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**Government of Jammu and Kashmir
School Education Department
Civil Secretariat, Srinagar**

**Subject:- Contempt No.89/2016 in SWP No.2118/2014 titled Syed Gulzar Ahmad
V/s State and others.**

Government Order No. 339—Edu of 2017

D a t e d : 20 - 06 - 2017

Whereas, among others, Syed Gulzar Ahmad, then Teacher, GHSS Ompora was elevated as I/C Lecturer vide Govt. Order No.736-Edu of 1991, dated 25.07.1991 and subsequently was regularized as Lecturer (Chemistry) w.e.f 25.07.1991, vide Government Order No.733-Edu of 2000, dated 06.07.2000. Vide this department's letter No.Edu/V/ 91/ 2000, dated 29.09.2000, the DSE K/J were asked to verify the genuineness of qualification of regularized Lecturers with reference to original PG certificates and share the findings of such verification; and

Whereas, the then DSE, Kashmir constituted a Committee of four members to verify the qualification of all the Lecturers who are regularized or working as I/C Lecturers. On the basis of report of the said Committee, the promotion/ regularization order in respect of 56 Lecturers was cancelled vide Govt. Order No.266-Edu of 2003, dated 12.03.2003, and they were reverted to their original posts which they were holding prior to their placement as I/C Lecturers. Besides, DDOs were asked to recover the excess amount drawn by these Lecturers by virtue of their promotion/ regularization as Lecturers; and

Whereas, the matter was referred to IGP, Crime & Railways for registration and investigation of the case alleging therein that they have failed to produce their genuine PG Degree/ Certificates. Accordingly, the Crime Branch, Srinagar, had registered a case under FIR No.26/2003 for the commission of offences. Besides, on the recommendations of the Screening Committee/ DSE, Kashmir, Government Order No.266-Edu of 2003 dated 12.03.2003 was partially modified and rescinded in respect of the 19 Lecturers vide Government Order No.1033-Edu of 2003, dated 08.07.2003, including Syed Gulzar Ahmed figuring at S.No.19 in the said Government Order; and

Whereas, on 20.01.2004, the Crime Branch submitted a report which revealed that PG degrees/ Marks Certificate of 56 Lecturers were found genuine during the course of investigation. However, the Crime Branch reported that PG degrees/ marks certificate of two Lecturers, namely Syed Gulzar Ahmed and Mr.Gh.Nabi Dar, were found fake on the basis of which the Government Order No. 1033-Edu of 2003 dated 08.07.2003 was modified & revoked in respect of Syed Gulzar Ahmad vide Government Order No.461-Edu of 2004 dated 14.05.2004; and

Whereas, after completion of investigation by the Crime Branch, challan was produced against the petitioner & one Gh. Nabi Dar in the Court of 1st Additional Session Judge, Srinagar on 14.12.2006 for trial. After completing the trial, a judgment was passed by the Hon'ble Court on 18.2.2013 whereunder the accused was discharged. The operative portion of the said judgment is reproduced as under:-

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"There is no iota of evidence against the accused persons. The prosecution has badly failed to prove the charges leveled against the accused person hence the accused persons are acquitted of the commission of offence for which they are charged in the present case, their surety and personal bonds shall stand discharge. File be consigned to record after due completions under rules".

Whereas, after being discharged by the 1st Additional Session, Judge, Srinagar, the petitioner approached the Hon'ble High Court (HHC) by way of a writ petition, SWP No.2118/ 2014 and the HHC vide its order dated 17.11.2014 directed as under:-

"Notice in CMP also returnable within same period. Meanwhile, respondents shall consider the claim of the petitioner with reference to his acquittal".

Whereas, on 08.02.2016, the DSE, Kashmir was requested to furnish the report regarding the genuineness of the certificates, on the basis of which, Syed Gulzar Ahmed is claiming promotion benefits, to enable the Department to comply the Hon'ble High Court order dated 15.11.2004 in its letter and spirit; and

Whereas, the Director School Education, Kashmir vide communication No: DSEK/ Legal/ 57/ 14/ Gaz/ 171, dated 07.04.2016, has intimated that the writ petition of the petitioner came to be disposed of by the Hon'ble High Court vide order dated 03.12.2015, the operative portion of which is reproduced as under:-

"Writ petition alongwith connected IAs is disposed of and respondent No: 1 is directed to consider and take decision on compunction dated: 26th November 2006, send to him by Director School Education, Kashmir, preferably within eight weeks from the date, copy of this order is served on him"

Whereas, as there was typographical error in the order dated: 03.12.2015, the petitioner again approached the Hon'ble High Court, and the HHC vide order dated 04.02.2016 passed the following order:-

"In this application, it is prayed that the typographical mistake has crept in the order dated 3rd December, 2015 passed in CMP No: 01/2015 in SWP No: 2118/2014.

It is submitted that the date of communication has been written as 26th November, 2006 instead of 26th November, 2014.

In view of the submission made and the grounds urged in the application, same is allowed. The communication dated 26th November, 2006 shall be read as 26th November, 2014.

This order shall be deemed to be part of the order dated 3rd December, 2015. The eight weeks time will commence from the date copy of the order dated 3rd December, 2015 and the copy of this order served upon the respondents"

Whereas, the petitioner has also initiated contempt proceedings against the Department, bearing Contempt No: 89/2016 in SWP No: 2118/2014. The Hon'ble High Court in the said Contempt Petition has passed the following orders on 19.2.2016:-

***"Notice returnable within two weeks
List after two weeks.***

In the meantime, compliance report be filed

Whereas, pursuant to the orders of the Hon'ble High Court, the DSEK was requested on 08.02.2016 to furnish the report regarding the genuineness of the certificates, on the basis of which Syed Gulzar Ahmed is claiming promotion benefits. In response, the DSE, Kashmir vide letter No.DSEK/ Legal/ 57/ 14/ Gaz/ 171, dated 07.04.2016, has intimated that, among others, the petitioner had produced the requisite certificates before the Screening Committee and the said Committee has already cleared/ recommended that the case of petitioner be considered in light of the Hon'ble Court directions.

Whereas, in view of the clearance by the Screening Committee/ recommendations of DSEK/ acquittal of the petitioner by the 1st Additional Session Judge, Srinagar and on the directions of the Hon'ble High Court, the position of Syed Gulzar Ahmad was restored as Lecturer (Chemistry) vide Government **Order No.352-Edu of 2016 dated 23.09.2016** in partial modification to Government Order No.461-Edu of 2004 dated 14.05.2004, so far as it relates to the petitioner. It was further ordered that the DSE, Kashmir shall carefully examine his degrees and the aspects of permission for pursuing the same and if there is anything amiss, he shall take further necessary action under rules.

Whereas, the DSE, Kashmir vide his Order No.1678-DSEK of 2016 dated 30.11.2016 posted Syed Gulzar Ahmad as Lecturer (Chemistry) in HSS Sholipora against the available vacancy. The DSEK has recommended the case of the petitioner for fixation of his seniority at appropriate place as per following service particulars in the seniority lists of Lecturers and Senior Lecturers:-

| Name | Date of Birth | Date of appointment as teacher | Subject | Year of passing PG | Date of placement as I/C Lecturer | Date of regularization as Lecturer |
|-------------------|---------------|--------------------------------|-----------|--------------------|-----------------------------------|------------------------------------|
| Syed Gulzar Ahmad | 01.01.1962 | 19.01.1985 | Chemistry | 1990 | 25.07.1991 | 25.07.1991 |

Whereas, owing to the restoration of position of Syed Gulzar Ahmad as Lecturer (Chemistry) w.e.f 25.07.1991, the case has been examined in consultation with Public Law Officer of the School Education Department; wherein it has been decided to fix the seniority of Mr.Syed Gulzar as Lecturer with further placement as Senior Lecturer and also fix his seniority as Senior Lecturer at appropriate places.

Now, therefore, in view of above backgrounds of the case, sanction is hereby accorded to the:-

- a) **Fixation of seniority** of Syed Gulzar Ahmad as Lecturer (Chemistry) at **seniority No.1141-B**, between S/Shri Firdous Ahmad Asmi (Seniority No.1141-A) and Mohd Shafi Baba (Seniority No.1142) in the combined final seniority List of +2 Lecturer issued vide Government Order No.350-Edu of 2003 dated 31.03.2003.
- b) **Placement** of Syed Gulzar Ahmad, Lecturer (Chemistry) as Senior Lecturer in the pay scale of Rs.7500-12000 w.e.f 16.03.2005 i.e the date when his juniors/ seniors have been placed as Senior Lecturers vide Government Order No.136-Edu of 2005 dated 16.03.2005.

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- c) **Fixation** of seniority of Syed Gulzar Ahmad as Senior Lecturer at **seniority No.729-A** between S/Shri Firdous Ahmad Asmi (Seniority No.729) and Mohd Shafi Baba (Seniority No.730) in the updated/ final seniority List of Senior Lecturers issued vide Govt. Order No.270-Edu of 2013 dated 12.03.2013.

By order of the Government of Jammu and Kashmir.

Sd/-
(Farooq Ahmad Shah) IAS
Secretary to Government
School Education Department

No: Edu/ L/ K/ 130/ 2013-II

Dated: 20.06.2017

Copy to the:-

1. Additional Advocate General, Hon'ble High Court, Srinagar.
2. Director School Education, Kashmir.
3. OSD to Hon'ble Minister for Education for information of the Hon'ble Minister.
4. Special Assistant to Hon'ble Minister of State for Education for information of the Hon'ble Minister.
5. Public Law Officer, School Education Department.
6. Concerned.
7. Private Secretary to Secretary to Government, School Education Department.
8. PA to Additional Secretary to Government, School Education Department.
9. I/C Website, School Education Department.


(Mussarat Islam)

Additional Secretary to Government
School Education Department

