HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

Reserved on: 03.12.2025
Pronounced on 11.12.2025
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Whether the operative part or full judgment is pronounced: **Full Judgment**

CJ Court:

WP(C) No. 3303/2025

U. T. of J&K and others …Petitioner(s)/Appellant(s)

Through: Ms. Monika Kohli, Sr. AAG

v/s

Kashmir Singh …. Respondent(s)

Through: None.

CORAM: HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE RAJNESH OSWAL, JUDGE.

JUDGMENT

PER OSWAL-J

1. The petitioners have filed this petition for quashing order dated 10.03.2025 passed by the Central Administration Tribunal, Jammu (for short the Tribunal), whereby the OA No. 61/456/2024, titled, "Kashmir Singh vs. U. T. of J&K and others" filed by the respondent has been allowed and the respondents therein i.e. petitioners, have been directed to regularize the respondent, who has served as Daily Wager for about three decades continuously, in accordance with SRO 64 of 1994 dated 22.03.1994 (for short the SRO 64), taking into account the observations made in the said order within eight weeks and further, the respondent has also been held

entitled to all consequential benefits, including wages arrears, commencing from the date, he became eligible for regularization as per aforementioned SRO and ending with the date of issuing of the regularization order.

2. The petitioners have assailed the order impugned on the ground that the learned Tribunal has failed to consider the speaking order dated 10.12.2022, passed with valid reasons, rejecting the respondent's claim for regularization as the respondent did not fulfill the specific criteria prescribed in SRO 64. It is further stated that the learned Tribunal has ignored the settled proposition of law that continuation on daily wage basis, even for a long duration, does not create a vested right to be absorbed in regular service. It is also contended by the petitioners that the learned Tribunal has failed to consider that the regularization under SRO 64 is subject to fulfillment of specific criteria relating to age, qualification, availability of vacancies and issuance of formal approval by the competent authority.

3. Before we consider the grounds of challenge to the order impugned, interestingly the petitioners have admitted in para 1 (i) at page No. 7 of the writ petition that the respondent was engaged as a "Daily Wager" in the Public Health Engineering (PHE) Department on 02.09.1993 and has been working in Mahore Irrigation Division. Thus, there is clear admission on the part of the petitioners that the respondent was engaged as Daily Wager in the PHE Department.

4. A perusal of the record reveals that the respondent after completing 7 years regular services in the Department approached the petitioners for regularization of his services but his case was not considered by the petitioners despite being fully eligible in terms of SRO 64. Thereafter, he

filed a writ petition bearing SWP No. 704/2012, tiled,‘Kashmir Singh and others vs. State of J&K and others’ and vide order dated 30.03.2012, the writ petition was disposed of with a direction to the petitioners to accord consideration to the case of the respondent for regularization in accordance with law. The respondent filed the execution application bearing APSWP No. 38/2016 for execution of order dated 30.03.2012 The petitioners issued a speaking order dated 10.12.2022 rejecting the claim for regularization during the pendency of the execution petition. This rejection served as a fresh cause of action, prompting the respondent to file a substantive challenge before the learned Tribunal.

5. The respondent pleaded before the learned Tribunal that his regularization was due from 01.04.2001. This date is clearly reflected in the list prepared by the Executive Engineer, Special Sub-Division Mahore, as the proposed date of regularization. Furthermore, the Chief Engineer, PHE, Jammu, also prepared a list confirming this position.

6. Despite the respondent's eligibility, petitioner No. 5, through a communication dated 23.02.2006 to petitioner No. 3, forwarded the particulars for regularization (having completed seven years of service) for only two Daily Rated Workers, Abdul Hamid and Isher Singh, Helpers, deliberately omitting the respondent. The respondent produced record before the Tribunal detailing every instance where similarly situated workers were recommended for regularization while he was ignored. It is the case of the respondent that as he was appointed as Daily Rated Worker in the year 1993 and has continued for more than three decades, therefore, he is entitled to regularization under SRO 64 of 1994 dated 24.03.1994. The respondent

placed before the learned Tribunal certificates confirming his uninterrupted service since 1993, thereby asserting his entitlement to regularization not only under SRO 64 but also under the J&K Civil Services (Special Provisions) Act, 2010, and SRO 520 of 2017 dated 21.12.2017.

7. The respondent also relied upon order dated 21.02.2019, whereby the petitioner No. 2-Chief Engineer brought to the notice of petitioner No. 1, the case of the respondent and also the judgment rendered by the Coordinate Bench of this Court in **State of J&K and others vs. Mushtaq Ahmed Sohail and others dated 20.12.2012**, which holds that even in the case of casual worker, who continued for long spell, a presumption may arise that there is a regular need for his service and in such situation, it becomes obligatory for the authority concerned to examine the feasibility of his regularization. However, vide order dated 10.12.2022, the claim of the respondent for regularization was rejected on the ground that he was engaged as Casual Worker which was contrary to the mandate of the judgment of the Coordinate Bench of this Court in **Mustaq Ahmed Sohail(supra).**

8. The petitioners filed the response stating therein that the respondent was engaged as "Casual Labourer" and on the directions of the Hon'ble High Court, the claim of the respondent was considered and found to be devoid of any merit. Learned Tribunal after hearing the parties, vide impugned judgment allowed the OA in the manner mentioned above.

9. Heard Ms. Monika Kohli, learned Sr. AAG appearing for the petitioners and perused the record.

10. The primary concern of the petitioners is that the learned Tribunal has failed to consider that the regularization under SRO 64 is subject to fulfilment of

the specific criteria relating to age, qualification, availability of vacancies and issuance of formal approval by the competent authority. The petitioners have nowhere in the instant petition demonstrated as to how the respondent was ineligible for regularization under SRO 64. However, this Court can decipher from the order dated 10.12.2022 that the respondent's claim was rejected solely on the ground that he was engaged as a 'Casual Labourer'. Respondent has placed on record the certificate bearing MIDD 8826 dated 14.03.2023 issued by the office of the Executive Engineer, Sub-Division Dharmari demonstrating that the respondent has been working as "Daily Rated Worker" continuously and uninterruptedly in the Irrigation Division Dharmari from July 1993 till date. A second certificate issued by the Executive Engineer, Mahore Irrigation Division, Dharmari (at Page No. 97 of the Writ Petition), further substantiates that the respondent has been working uninterruptedly as a 'Daily Rated Worker' since July 1993 till date. Furthermore, there is a crucial communication dated 24.03.2016 from the petitioner No. 5 to petitioner No. 3. This letter confirms that the original HR/MR records of Daily Rated Workers for regularization were submitted for onward transmission to Higher Authorities, explicitly including the respondent's name.

11. The order impugned by the respondent before the learned Tribunal, dated 10.12.2022, was based on the premise that the respondent was engaged as a 'Casual Labourer.' This premise is directly contradicted by ample evidence on record establishing that the respondent has consistently worked as a 'Daily Rated Worker' with the petitioner-Department ever since his engagement in July 1993. Significantly, the petitioners' own pleadings contain a fatal

admission. In the cryptic reply filed to the Original Application, and reiterated in the instant petition, the petitioners categorically admit that the respondent was engaged as a 'Daily Rated Worker' in the Public Health Engineering Department on 02.09.1993. Thus, although the respondent was described as a "Casual Labourer" in the rejection order, the undisputed factual position is that he has, in essence, been working as a "Daily Wager" with the petitioners , a status that stands clearly and categorically admitted by them.

12. In **State Of J&K & Ors. vs Mushtaq Ahmad Sohail & Ors., 2012 (4) JKJ[HC] 1051,** the Coordinate Bench of this court has held that '*In the instant case writ petitioners styled to have been engaged as casual labours, in-effect, were daily rated workers because they were not engaged occasionally*.'

13. In its latest pronouncement, the Hon'ble Supreme Court in **Jaggo v Union of India and others, 2024 INSC 1034** has held as under:

> "27. **In light of these considerations, in our opinion, it is imperative for government departments to lead by example in providing fair and stable employment. Engaging workers on a temporary basis for extended periods, especially when their roles are integral to the organization's functioning, not only contravenes international labour standards but also exposes the organization to legal challenges and undermines employee morale.** By ensuring fair employment practices, government institutions can reduce the burden of unnecessary litigation, promote job security, and uphold the principles of justice and fairness that they are meant to embody. This approach aligns with international standards and sets a positive precedent for the private sector to follow, thereby contributing to the overall betterment of labour practices in the country.
>
> (emphasis added)

14. It would also be profitable to take note of the observations made by the Hon'ble Supreme Court of India in "**Dharam Singh v. State of U.P.**", **2025 SCC OnLine SC 1735.** The relevant paragraphs are extracted as under:

11. Furthermore, it must be clarified that the reliance placed by the High Court on *Umadevi* (Supra) to non-suit the appellants is misplaced. Unlike *Umadevi* (Supra), the challenge before us is not an invitation to bypass the constitutional scheme of public employment. **It is a challenge to the State's arbitrary refusals to sanction posts despite the employer's own acknowledgement of need and decades of continuous reliance on the very workforce. On the other hand, *Umadevi* (Supra) draws a distinction between illegal appointments and irregular engagements and does not endorse the perpetuation of precarious employment where the work itself is permanent and the State has failed, for years, to put its house in order.Recent decisions of this Court in *Jaggo* v. *Union of India*[4] and in *Shripal* v. *Nagar Nigam, Ghaziabad*[5] have emphatically cautioned that *Umadevi* (Supra) cannot be deployed as a shield to justify exploitation through long-term "ad hocism", the use of outsourcing as a proxy, or the denial of basic parity where identical duties are exacted over extended periods. The principles articulated therein apply with full force to the present case.** The relevant paras from *Shripal* (supra) have been reproduced hereunder:

> "***14.*** *The Respondent Employer places reliance on* Umadevi *(supra)*[2] *to contend that daily-wage or temporary employees cannot claim permanent absorption in the absence of statutory rules providing such absorption. However, as frequently reiterated, Uma Devi itself distinguishes between appointments that are "illegal" and those that are "irregular," the latter being eligible for regularization if they meet certain conditions. More importantly, Uma Devi cannot serve as a shield to justify exploitative engagements persisting for years without the Employer undertaking legitimate recruitment. Given the record which shows no true contractor-based arrangement and a consistent need for permanent horticultural staff the alleged asserted ban on fresh recruitment, though real, cannot justify indefinite daily-wage status or continued unfair practices.*
>
> ***15.*** *It is manifest that the Appellant Workmen continuously rendered their services over several years, sometimes spanning more than a decade. Even if certain muster rolls were not produced in full, the Employer's failure to furnish such records-despite directions to do so-allows an adverse inference under well-established labour jurisprudence. Indian labour law strongly disfavors perpetual daily-wage or contractual engagements in circumstances where the work is permanent in nature. Morally and legally, workers who fulfil ongoing municipal requirements year after year cannot be dismissed summarily as dispensable, particularly in the absence of a genuine contractor agreement. At this juncture, it would be appropriate to recall the broader critique*

of indefinite "temporary" employment practices as done by a recent judgment of this court in Jaggo *v.* Union of India[3] *in the following paragraphs:*

"22. The pervasive misuse of temporary employment contracts, as exemplified in this case, reflects a broader systemic issue that adversely affects workers' rights and job security. In the private sector, the rise of the gig economy has led to an increase in precarious employment arrangements, often characterized by lack of benefits, job security, and fair treatment. Such practices have been criticized for exploiting workers and undermining labour standards. Government institutions, entrusted with upholding the principles of fairness and justice, bear an even greater responsibility to avoid such exploitative employment practices. When public sector entities engage in misuse of temporary contracts, it not only mirrors the detrimental trends observed in the gig economy but also sets a concerning precedent that can erode public trust in governmental operations.

………

25. It is a disconcerting reality that temporary employees, particularly in government institutions, often face multifaceted forms of exploitation. While the foundational purpose of temporary contracts may have been to address short-term or seasonal needs, they have increasingly become a mechanism to evade long-term obligations owed to employees. These practices manifest in several ways:

• Misuse of "Temporary" Labels: Employees engaged for work that is essential, recurring, and integral to the functioning of an institution are often labelled as "temporary" or "contractual," even when their roles mirror those of regular employees. Such misclassification deprives workers of the dignity, security, and benefits that regular employees are entitled to, despite performing identical tasks.

• Arbitrary Termination: Temporary employees are frequently dismissed without cause or notice, as seen in the present case. This practi4ce undermines the principles of natural justice and subjects workers to a state of constant insecurity, regardless of the quality or duration of their service.

•Lack of Career Progression: Temporary employees often find themselves excluded from opportunities for skill development, promotions, or incremental pay raises. They remain stagnant in their roles, creating a systemic disparity between them and their regular counterparts, despite their contributions being equally significant.

•Using Outsourcing as a Shield: Institutions increasingly resort to outsourcing roles performed by temporary employees, effectively replacing one set of exploited workers with another. This practice not only perpetuates exploitation but also demonstrates a deliberate effort to bypass the obligation to offer regular employment.

• Denial of Basic Rights and Benefits: Temporary employees are often denied fundamental benefits such as pension, provident fund, health insurance, and paid leave, even when their tenure spans decades. This lack of social security subjects them and their families to undue hardship, especially in cases of illness, retirement, or unforeseen circumstances.""

12. We also note the Commission's affidavit filed in 21.04.2025 pursuant to the order of this Court dated 27.03.2025, wherein reference has been made to a supervening reorganisation in 2024, whereby the U.P. Higher Education Services Commission was merged into the U.P. Education Services Selection Commission and, by a Government Order of 05.07.2024, certain Group-C posts were sanctioned while Class-IV/Driver requirements were proposed to be met through outsourcing. We must point out however, that supervening structural change cannot extinguish accrued claims or pending proceedings. The successor body steps into the shoes of its predecessor subject to liabilities and obligations arising from the prior regime. **More fundamentally, a later policy to outsource Class-IV/Driver functions cannot retrospectively validate earlier arbitrary refusals, nor can it be invoked to deny consideration to workers on whose continuous services the establishment relied for decades.**

13. As we have observed in both *Jaggo* (Supra) and *Shripal* (Supra), **outsourcing cannot become a convenient shield to perpetuate precariousness and to sidestep fair engagement practices where the work is inherently perennial. The Commission's further contention that the appellants are not "full-time" employees but continue only by virtue of interim orders also does not advance their case. That interim protection was granted precisely because of the long history of engagement and the pendency of the challenge to the State's refusals. It neither creates rights that did not exist nor erases entitlements that may arise upon a proper adjudication of the legality of those refusals**.

14. The learned Single Judge of the High Court also declined relief on the footing that the petitioners had not specifically assailed the subsequent decision dated 25.11.2003. However, that view overlooks that the writ petition squarely challenged the 11.11.1999 refusal as the High Court itself directed a fresh decision during pendency, and the later rejection was placed on record by the respondents. In such

> circumstances, we believe that the High Court was obliged to examine the legality of the State's stance in refusing sanction, whether in 1999 or upon reconsideration in 2003, rather than dispose of the matter on a mere technicality. **The Division Bench of the High Court compounded the error by affirming the dismissal without engaging with the principal challenge or the intervening material. The approach of both the Courts, in reducing the dispute to a mechanical enquiry about "rules" and "vacancy" while ignoring the core question of arbitrariness in the State's refusal to sanction posts despite perennial need and long service, cannot be sustained.**
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> **(emphasis added)**

15. We have examined the order passed by the learned Tribunal and find that the learned Tribunal after examining the record has arrived at the conclusion that the respondent has been employed in July 1993 as 'Daily Rated Worker' i.e. before the deadline of March 31, 1994 and as such, is eligible for regularization under SRO 64. The learned Tribunal has correctly appreciated the contention of the respondent, and we do not find any illegality or perversity in the same, rather we find that the petitioners are changing their stands frequently just to deny the legitimate claim of the respondent for regularization.

16. Viewed thus, we do not find any merit in the instant writ petition, as such, the same is dismissed.

(RAJNESH OSWAL)
JUDGE

(ARUN PALLI)
CHIEF JUSTICE

JAMMU:
11.12.2025
Rakesh PS

Whether the order is speaking: Yes
Whether the order is reportable: Yes