



Union Territory of Jammu and Kashmir

Social Welfare Department

Civil Secretariat, J&K, Jammu.

Subject: SWP No. 165/2014 titled Zafar Iqbal Bhat Vs State & Ors.

Government Order No: - 182 -JK (SWD) of 2021

Dated : 15 -12.2021

Whereas, petitioner namely, Sh. Zaffar Iqbal Bhat S/o Gh. Ahmad Bhat R/o Fatehpura Ganderbal has been engaged as casual labour for watch and ward w.e.f 01.12.2000 @ Rs 800/- per month (consolidated) vide order No. ICDS/GF-2000/356-58 dated 01.12.2000 issued by Child Development Project Officer ICDS Project, Ganderbal;

Whereas, petitioner filed a writ petition before the Hon'ble High Court of Jammu and Kashmir at Srinagar bearing writ petition No. SWP No. 165/2014 titled Zafar Iqbal Bhat Vs State & Ors, wherein, he has prayed that his engagement be regularized. The Hon'ble High Court vide order dated 13.03.2015 disposed of the writ petition with the following directions:-

"Claim of the petitioner for regularization of his service is to be considered in accordance with the mandate contained in the Jammu and Kashmir Civil Services (Special Provision) Act, 2010 and other enabling Government orders occupying the field. It is the duty of the respondents to obey their own Statute and consider claim of the petitioner for regularization of his service".

Whereas, accordingly, the case of the petitioner was taken up with the Finance Department for regularization of the petitioner (namely Zaffar Iqbal Bhat). The Empowered Committee (Finance Department) in its meeting held on 22.03.2017 has raised the following observation in the said case:-

"The incumbent has been appointed as casual labourer. However, the Department has enclosed the certificate showing that the incumbent is working against clear vacancy which is contradictory to the status of the incumbent as shown in the initial engagement order. The Department is advised to clarify the same".

Whereas, on the basis of above observation, matter was taken up with the Mission Director, ICDS, J&K with the request to furnish the requisite information as sought by the Empowered Committee;

Whereas, Mission Director(ICDS), J&K furnished the documents which reveals that the petitioner namely, Sh. Zaffar Iqbal Bhat S/o Gh. Ahmad Bhat R/o Fatehpura Ganderbal has been engaged as casual labour (watch and ward) w.e.f 01.12.2000 @ Rs 800/- per month (consolidated) vide order no. ICDS/GF-2000/356-58 dated 01.12.2000 issued by Child Development Project Officer, ICDS Project, Ganderbal;

Whereas, as per the details submitted by the MD, ICDS it has also been established that Sh. Zaffar Iqbal Bhat was engaged in place of Gh. Ahmed Bhat who was also a casual labourer and was not working against a clear vacancy;

Whereas, 'watch and ward' is no sanctioned post under ICDS and persons are engaged for watch and ward of Aanganwadi centres always on casual basis;

Whereas, Section 3 of the Jammu and Kashmir Civil Services (Special Provision) Act, 2010 clearly states:

"Application of the Act- The provisions of this Act shall apply to such posts under the Government as are held by any person having been appointed on ad hoc or contractual basis including those appointed on consolidated pay provided that such appointments have been made against the clear vacancies."

Whereas, the petitioner was appointed as Casual Labour vide order no. ICDS/GF-2000/356-58 dated 01.12.2000 issued by Child Development Project

Officer, ICDS Project, Ganderbal only for watch and ward and there is neither any provision for regularization of Casual Labour under Jammu and Kashmir Civil Service (Special Provision) Act, 2010 nor people not engaged against clear vacancies can be regularized under the Act;

Now, therefore, claim of the petitioner stands examined and considered in terms of rules in vogue and in compliance of the order dated 13.03.2015 passed by the Hon'ble High Court in writ petition No. SWP No. 165/2014 titled Zafar Iqbal Bhat & Ors Vs State & Ors. and is found devoid of any merit and eligibility for according benefits for his regularization in light of rules in vogue and Jammu and Kashmir Civil Services (Special Provision) Act, 2010.

By order of the Government of Jammu and Kashmir.

Sd/-

(Sheetal Nanda)IAS
Secretary to the Government
Dated: 15.12.2021

No:SW/Lit/46/2021

Copy to the:-

1. Joint Secretary (J&K) Ministry of Home Affairs, Government of India
2. Additional Advocate General, J&K, High Court, Srinagar
3. Director General , Social Welfare, Kashmir
4. Mission Director (ICDS) J&K, Srinagar.
5. OSD to Hon'ble Advisor (F), in-charge Social Welfare Department.
6. Pvt. Secretary to Secretary to the Government, Social Welfare Department.
7. Concerned officials.
8. Official Website Incharge.
9. Government Order file/ Stock file (w.2.s.c)

Archana Raina
15/12/2021
(Archana Raina)

Deputy Secretary to the Government