



Government of Jammu and Kashmir  
**Agriculture Production Department**  
(Animal Husbandry)  
Civil Secretariat, Srinagar/Jammu

**Subject: Contempt CCP(S) No. 253 of 2022(in WPC No.3606/2019), c/w CCP(S) No. 348/2022, CM No. 7656/2022 titled Sudhir Kumar Vs Sh. Atal Dulloo & Anr.**

**Government Order No. 378 - JK (APD) of 2024**  
**D a t e d: 25 -07 - 2024**

**Whereas,** 41 Adhoc/Contractual employees of Animal/Sheep Husbandry Department Jammu/Kashmir including petitioner (Mr. Sudhir Kumar) were regularized vide Government Order No. 201-ASH of 2012 dated 08.11.2012 in terms of J&K Civil Services (Special Provisions) Act, 2010 with immediate effect; and

**Whereas,** earlier aggrieved of the date of their regularization, 13 employees of Animal Husbandry, Jammu including the petitioner approached Hon'ble High Court, J&K at Jammu through Writ Petition No. 3606/2019 titled Subash Sharma and Ors. Vs. Commissioner/Secretary to the Government, Animal/Sheep Husbandry Department & Anr. with a prayer that their regularization orders have not been issued in terms of instructions contained in the Government Order No. 1285-GAD of 2001 dated 06.11.2001; and

**Whereas,** the Writ Petition was disposed of by the Hon'ble High Court of Jammu and Kashmir on 03.10.2019 with the following directions:

*"Accordingly, the instant writ petition is disposed of with a directions to the respondents to consider the claim as projected by the petitioners in the writ petition strictly under rules permissible to the field and having regard judgment/order dated 14.11.2017 passed in SWP No. 315/2004, if the same is applicable to the case in hand. The respondents shall pass an appropriate consideration order within a period of two months from the date a certified copy of this order along with complete set of paper book of this writ petition is made available to them by the petitioners".*

**Whereas,** in view of above order of the Hon'ble High Court, the Administrative Department took up the matter with General Administration Department; and

**Whereas,** The General Administration Department returned the departmental file with the following observations/advice:-

*"The matter was taken up with the Department of Law, Justice and Parliamentary Affairs. The Law Department vide U.O No. Law-Open1/105/2021 dated 10.12.2021 has opined as under:-*

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*"The department is advised to examine the present case on the anvil of the order dated 14.11.2017 and also examine the case in light of Section-5 of the Jammu and Kashmir Civil Services (Special Provisions) Act, 2010 which clarify stipulates that the effect of regularization shall take place from the date of regularization and not from the date such right has accrued. The department may also re- examine the impact of repeal of the Jammu and Kashmir Civil Services (Special Provisions) Act 2010 on the case"*

**Whereas,** The General Administration and Department of Law, Justice and Parliamentary Affairs vide above opinion/advice clarified that section-5 of the J&K Civil Services (Special Provisions) Act, 2010 stipulates that the effect of regularization shall take place from the date of regularization and not from the date such right has accrued. Further, J&K Civil Services (Special Provisions) Act, 2010 by virtue of which petitioners were regularized is repealed now and hence they cannot agitate same at any forum; and

**Whereas,** the claim of the petitioners including Mr. Sudhir Kumar prayed through writ petition No. 3606/2019 titled Subash Sharma and Ors. Vs. Commissioner/Secretary to Government, Animal/Sheep Husbandry Department & Anr was considered and examined in the Department and on the basis of opinion /advice of General Administration Department/ Department of Law, Justice & Parliamentary Affairs dated 10.12.2021, same was found devoid of merits and rejected vide Government Order No 69-JK(APD) of 2023 dated 19.01.2023; and.

**Whereas,** Mr. Sudhir Kumar whose claim amongst others has already been rejected vide above Government Order filed CCP(s) No. 253/2022 in WP(C) No. 3606/2019 c/w CCP(S) No. 348/2022, CM No. 7656/2022 before the Hon'ble High Court of J&K at Jammu seeking applicability of Court Order dated 14.11.2017 passed in SWP No. 315/2004 titled Ravi Kumar and Ors. Vs. State and Ors.; and

**Whereas,** Hon'ble High Court in the above CCP(s) 253/2022 passed an order on 24.04.2024, which reads as under:-

*"This court vide order/judgement dated 03.10.2019 has disposed of the writ petition bearing No. WP(C) 3606/2019 by directing the respondents to consider the claims as projected by the petitioners in the writ petition strictly under rules occupying the field and having regard to the judgement/order dated 14.11.2017 passed in SWP No. 315/2004 if the same is applicable to the case in hand.*

*In the aforesaid backdrop, the respondents were required to pass appropriate consideration order within a period of two months from the date the certified copy of the order along with complete set of paper books was made available to the respondents by the petitioners. The petitioners have filed two contempt petitions against the respondents for non compliance o the aforesaid order/judgment.*

*It has been brought to the notice of the court b y Mr. Suneel Malhotra that detailed compliance report has been filed on 10.02.2023 which has not been scanned, however, the copy of the same has been provided to this court which has been taken on record.*

*The respondents while filing the detailed status report have pleaded that the order/judgment passed by this court has been complied with in its letter and spirit and a detailed consideration order in this regard has been passed which has been placed on record as Annexure-A along with the compliance report. The order of consideration issued vide Government Order*

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No. 696-JK of 2023 dated 19.01.2023 which as been placed on record by the respondents along with compliance report reveals that the case of the petitioners has been considered by the Department and on the basis of the opinion/advice of GAD/Department of Law, Justice and Parliamentary Affairs dated 10.12.2021, the same has been found devoid of any merit and stood rejected.

I have examined the order of consideration ad perusal whereof reveals that the administrative department took up the matter with the GAD and the GAD has returned the file with the following observations:-

"The matter was taken up with the Department of Law, Justice and Parliamentary Affairs. The Law Department vide U.O No. Law-Open1/105/2021 dated 10.12.2021 has opined as under:-



"The department is advised to examine the present case on the anvil of the order dated 14.11.2017 and also examine the case in light of Section-5 of the Jammu and Kashmir Civil Services (Special Provisions) Act, 2010 which clarify stipulates that the effect of regularization shall take place from the date of regularization and not from the date such right has accrued. The department may also re- examine the impact of repeal of the Jammu and Kashmir Civil Services (Special Provisions) Act 2010 on the case"

I have perused the order of consideration minutely and there is no whisper in the aforesaid order whether the judgment/order dated 14.11.2017 passed in SWP No. 315/2004 is applicable to the case of the petitioners in hand or not and in absence of any such finding. It does not lie in the mouth of the respondents to agitate that the judgment/order passed by this Court has been complied with in its letter and spirit. However, while rejecting the case of the petitioners, the respondents have recorded a finding that since Jammu and Kashmir Civil Services (Special Provisions) Act, 2010 by virtue of which the petitioners in the aforesaid petitions were regularized stands repealed and thus the petitioners in the present petitions cannot agitate the same at any forum.

Without commenting upon this issue it was obligatory on the part of the respondents to have recorded a finding/satisfaction that the judgment passed by this court dated 14.11.2017 passed in SWP No. 315/2004 was applicable to the case of the petitioners or not. At this stage, Mr. Achal Sharma, learned counsel appearing on behalf of the petitioners fairly submits that the aforesaid judgment on the basis of which the petitioners are claiming parity stood implemented and after the same was implemented, the administrative department with a view to defeat the rights of the petitioners have rescinded the order on the basis of which the aforesaid judgment came to be passed which was subsequently called in question before the Central Administrative Tribunal and the order of rescinding the said benefit has already been stayed by the Central Administrative Tribunal. Thus, according to Mr. Achal Sharma the respondents are under legal obligation qua the petitioners to record satisfaction whether the said judgment/order is applicable to the case of the petitioners or not.

I am in agreement with the arguments advanced by the learned counsel appearing on behalf of the petitioners that the judgment passed by this court has not been complied with in its letter and spirit and the detailed statement of facts and the order of consideration is not in tune with the judgment passed by this court.

Accordingly, this court deems it appropriate to direct the respondents to file the fresh compliance report and pass a detailed consideration order, afresh, strictly in tune with the order/judgment passed by this Court on 03.10.2019 in WP(C) No. 3606/2019 within a period of four weeks from today. Let the needful be done within the aforesaid period with copy in advance to the learned counsel appearing on behalf of the petitioners, who may respond to the same within one week thereafter."



**Whereas,** the Department in compliance to above order/judgment examined the case and it was found that Mr. Ravi Kumar and Ors. Vs. State and Ors. filed writ petition in the year 2004 bearing SWP No. 315/2004 before the Hon'ble Court seeking regularization in terms of Government Order No. 1285-GAD of 2001 dated 06.11.2001. Hon'ble Court vide order dated 14.11.2017 directed as under:-

- a) "Writ of Certiorari for Quashment of Govt. Order No. 168-GAD of 2004 dated 09-02-2004.
- b) Writ of Mandamus issue directions to the respondents to regularize the service of the petitioners in accordance with rights, that had already accrued in favour of the petitioners on account of their having years of service against the post held by them on adhoc basis as also on the basis of the right of regularization that had been promised by virtue of Govt. order No. 1285-GAD of 2001 dated 06.11.2001.
- c) With a further writ of mandamus directing the respondents to regularize the services of the petitioner's w.e.f. the dates they had completed 7 years of continuous service as had otherwise been envisaged under Govt. Order No.1285-GAD of 2001 and pay arrears of salary and all consequential benefits w.e.f. such dates.
- d) Prohibiting the respondents from converting the permanent arrangement into one of contractual appointments till such time as formal orders of regularization are passed in favour of the petitioners.
  1. Learned Counsel for the petitioners have stated that the petitioners have been regularized, so far as the relief of their regularization is concerned, the same has become infractions. Now the petitioners grievance is that they should be regularized retrospectively in terms of Government Order No.1285-GAD of 2001 dated 06.11.2001.
  2. Learned Counsel for the petitioners has further stated that the petitioners would be satisfied if a direction is given to the respondents to regularize the petitioners retrospectively in terms of Government Order No.1285-GAD of 2001 dated 06.11.2001 by passing a speaking order in accordance with law as expeditiously as possible.
  3. Mr. Moza Learned AAG appearing for the respondents has stated that he has no objections to the limited prayer of the petitioners. Statement of Learned Counsel for the parties is taken.
  4. With the Writ petition disposed of by directing the respondents to consider the case of the petitioners for regularization retrospectively in terms of Govt. Order No.1285 GAD of 2001 dated 06-11-2001 in accordance with rules and regulations applicable as expeditiously as possible preferably within period of two months from the date of receipt of certified copy of this order."

**Whereas,** upon examination it is observed that the judgement dated 14.11.2017 was implemented without making a reference to the Empowered Committee of the Finance Department and without seeking approval of the competent authority; and

**Whereas,** it is further observed that the judgement dated 14.11.2017 passed in SWP No. 315/2004 has not attained finality, as the Government has taken steps for rescinding the orders of giving retrospective effect of regularization to the petitioners of SWP No. 315/2004 but for the stay orders obtained in O.A./282/2023 titled Ravi Kumar Vs. Agriculture Production Department could not proceed ahead; and

06/11/2017



**Whereas,** based on the outcome of the O.A./282/2023 ibid, pending consideration in the Hon'ble Central Administrative Tribunal, Jammu and the decision thereon by the Government, the claim of the petitioner will be examined accordingly.

**Now,** therefore, in due deference to the order dated 03.10.2019 passed in WP(C) No. 3606/2019 and order dated 24.04.2024 passed by the Hon'ble High Court in contempt petition CCP(S) No. 253/2022, the claim of the petitioner Mr. Sudhir Kumar having being examined and considered in compliance with the directions of the Hon'ble Court with reference to the relevant records and the rule position is found devoid of merit and hence rejected for the reasons recorded hereinabove.

**By order of the Government of Jammu and Kashmir.**

**Sd/-**  
**(Shailendra Kumar), IAS**  
Principal Secretary to the Government  
Agriculture Production Department

No.ASHF-Lit/43/2024 (C.C.7053125)

Dated 25.07.2024

Copy to the:-

1. Principal Secretary to the Hon'ble Lieutenant Governor, UT of J&K.
2. Joint Secretary (J&K), Ministry of Home Affairs, Government of India, New Delhi.
3. Commissioner/Secretary to the Government, General Administration Department.
4. Director, Archives, Archaeology and Museums, J&K.
5. Director, Animal Husbandry Department, Jammu.
6. OSD to Advisor (B) to the Hon'ble Lieutenant Governor.
7. Private Secretary to Principal Secretary to the Government, Agriculture Production Department for information of Principal Secretary.
8. PA to Special Secretary to the Government, Agriculture Production Department (Animal Husbandry, J&K).
8. Concerned.
9. Incharge Website, ASH&F Department.
10. Government orders file (w.2.s.c)

  
**(Nasir Bilal Shah)**

Under Secretary to the Government

  
25/7/24