

GOVERNMENT OF JAMMU & KASHMIR
DEPARTMENT OF SOIL & WATER CONSERVATION

Subject: SWP No.529/2016 titled Ali Mohammad Malla & others V/s State of J&K and others –Speaking orders thereof.

Reference: Hon'ble High court order dated: 18.03.2016 and Administrative Department No.FST/Lit/SC/50/2016 dated: 02.02.2017.

Soil & Water Conservation Order No. 10/SWCD of 2017

Dated: 09 - 02 - 2017

-:Z:-

Whereas, petitioners of SWP No.529/2016 titled Ali Mohammad Malla and others who have worked as seasonal labours/need basis from time to time for different works, filed above writ petition before the Hon'ble High Court at Srinagar seeking direction for regularization of their services; and

Whereas, the petition at the threshold has been disposed on 18.03.2016 by the Hon'ble High Court of J&K with following directions:

"The writ petition alongwith connected IAs is disposed of and respondents are directed to extend the benefit of judgment dated 20th May, 2013 passed in SWP 1026/2011 provided the petitioners are similarly circumstanced with the petitioners therein. The decision in this behalf be, preferably, taken within eight weeks from the date copy of this order is served to them."

Whereas, the provisions of Jammu and Kashmir Daily Rated Workers/Work-Charged Employees (Regularization) Rules 1994, provides regularization of Daily Rated Workers/Work Charged Employees engaged prior to ban; and

Whereas, there is no provision relating to the regularization of the services of the seasonal labours/need basis who have worked from time to time; and

Whereas, the Joint Director, SWCD, Kashmir reported that after scrutinizing the records, those **seasonal labours who have worked** on need basis from time to time in District office Baramulla have been paid on the basis of actual work done by them. The Joint Director, SWCD, Kashmir has recommended that since the petitioners are seasonal labours, as such no case is made for their regularization. Thus the claim of petitioners to have worked as daily wager is not true and have not put correct position before the Hon'ble Court; and

Whereas, the matter was taken up with the Administrative Department (Forests) J&K Govt. who vide their No.FST/Lit/ SC/50/2016 dated: 02.02.2017 advised to examine the case under rules and pass appropriate consideration order; and

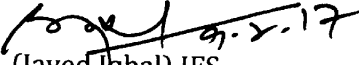
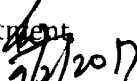
Whereas, after examining the case of the petitioners of SWP No. 529/2016 titled Ali Mohammad Malla and others it has been observed that the petitioners have worked as seasonal labours/need basis from time to time and have been paid for the period they have worked; and

9/2/2017

Whereas, the records reveal that the petitioners who have worked as seasonal labours/need basis are not similarly circumstanced with the petitioner of SWP No.1026/2011; and

Whereas, after scanning the records regarding claim made by the petitioners in the SWP No.529/2016 titled Ali Mohammad Malla & others, the case pursuant to Hon'ble High Court directions dated: 18.03.2016 was examined and considered in light of above facts/rules.

Now therefore, **in compliance to the judgment dated 18.03.2016** passed by the Hon'ble High Court at Srinagar in SWP No. 529/2016 titled Ali Mohammad Malla and others V/s State of J&K & ors, the petitioners upon consideration **do not qualify in any manner for their regularization under the provisions of J&K Daily Rated Workers/ Work Charged Employees (Regularization) Rules, 1994** notified vide SRO No.64 of 1994 and **Government Order No.1285 of 2001 dated 06.11.2001** relating to adhoc/contractual employees, as the petitioners have worked as **seasonal labours** from time to time; **hence, the claim is rejected.**


(Javed Iqbal) IFS,
Director,
Soil & Water Conservation Department,
J&K, Jammu 

No: DSC/Ltg-187/140-44
Copy to the:-

Dated 27.02.2017.

1. Commissioner / Secretary to Government, Forest, Ecology & Environment Department, J&K, Jammu, for information. This has reference to his communication referred to above.
2. Joint Director, Soil & Water Conservation Department, Kashmir, Srinagar for necessary action.
3. Mr. B.A. Dar, Addl. Advocate General, High Court, Srinagar, for information with request to frame the statement of facts in the contempt petition filed by the petitioners.
4. District Soil Conservation Officer, Soil & Water Conservation Department, Baramulla, for necessary action. The copy of consideration order may be provided to petitioner Mr. Ali Mohammad Malla and others.
5. Concerned petitioners through official website.