

Serial No.02  
Advance List

**HIGH COURT OF JAMMU AND KASHMIR**  
**AT SRINAGAR**

SWP No.2630/2017

Date of decision:27.04.2020

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Atta Mohammad Shah Vs. State of J&K India and others

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**Coram:**

**Hon'ble Mr Justice Dhiraj Singh Thakur, Judge**

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**Appearance:**

For the Petitioner(s): Mr. G. M. Wani, Advocate.

For the Respondent(s): Ms. Afroza Hassan, Assistant Counsel, vice Ms. Asifa Padroo, AAG.

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i) Whether approved for reporting in Law journals etc.: Yes/No

ii) Whether approved for publication in press: Yes/No

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**1)** Petitioner claims that he was appointed as a Daily Rated Worker on 18<sup>th</sup> of November, 1980, and completed seven years and ten months of his continuous service in September, 1988. It is also asserted that the petitioner was paid full wages till the month of February, 1988, by the respondents. It is further alleged that false allegations were levelled against the petitioner with regard to deficient timber stocks in the Timber Sales Depot where he was deputed but was subsequently cleared of the charges. It is also alleged that the petitioner was neither terminated nor placed under suspension.

**2)** Petitioner filed SWP No.1660/1993, which came to be decided on 31<sup>st</sup> of July, 2001, directing the respondents to consider his claim for regularization, which claim, according to the petitioner, was again rejected. The said action again came to be challenged in SWP No.1477/2007. It is stated that even this petition was disposed of with a direction to the

respondents to accord fresh consideration to the case of the petitioner for regularization of his services in accordance with the provisions of SRO 64 of 1994.

3) According to the stand of the respondents, fresh consideration was accorded to the case of the petitioner after receiving fresh reports in the matter from DFO, Anantnag and Conservator of Forests, Kashmir South Circle. It is stated that according to the official reports, the petitioner was not on the rolls of the department since 1988 and has not drawn any wages for the past 26 years. A stand is also taken that the petitioner was not on the rolls of the department in the year 1994 when SRO 64 came into force and, therefore, upon consideration, petitioner's case was rejected vide order dated 3<sup>rd</sup> April, 2014, issued by Chief Conservator of Forests, Kashmir, which is now the subject matter of challenge before the Court.

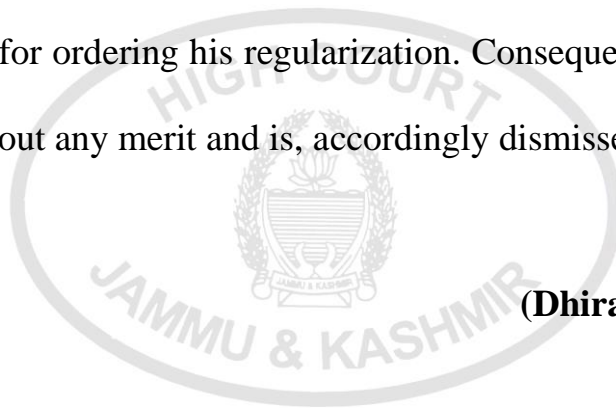
4) A rejoinder has been filed by the petitioner, in which a stand is taken that the petitioner had been continuously working with the respondents and that it is the respondents who had failed to mark the presence of the petitioner and maintain the rolls which was their duty to do so.

5) Heard counsel for the parties.

6) Disputed questions of fact have arisen in this case with regard to the factum of continuance of the petitioner on the rolls of the respondent department on the crucial date as mentioned in SRO 64 which was promulgated in the year 1994. The entire scheme as envisaged by SRO 64 of 1994 is that such of the Daily Rated Workers/Work Charged Employees who have completed seven years of continuous service would be entitled to

seek regularization. It, therefore, necessarily implies that only such of the Daily Rated Workers/Work Charged Employees who were in place and had completed seven years continuous period of working on the date of promulgation of SRO 64 or would complete the seven years continuous service by the subsequent financial years, if permitted to do so, would be considered for regularization.

7) In the present case, according to the stand of the respondents, there was no proof of the petitioner being in service after 1988, much less was there any proof of any payment having been made as such daily wager. In my opinion, the petitioner has failed to establish a case warranting issuance of a Mandamus for ordering his regularization. Consequently, the petition is found to be without any merit and is, accordingly dismissed.



**(Dhiraj Singh Thakur)**  
**Judge**

**Srinagar**  
27.04.2020  
*“Bhat Altaf, PS”*