



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

(Legal Section)

Subject: - Regularization of Mohammad Maqbool Wani as Class-IV in School Education Department.

Ref: 1) Finance Department O.M.No:PS/DC/Misc-257/14 dated 14.09.2015.
2) GAD O.M. No: GDC-155/CM/2015 dated: 26.07.2016

Government Order No: 301 - Edu of 2016

Dated: 11 - 08 - 2016

Whereas, the petitioner was appointed on temporary basis/adhoc basis for a period of 60 days on available post as Peon-cum Driver in the pay scale of 630-940 (Class IV) by principal DIET, Shopian vide Order No. DIET/324/28 dated 14/01/1992; and

Whereas, the petitioner had filed SWP No.2260/92 for his continuation and orders were issued by the Hon'ble court vide order dated 24/08/1992 and was allowed to continue; and

Whereas, the claim of the petitioner for regularization of his services was rejected by the Director School Education, Kashmir Vide order dated 28.5.2008 which was challenged by the petitioner in SWP No. 1253/2008 titled Mohammad Maqbool Wani V/S State and others; and

Whereas, the said writ petition was disposed of vide Judgment dated 08.02.2012, with the following orders:-

- a. *"By issuance of writ of certiorari, the impugned order dated 28th May, 2008 issued by respondent No. 2 is quashed.*
- b. *By issuance of writ of Mandamus, respondents are directed to consider the claim of the petitioner for regularization of his services in terms of provisions of Jammu*

and Kashmir Civil Services(Special Provisions) Act 2010 and in pursuance to all other enabling rules and Govt. Orders occupying the field.

Respondents to consider the claim of the petitioner for regularization of his services either on the post of Class-IV or on the post of driver. Respondents to consider and take a decision in the matter preferably within a period of 12 weeks from the date copy of this order is served on them .The petitioner shall be allowed to continue in services and be paid his salary”

Whereas, the matter was referred to Finance Department for placing the case before the Empowered Committee for his regularization as per Jammu and Kashmir Civil Services (Special Provisions) Act, 2010. However, the Finance Department vide No. A/Spl/Codes/Misc./2014 dated 11.10.2014 returned the matter with the observation that Jammu and Kashmir Civil Services (Special Provision) Act is not applicable to employees appointed on temporary basis. In sequel, thereto, vide Government Order No. 92-Edu of 2015 dated 6.3.2015; claim of the petitioner was rejected; and

Whereas, the Hon'ble High Court in Robkar No. 06/2015 in Contempt No. 554/2012 arising out of SWP No. 1253/2008 observed on 13.05.2015 that the rejection of claim of the petitioner on the aforementioned ground, runs contrary to the findings recorded by the court in the Judgment dated 8th February, 2012 and has attained finality; and

Whereas, the matter was taken up with the Department of Law, Justice and Parliamentary Affairs and the Department was advised that the Judgment had attained finality and to place the matter again before the Empowered Committee.

Accordingly, the matter was again referred to Finance Department vide O.M. No. Edu/Legal/K/275/21012-II dated 04-06-2015 for consideration by the Empowered Committee and Vide O.M. No. PS/DC/Misc-257/14 dated 14.09.2015, the Finance Department forwarded its recommendations to regularize Sh. Mohammad Maqbool Wani S/O Late Ali Mohammad Wani R/O Norwa Pulwama, as eligible against the post of Peon/Class-IV, in terms of

provisions of Jammu and Kashmir Civil Services (Special Provisions) Act 2010; and

Whereas, the General Administration Department (Cabinet Section) vide communication O.M. No. GDC-155/CM/2015 dated 26.07.2016 has conveyed approval of the Departmental proposal to the regularization of the petitioner (Mohammad Maqbool Wani) as Class-IV, as enlisted below and in relaxation of upper age limit:-

S. No	Name of the employee	Date of birth	Designation	Age as on 01.01.2016	Age relaxation required as on 01.01.2016	Office where working as provided by the DSEK
01.	Mohammad Maqbool Wani	02.04.1960	Class-IV	55 years 08 months and 28 days	15 years 08 months and 28 days	DIET Shopian

Now, therefore, sanction is hereby accorded to the regularization of Sh. Mohammad Maqbool Wani S/O Late Ali Mohammad Wani R/O Norwa Pulwama working in School Education Department, as Class-IV in relaxation of rules.

By Order of the Government of Jammu and Kashmir.

Sd/-

(Shaleen Kabra)

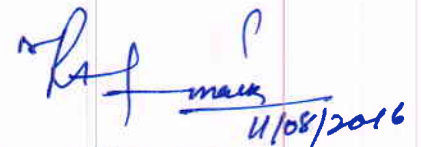
Commissioner/Secretary to Government
School Education Department

Dated: 11 -08-2016

No: Edu/Legal/K/275/2012-II

Copy to the:-

1. Director School Education, Kashmir for information and necessary action.
2. Chief Education Officer, Shopian for information and necessary action.
3. Pvt. Secretary to Commissioner/Secretary to Government, School Education Department.
4. I/C Website
5. Sh. Mohammad Maqbool Wani S/O Late Ali Mohammad Wani R/O Norwa Pulwama.
6. Govt. Order file (w.3.s.c)
7. Stock file


11/08/2016

(Mohammad Rafiq)

Under Secretary to Government
School Education Department