

(2016) 04 J&K CK 0039

In the Jammu And Kashmir High Court

Case No : Service Writ Petition (SWP) No. 446 of 2015

Zahoor Hussain

APPELLANT

Vs

University of Kashmir

RESPONDENT

Date of Decision : 25-04-2016

Acts Referred:

Citation : (2016) 2 JKJ 638

Hon'ble Judges : Mr. Tashi Rabstan, J.

Bench : Single Bench

Advocate : Mr. T.H. Khawja, Mr. Javed Iqbal, and Mr. Gazanfar Ali, Advocates, for the Respondents; Mr. J.H. Reshi, Advocate, for the Appellant/Petitioner No. 2.; Mr. B.A. Bashir, Sr. Advocate with Ms. Farah Bashir, Advocate, for the Appellant/Petitioner No. 1.; Mr.

Final Decision : Disposed off

Judgement

Mr. Tashi Rabstan, J. - Petitioners are aggrieved of non-consideration of their claim for regularisation of their services against the posts of Junior

Professional Assistants as according to them, they are working on contractual/casual basis since 2007 in respondent University as Junior

Professional Assistants. Petitioners' case is that petitioner No, 1 came to be engaged on contractual basis as Junior Professional Assistant vide

order No. F(Apptt-C.Eng)Adm/KU/07, dated 29th August 2007, while petitioners 2 and 3 so appointed in terms of Order No.

F(Engg.CL)AIL/KU/07, dated 27th December 2007. Further contention of petitioners is that though in the year 2011, respondents issued

Advertisement Notice, advertising the posts of Junior Professional Assistant, but it was not concluded. University Council, it is contended, has

passed and approved Resolution dated 11th October 2013 for regularising

persons engaged on casual/contractual basis, which was followed by Notification dated 3rd September 2014, disclosing decision as regards regularisation of persons engaged on casual/contractual basis in accord with guidelines contained in the said Notification. Petitioners state that they submitted their particulars for regularisation of their services.

Meanwhile, it is stated in writ petition, applications were invited vide Advertisement Notice No. V of 2014, dated 5th September 2014, by

respondent University to fill up Junior Professional Assistant posts, and thereafter Notice dated 4th March 2015 was issued to conduct written test

for posts of Junior Professional Assistants. Aggrieved of Advertisement Notice No. V of 2014, dated 5th September 2014 and Notice dated 4th

March 2015, petitioners have knocked at portals of this Court with instant writ petition seeking following relief:

a) By writ of certiorari, quashing impugned Advertisement Notice No. V of 2014, dated 5th September 2014 and Notice dated 4th March 2015;

b) By writ of mandamus, commanding respondents to take formal action upon their letter dated 16th October 2014 and issue formal orders of

regularisation as Junior Professional Assistants in favour of petitioners, before taking any step to fill up remaining posts of Junior Professional

Assistants.

2. Reply has been filed by respondent University, Respondent University avers that only petitioner No. 1 has been engaged against post of Junior

Professional Assistant in 2007 whereas petitioners 2 and 3 have been engaged on casual basis to extend casual help, like ""Orderlies"" and that

petitioners 2 and 3 have neither been engaged as Junior Professional Assistants nor have they been working so. Petitioners 2 and 3 are said to

have no right to be regularised against the posts of Junior Professional Assistants on the ground that they are not working against the said posts.

3. This Court, when the matter first time came up for consideration, on 11th March 2015, issued notice to respondents and directed them to

proceed with selection process but not to finalise it. In terms of order dated 31st August 2015, this Court modified interim order dated 11th March

2015, by providing that respondents would fill up one post of Junior Professional Assistant, so as to satisfy claim of petitioner No. 1 and that

interim direction would hold good as far as petitioners 2 and 3 were concerned.

Again on 29th September 2015, this Court, modified interim order dated 11th March 2015, by providing that three posts of Junior Professional Assistants would not be filled up till further orders from this Court and respondent University would be free to fill up rest of posts in accordance with Rules.

4. One Ms. Rehana Nazir daughter of Nazir Ahmad Ganai resident of Shalla Bagh, Hawal, Srinagar, moved an application (MP No. 01/2016)

seeking her impleadment as party respondent No. 7 in writ petition. Her application was, vide Order dated 3rd February 2016, allowed and she

incorporated as party respondent No. 7. Another application, being MP No. 02/2016, was filed by Ms. Sabha Ali daughter of Ali Mohammad

resident of Sazgari Pora, Hawal, Srinagar, which was allowed vide order dated 12th February 2016 and Ms. Sabha Ali arrayed as party

respondent no. 8.

5. In her reply, respondent no. 7 insists that petitioners responded to and participated in selection process initiated under Advertisement Notice

dated 5th September 2014. Petitioners failed to make the grade to final selection and therefore, filed instant writ petition to scuttle chances of

successful candidates. It is insisted that respondent No. 2 has made it to selection list and figures at Serial No. 08. Respondent no. 7 contends that

after completion of selection, 07 candidates out of 11 stood appointed and rest of candidates suffer due to institution and pendency of present writ

petition. Same is case of respondent no. 8, who claims to figure at Serial No. 09 in select list.

6. On 31st August 2015 when matter came up for consideration before this Court, Mr. B. A. Bashir, learned senior counsel for petitioners,

submitted that he would be representing only petitioner no. 1 and prayed for modification of interim order dated 11th March 2015, having regard

to stand taken by respondents in their reply vis-a-vis claim of petitioner no. 1. In view of said situation, Mr. J.H. Reshi, Advocate, entered

appearance on behalf of petitioner no. 2 and Mr. F.A. Wani, Advocate, for petitioner no. 3.

7. In her rejoinder, petitioner no. 2 states that she has done Master in Library Science in 2003 and has placed on record Degree Certificate of

Master of Library and Information Sciences (Annexure R-1 and R-2 to rejoinder).

She was engaged on casual basis by respondent University against clear cut vacancy of Junior Professional Assistant in Library Science, Department of Kashmir University, i.e. Alama Iqbal Library.

Petitioner no. 2 refers to approval (Annexure R-2 to Rejoinder) of Vice Chancellor-respondent no. 1, as regards her engagement as Casual Labour against clear vacancy of Junior Professional Assistant, to contend that averments made in reply affidavit filed by respondents to the effect that petitioner no. 2 was engaged barely as a casual labour is not correct at all. Petitioner admits to have responded to advertisement notice dated 5th August 2008 for appointment of Junior Professional Assistants. She states to have qualified written test and was called for interview but for some unknown reasons, no interview was conducted. It is pleaded that without any reason or clarification fresh Advertisement Notice dated 21st November 2011 was issued by respondent University, in which it was provided that the candidates, who had earlier applied to Advertisement Notices dated 5th August 2008 and 7th August 2008, need not to apply again but shall submit plain application for consideration of their earlier application form. Aggrieved thereof, petitioners filed writ petition, being SWP No. 2564/2011, in which this Court vide order dated 3rd December 2011 provided that respondents would proceed with selection process but would not make final recommendation till further orders from the Court.

Petitioner complains that despite liberty given by this Court, no interview was conducted by respondent University and posts were again re-advertised vide Advertisement Notice dated 9th May 2014, which is thrown to challenge by petitioners in instant writ petition. In terms of Resolution dated 11th October 2013, casual appointees, according to petitioner, were asked to submit their bio-data for their regularisation as per their qualification, eligibility and entitlement for their regular appointment against appropriate vacancies/posts in different departments and it was provided therein that if the appropriate vacancies/posts are not available for the time being, super innovative class IV posts/vacancies would be created for their regularisation till the appropriate vacancies/posts as per their qualification, eligibility and entitlement would become available in their respective departments. Petitioner states that in compliance of Notification (Annexure RII to Rejoinder) she also submitted her bio-data,

qualification and eligibility certificates. Entitled to regularisation, in view of the said Notification, is petitioner as exhorted by her in the rejoinder.

8. Petitioner no. 3, in her rejoinder, states the certificates enclosed with rejoinder spectacularly showcase her engagement as Junior Professional

Assistant, which includes the certificates dated 11th July 2015, issued by Head of Department of Business and Financial Studies, University of

Kashmir, in which it is certified that petitioner is working in the Department of Business and Financial Studies, University of Kashmir in the capacity

of Junior Professional Assistant on casual basis and dated 31st July 2015, certifying therein that petitioner holds Master's Degree in Library and

Information Sciences and M.Lib.I.Sc and that though she has been engaged on casual basis, yet she has been working as Junior Professional

Assistant and her wages were debited to the available position of Junior Professional Assistant.

9. Heard learned counsel for parties at length and considered the matter.

10. Learned counsel for petitioners state that after petitioners' engagement, though on casual basis, as Junior Professional Assistants, they have

been working and performing their duties on the said posts since 2007, they are entitled to seek regularisation against the said posts, as such. They

further contend that when respondents have taken decision to regularise casual/contractual persons on fulfilment of required conditions,

advertisement of such posts, particularly Junior Professional Assistants without adjusting petitioners against available posts, would amount to

violation of rights of petitioners that percolated in them in view of the policy of respondent University to regularise services of casual/contractual

employees. Learned counsel for petitioners refer to Notification No. F(Regular-Casual/Const-Gen. Adm/KU/14, dated 3rd September 2014,

which provides guidelines for regularisation of services of persons engaged on casual/contractual basis. According to learned counsel the said

Notification is pari materia with J&K Civil Services (Special Provisions) Act, 2010.

11. It would be appropriate to have a glance of Notification No. F(Regular-Casual/Const-Gen.Adm/KU/14, dated 3rd September 2014, which

for facility of reference is reproduced as under:-

It is notified for information of all the concerned that in pursuance of Resolution No. 1, 2, 3, by the University Council of University of Kashmir at

its meeting held on 11.10.2013 and roadmap communicated by the Financial Advisor (Universities) vide No. FA-KU/JU/202-204, dated

20.08.2013 as approved by the University Council, the persons engaged on Casual/Contractual basis shall be regularized on the basis of the

following guidelines :-

1. The person working on casual or contractual or consolidated basis shall be regularized on fulfilment of the following conditions:-

i. that he/she has been engaged in the Main Campus/Satellite Campuses of the University of Kashmir by the General Administration on the

approval of the Competent Authority.

ii. that he/she is continuously working on casual/ consolidated/ contractual basis without any break (other than the usual breaks/leave sanctioned by

the authority i.e. Head of the Department/Directors/Co-ordinators/Librarian/ Controller of Examination).

iii. that he/she possesses the requisite qualification and eligibility criteria required for the post on the date of his/her initial engagement on casual or

adhoc or contractual or consolidated basis.

iv. that no disciplinary or criminal proceedings are pending against him/her on the appointed day i.e. the date on which he/she is considered for

regularization.

v. that he/she has completed seven years or more service (uninterrupted) as such on the appointed day i.e. the day of regularization.

2. The Committee consisting of the following shall examine/recommend cases of casual/contractual workers presently engaged in the University for

regularization under rules:

i. Vice-Chancellor

ii. Registrar

iii. Director General Accounts and Treasuries

3. Procedure for regularization:

a) The Committee shall consider the cases of all the casual/contractual engagees who have completed seven years of uninterrupted service after the

first engagement and who have been paid regularly by the University from available resources. Upon regularization, such of the engagees as cannot

be regularized suitably against available post, could be designated as ""Helpers""

and be given the pay scales applicable to the lowest Class-IV of employees in the University as the case may be. For such a process of regularization, supernumerary temporary posts of ""Helpers"" shall be created outside the normal/existing hierarchy of the University.

b) Helpers could subsequently move to clear posts/vacancies in the formal organisational hierarchy as and when these become available and the supernumerary/temporary posts of Helpers vacated by the incumbents shall automatically get abolished.

12. In so far as petitioner no. 1 is concerned, respondents admit his engagement as Junior Professional Assistant. Qua petitioners 2 and 3,

respondents' stand is that they are not working against the post of Junior Professional Assistants as they have been engaged as casuals to extend

help like ""Orderlies"". Thus, petitioners' engagement on casual basis is not in dispute. The dispute is whether petitioners 2 and 3 have been engaged

on casual basis against Junior Professional Assistants posts or not. Petitioners, to reinforce their claim as projected by them in writ petition, have

placed on record engagement orders with their writ petition as Annexure P- 1 (three leaves). Engagement Order of both petitioners 2 and 3 depict

same number viz. F-(Engg-CL)AIL/KU/07, but with different dates, viz. in respect of petitioner no. 2 it is dated 13th December 2007 and in

respect of petitioner no. 3 it is dated 27th December 2007. Sum and substance of both orders are same and similar. Order (page 10 of writ

petition) reveals that petitioner no. 3 and another person have been engaged on casual basis @ Rs. 70/- per day. Petitioner no. 3, in terms of said

engagement order, was required to produce Matriculation (DOB) Certificate, Degree Certificate et cetera. The order also reveals that expenditure

on account of wages shall be debited to the available position of Junior Professional Assistant in respect of petitioner no. 3. Same is true about

petitioner no. 2, whose engagement order dated 13th December 2007 is at Page 11 to writ petition. Apart from this, petitioner no. 2, with her

Rejoinder, has appended a copy of memo (Annexure R-2), indicating approval accorded by Vice Chancellor. It would be advantageous to

reproduce the approval granted by Vice Chancellor-respondent no. 1 hereunder:

Sub:- Application of Masooda Bano D/O Khazir Mohammad Mir R/O Brain Srinagar.

Placed below is the application of Miss Masooda Bano D/O Khazir Mohd. Mir R/O Brain Srinagar addressed to Hon'ble Vice Chancellor for

adjustment in the Allama Iqbal Library? The application has been sent to undersigned by Hon'ble Vice Chancellor for examination and remarks.

Miss Masooda has passed her Masters Degree in Library Science and has also worked as Cataloguer/Indexer in the Library. She has experience

of working in Sopore Law College also for about 3 years. We have a couple of positions of Junior Professional Assistants (JPA's) available in the

Library. In view of the experience and the qualification of Miss Masooda we may if approved engage her as Casual labour @ Rs. 70/- per day for

a period of three months in first instance by debit to local funds of the Library.

The above quoted memo of respondent University unequivocally shows and depicts that petitioner no. 2 has been engaged only after having clear

vacancy of Junior Professional Assistant. For engagement on casual basis to extend help or work like ""Orderly"", Master's Degree is not required.

Even otherwise for appointment on substantive basis on the post of Class IV/ Helper in respondent University, Master's Degree, as in present case

Master's Degree in Library and experience as Cataloguer/Indexer in the Library, is not required for extending help or working like ""Orderly"". The

engagement orders of petitioners 2 and 3 explicitly point out production of ""Degree Certificate"". Though respondent University contend in its

Reply, extending of help or working like ""Orderly"" on casual basis but again it would be relevant to say that ""Orderly"" as on date does not need or

require ""Degree Certificate"". Therefore, the contention of respondents that petitioners 2 and 3 have been engaged to extend help or work like

Orderlies"" crumble under its own weight.

13. Petitioner no. 3, with her Rejoinder, has annexed joining report submitted by her in compliance of her engagement order dated 27th December

2007. In it, she clearly mentions that she joins her services as JPA on casual basis in Allama Iqbal Library University of Kashmir. To reinforce her

claim that she having been working on casual basis as Junior Professional Assistant, she has appended a number of communications and

certificates of respondent university that document her claim of she having been working on casual basis as Junior Professional Assistant. So is the

case of petitioner no. 2. In that view of matter the contention of respondent

university in opposition to claim of petitioners 2 and 3 is specious and devoid of any merit.

14. Notification No. F(Regular-Casual/Const-Gen.Adm/KU/14, dated 3rd September 2014, issued by respondent university gives a detailed plan and explanation for guidance in setting standards and determining a course of action for regularisation of services of those persons who have been appointed in respondent university on casual, ad hoc, contractual or consolidated basis. What are those guidelines, are important to be looked into and discussed. The guideline no. 1 is:

1. The person working on casual or contractual or consolidated basis shall be regularized on fulfilment of the following conditions:-

i. that he/she has been engaged in the Main Campus/Satellite Campuses of the University of Kashmir by the General Administration on the approval of the Competent Authority.

ii. that he/she is continuously working on casual/ consolidated/contractual basis without any break (other than the usual breaks/leave sanctioned by the authority i.e. Head of the Department/ Directors/Co-ordinators/Librarian/ Controller of Examination).

iii. that he/she possesses the requisite qualification and eligibility criteria required for the post on the date of his/her initial engagement on casual or ad hoc or contractual or consolidated basis.

iv. that no disciplinary or criminal proceedings are pending against him/her on the appointed day i.e. the date on which he/she is considered for regularization.

v. that he/she has completed seven years or more service (uninterrupted) as such on the appointed day i.e. the day of regularization.

Pertinent is Condition No. (iii) of Guideline no. 1 that squarely governs the controversy in present case and sets it at rest once for all. It provides

that a person, who is working on casual or contractual or consolidated basis, shall be regularised save the said person possesses ""requisite

qualification and eligibility criteria required for the post on the date of his/her initial engagement on casual or ad hoc or contractual or consolidated

basis"". The said condition clinches the matter. The condition, on its plain reading, has cleared the decks qua regularisation of a person, working on

casual or contractual or consolidated basis, on a post, work with respect of such post was assigned to and extracted from him, if he is possessed

of ""requisite qualification and eligibility criteria, which is ""required"" for the said ""post"" on the date of his initial engagement in respondent University.

In the present case, petitioners have been working as Junior Professional Assistants and/or work with respect whereof was assigned to and

extracted from them, say on casual or ad hoc or contractual or consolidated basis. However, respondents' contention is that only petitioner no. 1

was working as Junior Professional Assistant and not petitioners 2 and 3. As discussed and shown above, engagement orders of petitioners 2 and

3 and communications/letters ; placed on record by them, contradict what respondents plead in opposition to writ petition. Petitioners are

possessed of qualification and eligibility, required for Junior Professional Assistant posts. When petitioners' cases for their engagement on casual

basis, as discernible from record, was initiated and approved by respondent University, the said qualifications were taken into consideration for

their engagement on casual basis in respondent University. After extracting work from them as Junior Professional Assistants, respondent

University cannot be heard saying that petitioners 2 and 3 have not been engaged as Junior Professional Assistants, and/or work with respect

whereof has not been assigned to and extracted from them, and that their wages are not being drawn and disbursed against the posts of Junior

Professional Assistants.

15. Notification No. F(Regular-Casual/Const-Gen.Adm/KU/14, dated 3rd September 2014, issued by respondent department provides

Procedure for regularization"" i.e. Guideline No. 3 thereof, which reads as under:-

3. Procedure for regularization:

a) The Committee shall consider the cases of all the casual/contractual engagees who have completed seven years of uninterrupted service after the

first engagement and who have been paid regularly by the University from available resources. Upon regularization, such of the engagees as cannot

be regularized suitably against available post, could be designated as ""Helpers"" and be given the pay scales applicable to the lowest Class-IV of

employees in the University as the case may be. For such a process of regularization, supernumerary temporary posts of ""Helpers"" shall be created

outside the normal/existing hierarchy of the University.

b) Helpers could subsequently move to clear posts/vacancies in the formal organisational hierarchy as and when these become available and the supernumerary/temporary posts of Helpers vacated by the incumbents shall automatically get abolished.

Above quoted Guideline No. 3, provides Procedure for regularization. In terms thereof cases of all persons engaged on casual/contractual basis,

who having completed seven years' service, are to be regularised. It is important to point out here that Condition (a) of Guideline No. 3 also makes

it possible for respondent University to consider the cases of those persons, who could not/cannot be adjusted against the posts, work with

respect whereof was assigned to and extracted from them, obviously, due to nonavailability of such posts, and ""designate"" such regularised persons

as ""Helpers"". For that purpose supernumerary and temporary posts of ""Helpers"" shall be created outside the normal/existing hierarchy of

respondent University.

16. Worth to be seen is Condition (b) of Guideline No. 3 as it gives clear picture of need for regularising a person and ""designating"" him/her, for

the time being, as ""Helper"" till the time the post, work with respect whereof was assigned to and extracted from him/her, becomes clear/vacant in

the formal organisational hierarchy and as a consequence thereof supernumerary/temporary post of ""Helper"" vacated by the said person, shall

automatically get abolished. There is no provision or stipulation in Condition No. 3 (Procedure for Regularization) that the persons, engaged on

casual, ad hoc, contractual or consolidated basis, will be regularised on the ""posts of Class IV"" or ""like posts"", and it is also not mentioned or

stipulated therein that in the event such ""Class IV posts"" are not available, posts of Helpers, against which such persons will be ""moved"" or

regularised. Thus, the intention of respondent university is clear from the conditions, prescribed in the policy decision as regards regularisation of

services of casuals/contractuals that in the event posts/vacancies are not available in the formal organisational hierarchy, such ""regularised persons

would be, for the time being, designated as ""Helpers"" and thereafter moved to clear posts/vacancies as and when such posts/vacancies become

available.

17. It may not be out of place to mention here that the said exercise of regularising a person and designating him/her as ""Helper"", to be undertaken by respondent university, is aiming at to pave way for regularisation of a person, who worked on casual, ad hoc, contractual or consolidated basis, on a post and at the time of completion of seven years, he could not/cannot be adjusted against the post, work with respect whereof was assigned to and extracted from him, due to non-availability of the said post and as and when the said post becomes available, the said person is adjusted there over and the supernumerary post of Helper gets automatically abolished. Therefore, the ""designation"" as ""Helper"", which is a supernumerary post, per se depicts and suggests that such a person is not regularised as ""Helper"" but ""designated"" as ""Helper"" till the time, the ""post"", work with respect whereof was assigned and extracted from him, becomes available. Once respondent University has made this provision to consider those persons who even cannot/could not be regularised in normal course in view of non-availability of sanctioned posts, then how come they can be heard saying that petitioners 2 and 3 cannot be regularised against the available posts of Junior Professional Assistants, work with respect whereof was assigned to and extracted from them and wages, paid to petitioners, debited to the posts of Junior Professional Assistants. This is suggestive of adoption of different yardsticks by respondent University. In the event respondent University regularises petitioners 2 and 3 and designate them as ""Helpers"", notwithstanding availability of posts of Junior Professional Assistants, it would obviously amount to violation and contradiction of guidelines set by respondent University for regularisation of services of such persons.

18. Mr. J.H. Reshi, learned counsel for petitioner no. 2, while referring to judgment passed in LPA No. 175/1999, titled Ab. Rehman Reshi v.

State of J&K reported in 2010 (4) JKJ 142 [HC] states, and rightly so, that the law laid down therein squarely governs the subject matter of

instant writ petition. In the said case, the appellant (Ab. Rehman Reshi) was performing duties of Works Supervisor but was regularised as Helper.

The Division Bench of this Court in the said case has made it clear and held that the appellant is entitled to be regularised against the post of Works

Supervisor with all benefits, monetary as well. In that view of matter, respondent University, in view of the law laid down in Ab. Rehman Reshi's

case (supra) is to regularise the petitioners against the posts of Junior Professional Assistants.

19. In so far as the case of respondents 7 and 8 is concerned, they are not the persons, working on casual, ad hoc, contractual or consolidated

basis but are the candidates who claim to have responded to advertisement notice(s) issued by respondent university for the posts of Junior

Professional Assistants and found place in Select List. Their case is that once petitioners participated in the selection process for the posts of Junior

Professional Assistants, they cannot turnaround and challenge the Advertisement Notice or the criteria or for that matter the selection of

respondents 7 and 8. The case set up by petitioners before this Court in writ petition in hand is that they were engaged on casual basis by

respondent University against clear vacancy of Junior Professional Assistant in Library Science Department of Kashmir University i.e. Alama Iqbal

Library. Petitioners admit that though they responded to Advertisement Notice dated 5th August 2008 for appointment of Junior Professional

Assistants and qualified written test and were called for interview, but for some unknown reasons no interview was conducted. Further case of

petitioners is that without any reason or clarification fresh Advertisement Notice dated 21st November 2011 was issued by respondent University,

in which it was provided that candidates who had applied to earlier Advertisement Notices dated 5th August 2008 and 7th August 2008 need not

to apply again but shall submit a plain application for consideration of their earlier application form. Aggrieved thereof, petitioners filed writ petition

(SWP No. 2564/2011), in which this Court vide order dated 3rd December 2011 provided that while respondents would proceed with selection

process but would not make final recommendation till further orders from the Court. Petitioners complain that despite liberty given by this Court,

no interview was conducted by respondent university and posts again re-advertised vide Advertisement Notice dated 9th May 2014. The case set

up by petitioners in the present case is totally different from what respondents 7 and 8 state and urge. Petitioners' seek regularisation of their

services. They do not seek quashment of selection of respondents 7 & 8. Therefore, petitioners' claim for regularisation of their services on

particular set of facts and circumstances, cannot be intermingled with the totally distinguishable set of facts and circumstances urged by respondents

7 and 8.

20. What is important to be appreciated is Notification No. F(Regular-Casual/Const-Gen.Admn)KU/14, dated 3rd September 2014, issued by

respondent university. In terms whereof, respondent university has disclosed its intent to regularise the services of all persons engaged on casual,

contractual, ad hoc or consolidated basis, subject to terms and conditions laid down therein. To regularise services of casuals/contractual, who

have completed 07 years' service or more up to 31st October 2014, were in terms of Circular No. F(Casual/Contra-Gen-Admn)KU/14, dated

16th October 2014, directed to submit their bio-data. The petitioners herein having accrued right for regularisation on account of their having

worked in respondent university on casual or contractual or ad hoc basis, more especially in view of Notification No. F(Regular-Casual/Const-

Gen.Admn)KU/14, dated 3rd September 2014, and therefore cannot be singled out from the region of consideration for regularisation, on the

mere pretext of they having participated in selection process for a particular position, or say for the same position, in independent capacity.

Learned counsel for respondent no. 7 refers to Mohd. Tariq Rayaz v. Chairman, ISSB and Ors. 2012 SLJ 1227 : 2011 (3) JKL 325 [HC],

Haseena Akhter and Ors. v. State of J&K and others (2009 SLJ 486:2009 (2) JKL 813 [HC]) and Altaf Ahmad Khan and Ors. v.

Ishfaq Ahmad Tantray and Ors. (2013 SLJ 421: 2013 (3) JKL 61 [HC]) to contend that once petitioners participated in the selection

process, they cannot be permitted to turnaround and challenge the selection process or mode of conducting the interview after having failed to

make the grade. The citations referred to by learned counsel for respondent no. 7 are distinguishable in facts and circumstances of the present

case. In the cited cases, selection and criteria are under challenge whereas in the present case, petitioners' seek regularisation of their services

against particular posts, which, according to them, were advertised. In the event, as stated by petitioners, the said posts are filled up on the basis of

Advertisement Notice(s), the petitioners would be lagged behind and their whole service career would be smashed to smithereens.

21. It is an admitted fact that petitioners have worked in respondent university on contractual, casual or ad hoc basis. Petitioners are, therefore,

entitled to benefits that have accrued to them in pursuance of policy decision notified by respondent University in terms of Notification No.

F(Regular-Casual/Const-Gen.Admn)KU/14, dated 3rd September 2014. Petitioners, in such a situation, cannot be denied the benefit of

regularisation against the posts of Junior Professional Assistants. The case of petitioners is contradistinguished with case of respondents 7 and 8.

Respondents 7 and 8's case or right, if any, available is compassed within four corners of advertisement notice and conditions contained therein, to

which they responded. Even glance of Advertisement Notice No. V of 2014, reveals that the University reserves the right not to fill up any of the

vacancies advertised, if circumstances so warrant, without assigning any reason thereof. Thus, the case of persons (petitioners), seeking

regularisation of their services against the posts, over which they worked, cannot be intermingled with the case of persons (respondents 7 and 8),

who are not similarly situated persons (casuals/contractuals).

22. Mr. J.H. Rehisi, learned counsel for petitioner, states that the case projected in instant writ petition by petitioners relates to regularisation of

their services. He further argues that once respondents took a decision to regularise casuals/contractuals in terms of Notification No. F(Regular-

Casual/Const-Gen.Admn)KU/14, dated 3rd September 2014, which is in pari materia to J&K Civil Services (Special Provisions) Act, 2010, that

envisages exclusion of such posts from the purview of the recruiting agencies, then respondent university should not refer for recruitment and

advertise such posts, against which the persons, like petitioners, are working on casual, contractual, and ad hoc basis for last more than 07 years

and that in case petitioners are not regularised against the available vacancies of Junior Professional Assistants, petitioners would be pushed down

to the level of Helpers/Class IV employees, which will bring them down below all those who are engaged after them despite having worked for 07

long years on the post of Junior Professional Assistant albeit on contractual basis. Learned counsel also contends that mere participation in a

particular selection process will not debar petitioners, or for that matter will not equip respondent University to throw petitioners out, from being

considered for regularisation, because by participation in any selection process petitioners are not out of service which they have rendered in

respondent University against the posts of Junior Professional Assistants either on casual, contractual or ad hoc basis, but petitioners have earned a right of regularisation of their services, which, according to counsel, cannot be denied to petitioners.

23. For the reasons discussed above, writ petition is disposed of and petitioners are held entitled to be regularised against the posts of Junior

Professional Assistants. Let petitioners be so regularised and given benefits of the said posts in light of regularisation policy of respondent

University contained"" in Notification No. F(Regular-Casual/Const-Gen.Admn)KU/14, dated 3rd September 2014 and findings recorded in

judgment passed in LPA No. 175/1999, titled Ab. Rehman Reshi v. State of J&K reported in 2010 (4) JKJ 142 [HC].

24. Disposed of.