

(2010) 05 J&K CK 0015
In the Jammu And Kashmir High Court

Talib Hussain and Others

APPELLANT

Vs

State and Others

RESPONDENT

Date of Decision : 07-05-2010

Acts Referred:

Citation : (2010) 2 JKJ 721

Hon'ble Judges : Mansoor Ahmad Mir, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Mansoor Ahmad Mir, J.—It is contended that vide order dated 22nd of June' 1994, Government framed and approved a Scheme for

operation and maintenance of Water Supply Scheme in rural areas. In terms of the said Scheme, candidates whose names would be approved by

the Village Level Committees were to be engaged as daily wagers. Accordingly, Superintending Engineer-respondent No. 5 submitted a list of

candidates for engagement on daily wage basis. Deputy Commissioner-respondent No. 4 in turn recommended the case of the petitioners along

with other candidates for engagement on daily wage basis. It is further contended that respondent No. 5 vide communication dated 29th of April'

1995 requested the Executive Engineer, PHE Division, Doda, to submit a list of all completed water supply schemes, which were without any

operational staff and required to be made operational, with a further request about the requirement of the staff. Accordingly, respondent No. 3

recommended the case of the petitioners, but department-respondent has not considered their case for engagement on daily wage basis. Further, it

is contended that some other persons were engaged, who on completion of

seven years service have been regularized. Besides this, the respondents have also engaged some blue-eyed persons. It is accordingly prayed that the respondents be commanded to engage petitioners as daily wagers in terms of the said Scheme and their services be also regularized.

2. Respondents have resisted petition on the grounds as detailed in the memo of objections.

3. It is apt to reproduce para No. 1-9 of the reply herein:

1-9) The present Writ Petition by 753 filed in representative capacity through Shri Biru Gujjar lack necessary particulars is not maintainable. From

the record of PHE Division, Kishtwar, eight petitioners have been found working as part time workers on need basis paid consolidated sum of Rs.

500/- per month on hand receipts. The petitioners are Abdul Rashid, S.No. 250, Ahmeddulla, S.No. 290, Gulab Hussain, S.No. 483, Jakar

Hussain, S.No. 484, Hasham Din, S.No. 487, Vidya Lal, S.No. 489, Mohd Afsal, S.No.505 and Mohd. Jamil, S.No. 512. None other

petitioners is found working. The petitioners have no right to seek engagement/appointment as daily wagers. Moreover the

engagement/appointment as daily wagers is prohibited. No right of the Petitioners is violated. Grounds of Writ Petition are unjust and untenable.

4. According to respondents only eight petitioners were found to be working as Part Time Workers on need basis at consolidated amount of Rs.

500/- per month. Further, it is contended that petitioners have no right to seek engagement-appointment as daily wagers. More so, it is banned.

5. Petitioners have prima facie produced the file suggesting the fact that they came to be engaged on daily wage basis. Virtually, petitioners have

come to Court after thirteen years after the so called scheme. Thus, petition on the face of it, merits to be dismissed on account of delay. Even

otherwise, the petition is not maintainable and merits to be dismissed on the following reasons:

Petitioners have no right to seek direction from the Court to direct the respondents to engage them as daily wage workers. Neither this Court has

such powers to direct the respondents to engage them as daily wagers. It is beaten law of the land that even a candidate(s) who has participated in

the selection process and came to be selected cannot claim appointment as a matter of right. In the instant case neither selection process was

undertaken nor the petitioners are working as such, then how can they claim that the respondent be directed to engage them as daily wage workers

and regularize their services. There is no such law in force, which can be pressed into service for directing the respondents to engage them on daily

wage basis. No doubt, SRO 64 of 1994 is in place, which provides that all those daily wagers who came to be engaged before 1st of January

1994 can seek regularization provided they have completed seven years service on the said date or can claim regularization after completion of

seven years thereafter. It further provides that no daily wager can be engaged after 1st of January' 1994. Virtually, the said SRO bans & prohibits

the engagement of daily wagers after the said cut-off date.

6. In the given circumstances, there is no merit in the writ petition and the same is dismissed at its admission stage along with all CMPs, if any.