another leave vacancy. This was again a vacancy which arose on account of the fact that one Rifat Fazili had proceeded on long leave. The appellant is continuing in service. She sought regularization. Her plea was that in terms of Government Order No. 1220-GAD of 1989 dated 11th September 1989 all adhoc appointments were supposed to be regularized. Accordingly to the appellant the Government orders does not exclude an employee who had been appointed against leave vacancy. It makes use of the word 'adhoc' appointment only. Accordingly to the learned Counsel for the appellant, adhoc appointee would also include such an appointee who came to be appointed against leave vacancy. This argument did not find favour with the Learned Single Judge and the writ petition was dismissed. This LPA has been filed against the said order of the Learned Single Judge.

2. Learned Counsel for the appellant submits that this court in two decisions has concluded that when a person has continued to work for a long

period against long leave arrangements, such an appointee is entitled to regularization and the benefits of government order no. 1220- GAD of

1989 dated 11th September, 1989 can be given to such an employee. One Such decision is reported as Miss Sudha Gupta v. State of J&K &

Others. KLJ 1996 page 244. This decision deals with the prosecution that the Government order not make any differentiation between adhoc

appointees and appointees continued on leave arrangements for long periods. Similar view has been expressed by another learned Single Judge of

this Court in Rita Sharma v. State 1999 SLJ 18. We are of the view that the point put across by the Learned Counsel has merit.

3. Otherwise also, the perusal of the Government order makes it apparent that it does not exclude an appointee who has been appointed on long

leave vacancy. All that it refers is adhoc appointees leave arrangements are also adhoc appointments. Therefore, the view expressed by the

Learned Single Judge can not be sustained.

4. Accordingly, this appeal is allowed. The appellant is held entitled to regulation. Let the respondents examine her claim and process her case for

regularization. The appellant would be given monetary benefits three years prior to the date of filing of the writ petition.

5. Disposed of accordingly.