



**GOVERNMENT OF JAMMU AND KASHMIR
SCHOOL EDUCATION DEPARTMENT,
CIVIL SECRETARIAT JAMMU/KASHMIR**

(Legal Section)

Subject: Contempt No: 128/2015 in SWP No. 2052/2014 titled Shahida Banoo V/S State and others.

Government Order No: 134 - Edu of 2017

D a t e d: 22 03 - 2017

Whereas, the petitioner was appointed as adhoc teacher against available vacancy in School Education Department vide Government Order No. 1455-GAD of 2000 dated 8.12.2000 for a period of 89 days or till the post is filled up under rules, whichever be earlier; and

Whereas, subsequently her engagement was extended by the Government from time to time with a break of 1 or 2 days till 15.12.2002; and

Whereas, after 16.12.2002, no extension was granted in adhoc services and consequent upon the petitioner was not allowed to join and the said vacancy was filled through ReT scheme; and

Whereas, the petitioner approached the Hon'ble High Court by filing SWP No. 766/2002 and the the Hon'ble Court on 13.06.2002 directed the respondents that the engagement of the petitioner to be continued till next date; and

Whereas, the Hon'ble High Court on 04.04.2003 dismissed the said writ petition of the petitioner; and

Whereas, in the meantime the General Administration Department framed a policy vide Government Order No. 237-GAD of 2004 dated 20.02.2004 regarding all adhoc employees who were continuously in service till August 2002 or thereafter shall be converted into contractual appointment w.e.f. 01.02.2004 or till selections against these posts are made by the concerned selection agencies whichever is earlier; and

Whereas, the petitioner was allowed to work on contractual arrangement w.e.f. 17.05.2004 in terms of Government Order No. 237-GAD of 2004 dated 20.02.2004; and

Whereas, the case of the petitioner was taken up in the 25th Empowered Committee meeting held on 22.09.2011 for regularization of petitioner and in the minutes of the meeting the Empowered Committee observed as under:-

"W/C D/S clarification for 10/2002 to 11/2004 and 1/2005 to 3/2005"

Whereas, the petitioner filed another writ petition bearing SWP No. 2052/2014 before the Hon'ble High Court seeking her regularization and release of salary; and

Whereas, the Hon'ble High Court on 31.10.2014 in CMP No. 3258/14 has passed the following order:-

"Disposed of with a direction that the respondent No. 3- Chief Education Officer, Kulgam shall accord consideration to the release of full salary of the petitioner as shall be permissible in accordance with rules".

Whereas, the petitioner being a contractual employee was to be paid a consolidated salary equivalent to the minimum of the pay band plus applicable grade pay of the post to which she was appointed. The audit party from Accountant General's office, Srinagar vide No. SS/K8/2014-15/AM-39 pointed out that in contrary, due to error/mistake the petitioner was paid Rs. 15045/- per month instead of Rs. 8000/- per month, resultantly the petitioner has received Rs. 681459/- in excess which is recoverable from her; and

Whereas, the case was again taken up with the Empowered Committee for regularization of petitioner alongwith requisite documents vide O.M. No. Edu- I/115/2010 dated 30.06.2014 and the Empowered Committee observed that how the petitioner was re-engaged after break of two years; and

Whereas, the Hon'ble Court disposed of the petition on 01.01.2015 with the following directions:-

"This petition is disposed of and Chief Education Officer, Yaripora, Kulgam is directed to implement the order dated: 31.10.2014 passed in CMP No: 3258/2014 arising out of SWP No: 2052/2014 and report compliance.

It is further provided that respondent no. 3 shall process the case of the petitioner for according consideration by the competent authority for regularization of her services in accordance with Rules".



Whereas, the petitioner filed Contempt petition bearing Contempt No. 128/2015 and the Hon'ble High Court on 26.3.2015 has passed the following directions:-

"In the meantime, respondents to comply with writ court order and report compliance.

Whereas, in light of the Court direction dated 31.10.2014 read with order dated 01.01.2015, the petitioner was entitled for the salary in accordance with rules i.e. Rs. 8000/- per month being contractual employee but instead of this she had been paid Rs. 15045/- per month in violation of rules and in view of the audit report, the petitioner has received excess payment amounting to Rs. 681 459/-; and

Now, therefore, in view of the facts and circumstances, it is hereby ordered that Chief Education Officer, Kulgam shall ensure the recovery of the excess amount paid to petitioner through the DDO concerned. The claim regarding regularization of the petitioner be considered as and when recommendations are received from the Empowered Committee.

By Order of the Government of Jammu and Kashmir.

Sd/-

(Shaleen Kabra)

Principal Secretary to Government
School Education Department

Dated: 22-03-2017

No: Edu/Legal/K/157/2015

Copy to the:-

1. Director School Education, Kashmir for information and necessary action.
2. Chief Education Officer, Kulgam for immediate necessary action.
3. Pvt. Secretary to Principal Secretary to Government, School Education Department.
4. Incharge Website
5. Shahida Banoo D/O Shri Ahmad Ullah Mir, R/O Kathpora Kulgam. A/P Natipora Srinagar.
6. Govt. Order file (w.3.s.c)

(Naseema Nazir)

Under Secretary to Government
School Education Department