



**Government of Jammu and Kashmir
School Education Department
Civil Secretariat, Jammu/ Kashmir
(Gazetted Section)**

Subject:- SWP No. 1691/2012 titled Imtiyaz Ahmad Bhat & Another Vs State & Others.

Government Order No.:- 131 - Edu of 2016
Dated :- 01-04-2016

WHEREAS, the J&K Public Service Commission vide their communication dated 17.06.2008 forwarded a select list of candidates to School Education Department for their appointment as Lecturer in different disciplines;

AND WHEREAS, on the recommendations of the J&K Public Service Commission, School Education Department vide Government Order No. 409-Edu of 2008 dated 7.8.2008 issued appointment orders in favour of selected candidates;

AND WHEREAS, Mr.Mushtaq Ahmad Shah and Mr.Mohammad Yaseen Malik, who were in the select list of Commerce discipline after joining, submitted their resignations on 04.03.2009 and 23.03.2009 respectively and accordingly, their resignation were accepted by School Education Department vide G.O.No.499-edu of 2009 dated 16.06.2009 w.e.f. 04/03/2009;

AND WHEREAS, School Education Department vide letter dated 16.06.2009 under endorsement No. Edu/V/107/2009, made a request to the Public Service Commission to send the recommendations of the candidates out of the waiting list from already drawn up merit list of Open Merit Category for appointment as Lecturers ;

AND WHEREAS, in response, the J&K Public Service Commission vide their letter dated 03.10.2009 advised to re-refer these posts alongwith fresh vacancies, if any for open category competition as the waiting list cannot be operated for these vacancies once utilized;

AND WHEREAS, the Commission earlier vide Order No. PSC/DR/Lect+2/Psy/05/30 dated 16.01.2009 recommended the name of Ms. Amica Kumari from the waiting list as Lecturer in Psychology consequent upon the resignation of one namely Ms. Passavi Sachdeva. Accordingly, school Education department again requested PSC to re-examine the issue in light of recommendations made in respect of Ms. Amica Kumari, however, no decision was taken by the Commission against the judgement dated 22.03.2006 titled Gh. Ahmad Malik Vs State & others;

AND WHEREAS, aggrieved by the refusal of the Commission to operate upon the wait list, the petitioners figuring at S.No.1 & 3 in the wait list approached the Hon'ble High Court at Srinagar by filing SWP No. 66.2011 titled Imtiyaz Ahmad Bhat & another V/s State & others for directing the PSC to recommend them to Government for appointment in which Hon'ble High Court vide interim order dt; 19.01.11 was pleased to direct the PSC as under:-

“Public service Commission may be directed to make recommendation from wait list as has been done in case of Ms. Ambica Kumari in accordance the law laid down in Gh. Ahmad Malik V/s State & Others. Respondent Public Service Commission shall examine case of the petitioners and shall consider the recommendation of the petitioners for appointment in accordance with applicable rules.”

AND WHEREAS, the Commission after examining the matter rejected the claim of the petitioners by issuing speaking order No. 60-PSC of 2011 dt 22.02.11, owing to which the petitioner approached Hon'ble High Court with another writ petition bearing SWP No. 1691/2012 titled Imtiyaz Ahmad Bhat & another V/s State & others which stand disposed of with the following judgement:-

“Ms. Amica Kumari was adjusted against the vacant post which has occurred after the appointed candidates resigned, while accepting resignation of the two candidates, request had been made to the PSC to send two other candidates next in merit which impliedly would mean that there was a decision for adjusting the two candidates so as to need the urgency of supplying the Lecturers to the concerned schools for imparting education. PSC has not been able to make it clear as to how they can adopt two standards viz-a-viz similarly situated candidates i.e. when they have made recommendations in favour of Ms. Amica Kumari how can they deny same to the petitioners.

Ld. Counsel Mr. Azhar-ul-Amin was right in contending against the relief but the position of the case is such, where there is a scope for deviation subject to the policy decision by the government, a request to PSC to make the recommendation means there was urgency for filling up the posts. This aspect coupled with judgement of this Court rendered in Gh. Ahmad Malik V/s State & Others has been ignored by the concerned authorities while according consideration to the case of the petitioner, therefore, the order is set aside..

Respondents shall accord fresh consideration to the case of the petitioners in the light of aforesaid observations and in the light of Rule 57 of J&K PSC (Business and Procedure) Rules, 1980.

The PSC shall consider the case of the petitioners and taken final decision within eight weeks.

Disposed of as above.”

AND WHEREAS, the petitioners were figuring at S.No.1 & 3 in the wait list and the candidate figuring at S.No. 2 i.e, Shri Mohammad Amin Mir S/o Mohd. Qasim Mir R/O Balhama, Panthachowk, Srinagar surrendered his claim through an affidavit;

AND WHEREAS, the case was re-examined by PSC in light of above quoted judgement and the matter was placed before the Commission in its meeting held on 14.12.15 and approved the operation of wait list by recommending two candidates next in order of merit to the government for their appointment as Lecturer, (Commerce) 10+2, as one time exception, primarily on the analogy of Ms. Amica Kumari, judgement of Hon'ble High Court passed in the case of Gh. Ahmad Malik V/s State & others and Hon'ble High Court order dated 13.05.15 passed in SWP No. 1691/2012;

AND WHEREAS, the PSC has recommended the name of the petitioners namely S/Sh. Imtiyaz Ahmed Bhat and Farooz Ahmad Shah for their appointment as Lecturer 10+2 (Commerce) in School Education Department against the vacancies caused due to resignation of two candidates in Open Merit Category vide its letter no. PSC/DR/WP/10+2/Commerce/2009 dated 15.01.2016 conveying Commission's decision No. 5.3 dated 14.12.2015;.

Now, therefore, as recommended by J&K Public Service Commission, sanction is accorded to the appointment on regular /temporary basis of **S/Sh. Imtiyaz Ahmed Bhat S/o Mohammad Yousuf Bhat R/o Batapora, Naseem Bagh, Hazratbal, Srinagar-190006 and Farooz Ahmad Shah S/O Gh. Qadir Shah R/O Danamazar, Safa Kadal, Srinagar-190002** as Lecturers 10+2 (Commerce) in the School Education Department in the Pay-Band of Rs. 9300-34800 + Rs. 5400/- (Grade Pay).

The appointees shall report to Directorate of School Education, Kashmir, who will allow them to join only after verification of their original PRC, age and health certificate, academic qualification certificates in original, no loan certificates from DIC/concerned District Employment Officer and Character/antecedents certificate. The appointment of these candidates shall further be subject to the following conditions:-



- i) **that the candidates will report for duty within a period of 21 days from the date of issue of this order, failing which their appointment will be treated as cancelled without any notice.**
- ii) **that they will be on probation/ trial for a period of two years in terms of J&K Education (Gazetted) Services Recruitment Rules, 2010.**
- iii) **that the salary of the above named candidates shall not be drawn and disburse unless and until safe character and antecedents is received from Additional Director General of Police, CID, J&K.**

 By order of the Government of Jammu and Kashmir

Sd/-

(Shaleen Kabra)

Commissioner/Secretary to Government
School Education Department

No.Edu/V/19 /2016

Dated :- 01 -04-2016

Copy to the:-

1. Director School Education Jammu/Kashmir with the request to kindly upload the said Government Order on their official website allowed to join in the Directorates after expiry of 21 days so as to post them suitably.
2. Director Information, J&K Jammu with the request to publish this order in two daily newspapers based in Jammu as well as Kashmir Division and provide the copies of said newspaper to this Department for record.
3. Private Secretary to Advisor to Hon'ble Advisor.
4. Private Secretary to Commissioner/ Secretary to Government, School Education Department for information of the Commissioner/Secretary.
5. Concerned.
6. I/C Website.
7. Government Order file (w.3.s.c.)/ Monday return/ Stock file.



1.4.2016

(R.K.Misri)

Under Secretary to Government
School Education Department

