

**Government of Jammu and Kashmir.
Jal Shakti Department
Civil Secretariat, Jammu/Srinagar**

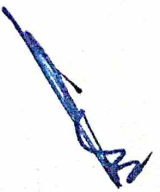
Subject: - C.P No. /2023 titled Dev Raj & others Vs Piyush Singla and Ors.

Government Order No. 218 -JK (JSD) of 2023

Dated: 18 -09-2023.

1. Whereas, the applicant namely Dev Raj filed Original Application under section 19 of the Administrative Tribunal Act 1985 bearing O.A No. 1519/2022 before the Hon'ble CAT, Jammu Bench and has sought relief for regularization of the service of the petitioners in terms of Jammu and Kashmir Special Provision Act 2010 with effect from the date the applicants have completed seven years of their respective services as contractual appointees or in the alternative, regularize the services of the petitioners with effect from the date the Empowered Committee constitute under Section 10 of the said Act 2010 has made recommendation under section 10 (4) of the said Act, to concerned respective departments w.e.f. 25.04.2018 with all consequential benefits including seniority and further seeking direction to the respondents to consider and decide the representation submitted by the applicants for their regularization w.e.f. the date the applicants have completed their seven years of service.
2. Whereas, the Hon'ble CAT, Jammu Bench, Jammu on 04.11.2022, while considering the matter disposed of the case with the following direction,;-

"....."However, without expressing any opinion on the merits of the case, the OA is disposed of at admission stage with direction to respondents to consider the representation of applicants in respect of regularization of service and decide it, as per relevant rules, regulations and instructions on the



subject, by passing a reasoned and speaking order within a period of four weeks from the date of receipt of a certified copy of this order. A copy of speaking order be communicated to the applicants within one week thereafter.

With the above direction, the OA stands disposed of."

3. Whereas, in pursuance to the 61st Empowered Committee meeting and in-terms of Sub -section 5 of section 10 of the Jammu and Kashmir Civil Services (Special Provision) Act 2010 which provides that "Administrative Department shall issue orders of regularization after seeking the approval of the Hon'ble Chief Minister through Chief secretary in Coordination" the case of the applicants were referred to the General Administration Department for placing the same before the Hon'ble Governor through Chief Secretary in coordination along with the draft resolution.
4. Whereas, the General Administration Department returned the case with an advice that the Ministry of Home Affairs in terms of S.O 1229 (E) of 2020 and in exercise of powers conferred by section 96 of the Jammu and Kashmir Reorganization Act, 2019 (34 of 2019) has repealed the Jammu and Kashmir Civil Services (Special provisions) Act, 2010, as a whole.
5. Whereas, after having interdepartmental consultations, pursuant to the directions passed by the Hon'ble Tribunal, the Department of Law, Justice & P.A, has earlier in relation to regularization matter opined that the policy of regularization in terms of executive orders, statutory rules and legislative enactments are violative of Article 14, 15 and 16 of the Constitution of India.
6. Whereas, the Hon'ble Supreme Court of India also in a three judge bench judgment rendered in case titled Umarani vs. Registrar, Cooperative Societies and Others (2004 (7) SCC 112) has held that regularization is not and cannot be a mode of recruitment by any State within the meaning of Article 12 of the Constitution of India or anybody or authority governed by a statutory Act or the Rules framed

there under. Regularization furthermore cannot give permanence to an employee whose services are ad hoc in nature. It was also held that the fact that some person had been working for a long time would not mean that they had acquired a right for regularization.

Now, therefore, the claim of the applicants has been considered with due deference to the order dated 04.11.2022, passed by the Hon'ble Central Administrative Tribunal, Jammu Bench, Jammu in O.A No. 1519/2019 titled Dev Raj & Ors Vs UT of J&K & Others and with the concurrence of the Department of Law, Justice & Parliamentary Affairs, has been found devoid of any merit for the aforesaid reasons and is accordingly, rejected.

By order of the Government of Jammu and Kashmir.

Sd/

(Shaleen Kabra) IAS

Financial Commissioner (Addl. Chief Secy)
Jal Shakti Department.

Computer No. 7089407

Dated: 18-09-2023

Copy to the:-

1. Joint Secretary (J&K), Ministry of Home Affairs, Government of India, New Delhi.
2. Ld. Additional Advocate General, Central Administrative Tribunal Jammu for information.
3. Chief Engineer (I&FC/RTIC) Jal Shakti Department Jammu for information and necessary action.
4. Private Secretary to the Financial Commissioner (ACS) Jal Shakti Department for information of the Financial Commissioner
5. PA to Additional Secretary to Government, Jal Shakti Department.
6. Applicants
7. Incharge website, Jal Shakti Department.
8. Monday Return file (w.2.s.c).
9. Government order file.

(Arifa Ashraf)

Under Secretary to Government,
Jal Shakti Department