



Government of Jammu and Kashmir  
**Higher Education Department**  
Civil Secretariat, J&K.

C.No. 182838

**Subject:- O.A. No. 321/2022 titled Ali Mohammad Lone V/s UT of J&K and others.**

**Government Order No.: 73 -JK (HE) of 2023**

**Dated : 10 -03 - 2023**

Whereas; Mr. Ali Mohammad Lone was initially appointed as Lab. Assistant on adhoc basis for a period of 89 days or till regular selection was made by the recruitment Board whichever is earlier, vide no. PF/270-73 dated 25.03.1991 on recommendations of Special Commissioner Baramulla. However no regular selection was made against the said post and resultantly petitioner/applicant continued to work against the said post;

Whereas vide Govt. Order No. 154 – (HE) of 2013 dated 24.10.2013, among others Mr. Ali Mohammad Lone was regularized against the post of Lab. Assistant in terms of J&K Civil Services (Special Provisions) Act, 2010;

Whereas petitioner approached Central Administrative Tribunal (CAT) Srinagar and filed OA No:-321/2022 seeking direction to consider his past services rendered in the Department as per Apex Court Judgment dated 18.02.2022 passed in SLP No. 1109/2022 titled State of Gujarat and others vs. Talsibhai Dhanjibhai Patel;

Whereas the Hon'ble Tribunal disposed of the petition vide order dated 21.04.2022 directing the respondents/competent authority to consider case of applicant for grant of benefits of his past service treating the present OA as representation of the applicant and dispose of the same by passing the reasoned and speaking order in accordance with the rules and in light of judgment rendered by Apex Court in the case of State of Gujarat and others vs. Talsibhai Dhanjibhai Patel, SLP No. 1109/2022 decided on 18.02.2022 which reads as under:-

"It is unfortunate that the State continued to take the services of the respondent as an ad-hoc for 30 years and thereafter now to contend that as the services rendered by the respondent are adhoc, he is not entitled to pension/pensionary benefit. The State cannot be permitted to take the benefit of its own wrong. To take the Services continuously for 30 years and thereafter to contend that an employee who has rendered 30 years continues service shall not be eligible for pension is nothing but unreasonable. As a welfare State, the State as such ought not to have taken such a stand".

Whereas; the case was examined and it was observed that the applicant was initially appointed against the post of Lab. Assistant in the Govt. Degree College for Women's Baramulla vide order no. PF/1270-73 Dated 25.03.1991 for a period on 89 days or till regular selection was made by the recruitment board. The applicant continued against the post of Lab Assistant and was finally regularized in terms of J&K Civil Services (Special Provisions) Act, 2010, among others vide Govt. Order No. 154 – (HE) of 2013 dated 24.10.2013. Whereas; section 5 of the J&K Special Provisions Act 2010 provides for regularization of adhoc or contractual or consolidated appointees as under:-

Notwithstanding anything of the contrary contained in any law for the time being in force or any judgment or order of any court or tribunal, the adhoc or contractual or consolidated appointees referred to in section 3 shall be regularized on fulfilment of the following conditions, namely:-

- i. That he has been appointed against a clear vacancy or post
- ii. That he continues as such on the appointed day
- iii. That he possessed the requisite qualification and eligibility for the post on the date of his initial appointment on adhoc or contractual or consolidated basis as prescribed under the recruitment rules governing the service or post
- iv. That no disciplinary or criminal proceedings are pending against him on the appointed day, and
- v. That he has completed seven years of service as such on the appointed day

**Provided 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 years of service on the appointed dated or thereafter but before such regularization.**

Provided further that any adhoc or contractual or consolidated appointee who has not completed seven years service on the appointed day shall continue as such till completion of seven years and shall thereafter be entitled to regularization under this Act.

Whereas, the regularization of the applicant has already been considered by the Government in relaxation of his upper age bar on the post of Lab. Assistant. The applicant is substantively holding the post with effect from 24.10.2013 as such is not covered for the pensionary benefits.

Now, therefore, in compliance to the directions of the Hon'ble Tribunal the case of the applicant has been considered keeping in view the Section 5 of the J&K Special Provisions Act, 2010, and the claim of the applicant for counting his past service has been found without any merit, hence rejected.

**Sd/-**


**(Alok Kumar) IRS**

Principal Secretary to the Government  
Higher Education Department

No. HED/LEG/94/2022-04  
Copy to the :-

Dated: 10-03-2023

1. Director Colleges, HED, J&K.
2. Director Archives, Archaeology & Museums, J&K, Jammu.
3. PS to Principal Secretary, Higher Education Department.
4. Concerned for information.
5. I/c Website, Higher Education Department.
6. Government Order file.
7. Stock file (w.2.s.c)

  
**(Sat Paul Rajwal)** 10/3/23  
Under Secretary to the Government  
Higher Education Department  
