

Government of Jammu and Kashmir
School Education Department,
Civil Secretariat, J&K, Jammu

- Subject:- Representation Shri Anil Kumar Lecturer in the discipline of Mathematics to consider the regularization of the petitioner w.e.f 03-09-1993 as Lecturer on notional basis and thereafter re-fix his seniority at appropriate place as Lecturer.
- Ref:- Minutes of the Departmental Promotion Committee (DPC) meeting held on 11-08-2021, under the chairmanship of Principal Secretary to Government School Education Department in his office chambers.

Government Order No:- 115 -Edu of 2022

D a t e d :- 14-03-2022

Whereas, the Department has received a representation submitted by Shri Anil Kumar Raina, Master, Govt. Higher Hr. Sec. School Camp Bohri, Jammu wherein it was submitted that his junior counterparts have been promoted/regularized as Lecturers w.e.f 03.09.1993 and some of them had already been promoted as Sr. Lecturer.

Whereas, vide this department's communication dated 07.03.2019, the above representation of the applicant was forwarded to the Director School Education, Jammu for furnishing the detailed report in the matter.

Whereas, in response, the Joint Director (I/c Migrants) Directorate of School Education, Jammu vide his communication dated 16.03.2019, submitted that matter of Sh. Anil Kumar Raina was taken up with the Principal Camp HSS Bohri, Jammu for detailed report/recommendations in the matter. The concerned Principal has furnished the detailed report regarding the case and has recommended for his promotion as I/c Lecturer on the basis of seniority.

Whereas, the Joint Director (I/c Migrants) Directorate of School Education, Jammu has further informed that while going through the report and other relevant documents it has been observed that the Junior counterparts as mentioned in the report have been promoted/regularized as Lecturers, while the name of Sh. Anil Kumar Raina was dropped as per his seniority position for promotion as Lecturer in the discipline of Mathematics.

From the report furnished by the Principal Govt. Hari Singh HSS Migrant Camp Bohri, Jammu, the brief of the case is as under:-

- Service particulars of the applicant namely Mr. Anil Kumar Raina, Master:-

Name	Qualification	Desg.	DOB	Date of 1 st appt.	Date of promotion as Master	Year of passing PG (Maths)
Anil Kumar Raina	M.Sc (Maths) B.Ed	Master	25.03.1962	15.12.1983	15.06.2007	1989

- As per the photocopy of seniority list of PG Masters/ Teachers in the discipline of Mathematics issued vide Circular No. 13-Edu of 1994 dated 02.03.1994, the seniority of the applicant namely Mr. Anil Kumar Raina alongwith his junior counterparts stood at:

S.No.	Name of the applicant alongwith his	Seniority No.
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junior counterparts		
1	Anil Kumar Raina (applicant)	170
Junior counterparts		
1	Trilok Singh	193
2	Abdul Rashid Dar	194
3	Bashir Ahmad	195
4	Mohd Yasin	196
5	Ab Gani Wani	228

- The above five juniors have been promoted and regularized as Lecturers vide Government Order No. 1491-Edu of 2002 dated 31.12.2002 from the dates indicated against each:

S. No.	Name of the Junior Counterparts	Date of placement as I/c Lecturer	Date of Regularization as Lecturers on Notional Basis	Date of regularization as Lecturer on regular basis
1	Trilok Singh (S.No. 246)	03.09.1993	03.09.1993 to 31.12.2002	01.01.2003
2	Bashir Ahmad (S.No. 247)	03.09.1993	03.09.1993 to 31.12.2002	01.01.2003
3	Mohd Yasin (S.No. 248)	03.09.1993	03.09.1993 to 31.12.2002	01.01.2003
4	Ab Gani Wani (S.No. 249)	03.09.1993	03.09.1993 to 31.12.2002	01.01.2003
5	Abdul Rashid Dar (S.No. 247)	22.09.1993	22.09.1993 to 31.12.2002	01.01.2003

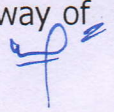
- Further, out of above 05 Lecturers, 04 have already been placed as Senior Lecturers with two increments. The detail is as under:

S. No.	Name	Date of placement as Senior Lecturer	Remarks
1	Mohd Yasin	w.e.f 25.02.2011	Vide G.O No. 1074-Edu of 2013 dated 30.12.2013 (cf-35)
2	Ab Gani Wani	w.e.f 25.02.2011	-do-
3	Trilok Singh	w.e.f 25.02.2011	-do-
4	Abdul Rashid Dar	Notionally w.e.f 25.02.2011 and regularly w.e.f 30.12.2013	Vide G.O No. 16-Edu of 2018 dated 03.01.2018 (cf 31)

The Principal Govt. Hari Singh HSS Migrant Camp Bohri, Jammu has recommended promotion/regularization of Mr. Anil Kumar Raina, Master:

- As Lecturer w.e.f 03.09.1993 (notionally) and w.e.f 01.01.2003 (regularly).
- As Senior Lecturer w.e.f 25.02.2011 (notionally) and w.e.f 30.12.2003 (regularly).

Whereas, Mr. Anil Kumar Raina, Master has represented for his promotion as Lecturer/ Sr. Lecturer from the dates his junior counterparts have been promoted after the gap of more than 16 years. Besides, the department has also received the grievance of the official from Service Grievance Cell. It is worthwhile to mention here that total 120 I/c Lecturers including 05 junior counterparts of the applicants (appearing at S.No. 246, 247, 248, 249 & 252) were promoted / regularized as Lecturer by way of



issuance of speaking order in terms of Government Order No. 1491-Edu of 2002 dated 31.12.2002.

Whereas, keeping the schools functional in the absence of timely availability of select lists of lecturers from PSC, the department has been making temporary arrangements in order to run the schools by picking up from Masters/ Teachers in their own pay and grade with charge allowance as I/c Lectures.

- Situation that has arisen in the state during the last more than 12 years, particularly in Valley of Kashmir and in the District of Doda and partly because of the difficulties of terrain in the Jammu Division, there is reluctance on the part of teachers to serve in the remote areas. They prefer to forego their promotions rather than serve in difficult areas. The department was thus obliged to pick up relatively junior officials for these promotions and this has naturally made it difficult to make promotions in a regular manner.
- The issue of regularization of services of various gazette cadres who were working in the incharge capacities was discussed a number of times and it was opinion of the department that one time departure from the prescribed procedure shall have to be made and all officers at all gazette levels working at present in their own pay and grade should be confirmed by relaxing the rules requiring regular promotion through the Public Service Commission.
- The case was re-examined in department and submitted to the Cabinet with the following resolution for approval:

"All officers of the Education Department presently working as I/c Principals, I/C ZEOs, I/C Headmasters & I/c Lecturers will be confirmed from the dates the post became available or from the date they were adjusted on these posts whichever be later. The Education Deptt without reference to the PSC/DPC will issue necessary orders.

5% vacancies in each cadre will be kept as for disposal of such cases as have been left out over the years for one reason or other. Their cases will also be disposed off by the department with the approval of the Hon'ble Education Minister."

- The Cabinet vide their Decision No. 165/15 dated 21.10.1998 conveyed approval to the proposal of the Education Department
- After receiving the cabinet approval, the Department started to prepare lists etc with full particulars on each discipline/ category and issued regularization orders in all most subjects **except in Math discipline** in accordance with the seniority and by doing this several I/c Lecturers were not regularized in the spirit of cabinet decision although those teachers/ masters were regularized who had never worked for a single day in Incharge capacity thus cabinet decision was defeated to some extent.
- No. of I/c Lecturers approached the Hon'ble High Court praying for strict implementation of the Cabinet Decision and directions to the effect were issued by the Hon'ble Court in many writ petitions from time to time.
- From the other side in Math discipline so many Incharge Lecturers having noticed the procedure adopted in other disciplines went to the Hon'ble High Court through the medium of writ petition No.SWP No. 1752/99 & CMP No. 2758/99 titled Sudesh Kumar & Others vs State of J&K and others and got the following interim directions:

- "-----No regularization orders shall be issued and the present status of the petitioners shall not be disturbed till the next date before the bench."
- On the directions of the Hon'ble High Court, the regularization in the discipline of Math subject was kept on hold. **However, the intention of the Cabinet decision as well as the memo that was submitted to the Cabinet was only to regularize those who volunteered to serve in far off/ risky places on the posts of lecturers during militancy when their seniors had shown unwillingness and a vacuum was created due to migration of people from valley.**
 - As a result of non implementation of Cabinet decision about a number of Masters/ Teachers who had worked as I/c lecturers under proper orders in various subjects were not regularized and these persons have been agitating since 1998 for implementation of the cabinet decision.
 - The case has been re-examined in the department and it has been decided to implement the Cabinet Decisions in its right perspective and regularize the service of those Incharge Lecturers who are working as such for so many years.
 - **Accordingly in pursuance of Cabinet Decision No. 165/15 dated 21.10.1998 and directions of the Hon'ble High Court in various writ petitions, sanction was accorded to the regularization of I/c Lecturers as shown against each in various disciplines including 120 I/c Lecturers in Math as per Annexure A to this order from the dates they have been placed as I/c lecturer through various Govt. Orders issued by the department from time to time.**

Whereas, later on, 29 I/c Lecturers/PG Masters/Teachers of Mathematics stream (Male category) claiming to have superior claim over the aforesaid 120 I/c Lecturers for promotion/ regularization as Lecturers approached Hon'ble High Court through the medium of various SWPs prayer to quash the aforesaid Government Order The Hon'ble High Court disposed of these SWPs on 03.08.2005 as follows:

"The settled legal position that emerges from the facts of this case and the law notice above, is that the statutory rules governing the regulation of seniority and promotion have to be adhered to and not to be violated in any manner that too by an administrative decision. In the present case, statutory rule of seniority rule has been contravened with impunity by resorting to wholesome promotions of juniors under the grab of prevailing situation ignoring the claims of the seniors in the cadre of service. This not only frustrates the cadre but also generates a sense of insecurity, which is against the spirit of rules, norms equities and logic. The power to relax rules also cannot be permitted to be exercised in manner so as to render the rules otiose. It also apparently looks a colorable exercise of power in arbitrary and hostile manner.

The impugned order is also in clear contravention of the directions of the Apex Court in Suraj Parkash Gupta's case (supra). The judgment was delivered 28.04.2000. Whereas the impugned order has been passed on 31.12.2002. As a matter of fact, the impugned order is also in violation of the direction dated 30.05.2002 of the Hon'ble Division Bench of the Court passed in LPA(SW) No.

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662/99. By no parameters, the impugned order is sustainable under law or can be allowed to operate. I allow these writ petitions and quash the impugned order dated 31.12.2002 as regards the discipline of Math. As a consequence of quashment of impugned order, the resultant vacancies of Lecturers in the discipline of Math are directed to be filled up on the basis of seniority and in accordance with the J&K Education (G) Service Recruitment Rules, 1992."

Whereas, in the above said Government Order i.e., Government Order No. 322-Edu of 2006 dated 23.05.2006, sanction was accorded for revocation of Government Order No. 1491-Edu of 2002 dated 31.12.2002 so far as it relates to the regularization of 120 I/c Lecturers of Mathematics (including 05 Lecturers and accordingly revised list of promotion/ regularization of PG Masters and Teachers/ I/c Lecturers in the discipline of Mathematics as per Annexure A & B (119+9 officials at sub para v) from the dates indicated against each in pursuance of Hon'ble High Court judgment dated 03.08.2005 in SWP No's 17/03, 59/03 etc. However, in the above new revised list of 119+9 officials, the name of 05 officials Juniors of Mr. Anil Kumar Raina) were not appeared in the said list. Besides in the said Government Order some more Government Orders regarding promotion/ regularization as Lecturers in Mathematics (in respect of Shri Bansi Lal, K.K.Sethi & Rajinder Singh) were also withdrawn in pursuance to the Court orders.

Whereas, vide Government Order Nos. 825-Edu of 2010 dated 26.11.2010 and 575-Edu of 2013 dated 30.05.2013, in pursuance to Hon'ble High Court Orders dated 07.06.2005 and 27.02.2012, it was ordered that sub-para ii, iii & iv of para 8 (page 2nd) of Government Order No. 322-Edu of 2006 dated 23.05.2006 issued under endorsement No. Edu/V/W/6/2006 dated 23.05.2006 shall and shall always deemed to have been deleted ab-initio so far it relates to the petitioners Shri Bansi Lal/ kamal Kishore Sethi & Rajinder Singh.

Whereas, vide Government Order No. 196-Edu of 2008 dated 10.04.2008, updated list of PG Masters/ Teachers in the discipline of Mathematics was issued and the seniority of the applicant namely Mr. Anil Kumar Raina alongwith his junior counterparts stood at:

S.No.	Name of the applicant alongwith his junior counterparts	Seniority No.
1	Anil Kumar Raina (applicant)	396
Junior counterparts		
1	Trilok Singh	408
2	Abdul Rashid Dar	409
3	Bashir Ahmad	410
4	Mohd Yasin	411
5	Ab Gani Wani	427

Whereas, the case file referred to Legal Section for seeking a report from Legal Section whether G.O No. 322-Edu of 2006 dated 23.05.2006 regarding revocation of Government Order No. 1491-Edu of 2002 dated 31.12.2002, so far as it relates to the regularization of 120 I/c Lecturers of Mathematics (sub-para i of para 8, page 2nd) had actually been implemented or otherwise, so that grievance made by Mr. Anil Kumar Raina, PG Master Mathematics shall be examined under rules.

Whereas, Legal Section has informed that the order of the Hon'ble High Court has been implemented in letter and spirit by the department by way of Government Order No. 825-Edu of 2010 dated 26.11.2010 and the conditions mentioned at para II, III and IV in the Government Order No. 322-Edu of 2006 dated 23.05.2006 has been withdrawn in respect of Sh. Bansi Lal only, department may proceed accordingly.

Whereas, as per the above contents, sub-para i of para 8 of Government Order No. 322-Edu of 2006 dated 23.05.2006 regarding revocation of Government Order No. 1491-Edu of 2002 dated 31.12.2002, so far as it relates to the regularization of 120 I/c Lecturers of Mathematics (including 05 Lecturers mentioned still stands on records.

As per the particulars of applicant namely Mr. Anil Kumar Raina, PG Master, it seems that his grievance is genuine as his junior counterparts have already been promoted as Senior Lecturer and some of them promoted as Principals.

Whereas, in light of the above, the instant case was placed before the Departmental Promotion Committee (DPC) held on 11-08-2021 to consider the regularization of the petitioner w.e.f 03.09.1993 as Lecturer on notional basis and thereafter re-fix his seniority at appropriate place as Lecturer so that his further elevation is examined on such stone of rules to be ratified by the Designated Committee/DPC,.

Whereas, the Departmental Promotion Committee, (DPC) held on 11-08-2021 recommended the case which is reproduced as under:-

“The case was examined in the Committee and it was decided to consider regularization of petitioner w.e.f 03-09-1993 as Lecturer on notional basis and thereafter re-fix his seniority at appropriate place as Lecturer.

Now, therefore, in pursuance to recommendation of Departmental Promotion Committee(DPC) held on 11-08-2021, sanction is hereby accorded to the grant of notional benefit of promotion in favour of ShriAnil Kumar Raina, **w.e.f 03-09-1993** as Lecturer in the discipline of Mathematics for the seniority purposes only.

By Order of the Government of Jammu & Kashmir

Sd/-

(B.K. Singh)

Principal Secretary to Government

Dated:- 14 -03-2022

No:- Edu/HRM/262/2021-01

Copy to the:-

1. Joint Secretary, J&K, Ministry of Home Affairs , Government of India ,New Delhi
2. Director ,Archives ,Archology & Museum J&K, Jammu
3. Director, School Education, Jammu/Kashmir.
4. OSD to Advisor (B) for information Hon'ble Advisor.
5. Private Secretary to Principal Secretary to Government School Education Department.
6. Concerned.
7. Government Order file (w.3.s.c)
8. In-charge website/Stock file.

(Umesh Sharma) JKAS

Deputy Secretary to Government