

**DIRECTORATE OF HEALTH SERVICES
JAMMU DIVISION JAMMU**

(Near MLA Hostel, Jammu(J&K) Pin: 180001)
E-mail dhsjammu@rediffmail.com
Ph. 0191-2546338, 2549632 Fax: 0191-2549632

Subject: SWP No. 308/2017 titled Mohd. Yaqoob vs State & Ors.

ORDER

Whereas, the Hon'ble High Court of J&K disposed of the above titled writ petition on 17-02-2017 with the judgment whose operative portion reads as under:

“In view of the aforesaid submissions and in the facts of the case, this petition is disposed of with a direction to the respondents to consider and decide the claim of the petitioners for counting services rendered by them on adhoc/contractual/consolidated/stop gap arrangement basis prior to their regularization on notional basis, in terms of the rules applicable, by passing a speaking Order, as expeditiously as possible, preferably within a period of three months from the date of receipt of a certified copy of the order passed today.”

Whereas, the petitioners, who were working on stop gap arrangement in the department and their services have been regularized in pursuance of J&K Civil Services (Special Provisions) Act, 2010 vide various Govt. Orders, have filed the subject captioned writ petition seeking directions to the respondents to count the services rendered by them on adhoc/contractual/stop gap arrangement basis on notional basis for the purpose of grant of pensionary benefits with effect from the date of their initial appointments on adhoc /contractual/consolidated/stop gap basis and to reckon and maintain the seniority of the petitioners with effect from the date of their initial appointments on adhoc/contractual/consolidated/stop gap arrangement basis towards pensionary/ promotional benefits, and;

Whereas, consequent upon court order/judgment passed by the Hon'ble Court, the matter was taken up with the Administrative Department vide letter no. DHSJ/Legal/1181 dated 26/04/2017 who in turn forward the case to the Finance Department vide U.O. no. HD/Legal/NG/MR-120/2017 dated 15.01.2018 and the Finance Department has advised as under:-

“The department is advised to issue requisite speaking order as desired by the Hon'ble Court, incorporating among other things the following points:

- a) The provisions of J&K Civil Services(Special Provision) Act 2019 governing appointment of Adhoc/contractual/consolidated provides that the regularization of the eligible adhoc or contractual or consolidated appointees under this Act shall have effect only from the date of such regularization, irrespective of the fact that such appointees have completed more than seven(7) years on the appointed date or thereafter but before such regularization.
- b) The decision to regularize adhoc/contractual/consolidated employees was a benign gesture otherwise terms and conditions governing their appointment included,
"This contractual appointment shall not confer any right on the appointees to claim for regular selection against these post or any preferential rights during any selection process."
- c) As such the process of regularization is to be regulated under the provisions of the Act enacted by the Legislature which expressly provides for the effect date. Counting service rendered by the adhoc or contractual or consolidated appointees as such even on notional basis is candidly against the provisions of the Act.
- d) The department is also advised to ensure effective defense of the case.

Now therefore, the claim of the petitioners has been considered in compliance to Court Judgment/Order and in pursuance to the advise of the Finance Department tendered in the case and found devoid of merit, hence rejected.

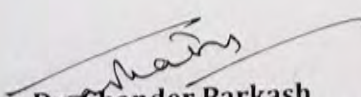
s/d
(Dr. Gurjeet Singh Soodan)
(MS. ENT)
DIRECTOR HEALTH SERVICES
JAMMU

No. DHSJ/Legal/4401-02

Date: 12/07/2018

Copy to the:

1. Principal Secretary to Govt. Health & Medical Education Department for inf.
2. Mohd Yaqoob S/o Alif Din R/o Village Darhal Tehsil Darhal District Rajouri for inf.


Dr. Chander Parkash

HEALTH SERVICES (HQ)