



Government of Jammu and Kashmir
Civil Sectt: School Education Department
(Gazetted Section)
J&K, Srinagar

Subject:- SWP No. 1178/2013, CMP No. 1880/2013 titled Amanullah Khan Vs State and others.

Government Order No:- 130-Edu of 2017
D a t e d 20 :- -03- 2017

Whereas, vide Govt. Order No. 946-Edu of 2004 dated 27.12.2004 among others, Shri Amanullah Khan, Master HSS Pahlipora was placed as I/C Lecturer in his own pay and grade in the discipline of Persian with the stipulation that the promotee shall report to concerned Directorate within 21 days from the date of issue of the said order; and

Whereas, the said Govt. order prima facia implies that in case the beneficiary fails to join /submit the requisite documents within the stipulated period of 21 days, it shall be deemed that he/she has forgone the elevation and his/her placement as I/C Lecturer shall be withdrawn without issuing any further notice; and

Whereas, Shri Amanullah Khan has claimed that the order was not served to him and therefore could not submit his documents in the Directorate of School Education; and

Whereas, the petitioner was not allowed to join in the Directorate after elapse of joining time on the grounds that he has failed to join in the Department within the stipulated time; and

Whereas, aggrieved by this, the petitioner filed SWP No. 1178/2013 before the Hon'ble Court and the Hon'ble Court has disposed of the writ petition vide order dated 02.04.2015, the operative part of which is as under:-

" Having regard to what has been stated hereinabove; the writ petition succeeds and is allowed as such. Respondents are directed to consider the case of the petitioner for treating him to be a Lecturer right from 27.12.2004 till he attained the age of superannuation viz 31.08.2005. The petitioner is held entitled to the difference of pay as would exist between the pay scale of Master and Lecturer from the date of promotion till he superannuated. He is also held to be entitled for fixation of pension as would accrue to him had he retired as Lecturer and all consequential benefits thereof".

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Whereas, the petitioner filed Contempt petition No. 682/2015 before the Hon'ble Court against the official respondents and submitted representation for consideration of his case; and

Whereas, Director School Education, vide Order No. 2468-DSEK of 2015 dated 17.09.2015 elevated petitioner as I/C Lecturer w.e.f 27.12.2004 till he attained the age of superannuation viz 31.08.2005. He was also held to be entitled for fixation of pension as would accrue to him had he retired as Lecturer and all consequential benefits thereof; and

Whereas, the competence to elevate a Master/Teacher as I/C Lecturer vests with the Administrative Department and as such order No. 2468-DSEK of 2015 dated 17.09.2015 of Director School Education, Kashmir having been issued without jurisdiction was rescinded vide Govt. Order No. 202-Edu of 2016 dated 01.06.2016; and

Whereas, LPA against the order/judgement dated 02.04.2015 passed in SWP No. 1178/2013 before the Hon'ble Division along with the application for Condonation of Delay(CoD), was filed before the Hon'ble Court; and

Whereas, CoD No. 167/2016 was listed before the Hon'ble Division Bench on 21.10.2016 with the following directions:-

"The order of this court was passed on 02.04.2015 and the decision to file appeal was taken only on 10.08.2016. Before the said date, the writ petitioner preferred Contempt petition No. 682/2015 and he Director School Education has passed an order dated 17.09.2015 implementing the order of this Court. However, that order was cancelled by the Commissioner/Secretary to Government, Education Department by order dated 01.06.2016. Thus, the department was fully aware of the order passed by this Court right from the Director of School Education up to the Secretary to Government, Education Department. Thus, the delay has not been properly explained".

Whereas, the matter was examined in light of the directions passed by the Hon'ble Division Bench dated 21.10.2016 in consultation with the Department of Law, Justice & PA and it has been decided to implement the orders of the Hon'ble Court dated 02.04.2015.

Now, therefore, Mr. Amanullah Khan, Master HSS Pahilpora Baramulla shall and shall always be deemed to be elevated as I/C Lecturer w.e.f 27.12.2004. Consequent upon above, he would be entitled to fixation of pension as would accrue to him had he retired as I/C Lecturers & consequential benefits thereof.

By order of the Government of Jammu and Kashmir.



Sd/-

(Shaleen Kabra)

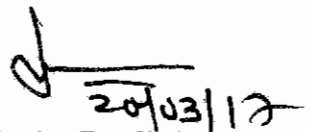
Principal Secretary to Government
Education Department

No:- Edu/L/K/56/2015

Dated:- 20 .03.2017

Copy to:-

1. Secretary Board to Technical Education, J&K, Srinagar.
2. Director School Education, Kashmir.
3. Additional Advocate General, J&K High Court, Srinagar.
4. OSD to the Hon'ble Minister for Education for kind information of the Hon'ble Minister.
5. Special Assistant to the Hon'ble MoS for Education for kind information of the Hon'ble Minister.
6. Pvt. Secretary to Principal Secretary to Government, School Education Department.
7. Concerned.
8. I/C Website
9. Government Order file/Stock file.


(Sanjay Pandita)
Under Secretary to Government
School Education Department