



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

(Legal Section)

Subject: CPSWP No. 81/2017 in SWP No. 1217/2008, titled Manju Gupta
V/S State and others.

Government Order No: 240 - Edu of 2019

D a t e d: 16 - 07 - 2019

Whereas, after superannuation from service i.e. on 31.10.2008, the petitioner filed writ petition bearing SWP No: 1217/2008, titled Manju Gupta Vs State and others wherein the petitioner has prayed to grant pay and grade of the post of Headmaster (6700-10,700 w.e.f. 22.01.2003 & 8000-12950 w.e.f. 04.01.2005) to the petitioner with all consequential benefits of allowances, periodical increment w.e.f. 22.01.2003, from the date she was appointed to the said post and to convene DPC for regularization of the petitioner to the post of Head Master with effect w.e.f. 22.01.2003.

Whereas, the Hon'ble High Court vide order dated 04.10.2012, disposed of the writ petition of the petitioner. The relevant portion whereof is reproduced as under:-

"In the given circumstances, this petition is disposed of by providing that writ petition would be treated as a representation and the respondents are directed to accord consideration to the case of the petitioner in the light of the averments made in the petition and the rules governing the field, of course, within a period of two months from the date a copy of the order along with a copy of petition and its annexures are served upon them. It goes without saying that if the consideration order goes against the petitioner, she would be at liberty to challenge the same, if so advised".

Whereas, pursuant to the orders passed by the Hon'ble High Court the matter was examined in the Department and it was found that the School Education Department vide Government Order No. 684-Edu of 2012 dated 04.09.2012, 2529 Masters working/worked as I/C Headmasters and equivalent were regularized as Headmasters from different dates on the basis of seniority of Masters (worked/working as I/c Headmasters and equivalent) updated/fixed vide Government Order No. 618-Edu of 2012 dated 02.08.2012.

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Whereas, the regularization of the petitioner was not ordered due to the fact that the name of the petitioner was not included in the seniority list.

Whereas, that while updating/fixing the seniority of Masters (who worked/working as I/C Headmasters and equivalent), objections were obtained twice from the concerned through Director School Education, Kashmir/Jammu. However, the petitioner has not filed any objection with regard to her seniority.

Whereas, vide communication No. Edu/L/J/136/2013 dated 28.06.2013, followed by reminder dated 25.02.2015, the Director School Education, Jammu was requested to furnish the service particulars of the petitioner duly authenticated by the competent authority.

Whereas, the Director School Education, Jammu vide communication No. DSEJ/Legal/12630 dated 11.07.2015, intimated that the petitioner was promoted as I/C Headmaster and adjusted at HS Sangpur District Rajouri vide Order No. DSEJ/GAZ/3158-3207 dated 22.01.2003, subject to condition that in case any Master fails to join his/her new place of posting within 21 days he/she shall forfeit the claim of promotion. The benefit of in-situ promotion already granted to him/her shall also in the event stand forfeited, but the petitioner did not join as I/C Headmaster and continued to serve as Master at MS Dhountil.

Whereas, the petitioner approached the Hon'ble High Court through SWP No. 167/2003 titled Manju Gupta Vs State and others before the Hon'ble High Court challenging the transfer order dated 22.01.2003, so far it relates to the petitioner.

Whereas, the petitioner did not join physically on her promotion in terms of promotion order dated 22.01.2003, and as such her promotion was withdrawn vide Order No. DSEJ/Gaz/2682-83 dated 14.12.2004, issued by Director School Education, Jammu.

Whereas, in the meantime the Hon'ble High Court vide its order dated 16.03.2007 in SWP No. 167/2003, passed the following order:-

"Keeping in view the averments made in the petition I deem it proper to quash the impugned order so far it relates to the petitioner. Respondents are at liberty to pass fresh order keeping in view the health conditions of the petitioner".



Whereas, in compliance to the Hon'ble High Court order dated 16.03.2007, the petitioner was again placed as I/C Headmaster and adjusted in HS Simbal Camp against the available vacancy of Headmaster vide Director School Education, Jammu's order No. DSEJ/W/295-99 dated 04.05.2007 with the same terms and conditions as laid down in order dated 22.01.2003.

Whereas, in the above mentioned orders, clear cut instructions were issued to the newly promoted I/C Headmasters that they shall join the new place of posting within 21 days, otherwise their placement shall be cancelled. Since the petitioner had not joined her new place of posting at the relevant point of time and not worked as I/C Headmaster till 04.05.2007. The claim of the petitioner for retrospective effect of her placement as I/C Headmaster w.e.f. 22.01.2003 is not justified as per standing rules.

Now, therefore, in view of the above and in compliance to the Hon'ble High Courts order dated 04.10.2012, passed in SWP No. 1217/2008, the claim of the petitioner has been considered and found not in consonance with the rules and, hence rejected.

By Order of the Government of Jammu and Kashmir.

Sd/-

(Sarita Chauhan) IAS

Commissioner/Secretary to Government
School Education Department

Dated: 16/07/2019

No: Edu/Legal/J/136/2013

Copy to the:-

1. Director School Education, Jammu. She is requested to get the compliance report filed in contempt petition bearing No. CPSW No. 81/2017, before the Hon'ble High Court on the basis of above said Government order.
2. Sh. Ravinder Gupta, Ld. Advocate General, J&K High Court, Jammu for information and necessary action.
3. Chief Education Officer, Jammu.
4. Pvt. Secy. to Commr./Secy. to Government, School Education Deptt. for inf.
5. Smt. Manju Gupta W/o Shiv Kumar Mathur R/o Trikuta Nagar, Jammu
6. Incharge Website
7. Govt. Order file (w.3.s.c)
8. Stock file.

(Javed Ahmed Shagoo)

Additional Secretary to Government
School Education Department