



GOVERNMENT OF JAMMU AND KASHMIR
SCHOOL EDUCATION DEPARTMENT,
CIVIL SECRETARIAT JAMMU/KASHMIR
(Legal Section)

Subject:- SWP No: 2649/2013 CMP No: 4306/2013 titled Mohammad Sidiq Lone and others V/S State and others.

Government Order No: 326 - Edu of 2016

D a t e d: 05 - 10 - 2016

Whereas, Sh. Mohammad Sidiq Lone and others filed the above titled writ petition before the Hon'ble High Court with the following reliefs:-

- I. direction including one in the nature of mandamus declaring the impugned treatment given by the respondents to the petitioners in the matter of regularization of officiating promotion to the post of Head Master/equivalent post vis-à-vis the treatment given to the beneficiaries of Government Order No: 684-Edu of 2012 dated:4.9.2012, including those promoted on officiating/incharge basis to the post of Head Masters/equivalent.
- II. commanding the respondents in particular respondent No: 1 to give/accord in faithful compliance with the mandate of Equal opportunity Clause/equality Clause enshrined in Article 14 and 16 of the constitution of India, treatment to the petitioners in the matter of regularization of officiating promotion to the post of Headmasters/Equivalent similarly and on par as has been given/accorded by the respondent No: 1 to the Incharge Headmasters vide Government Order No: 684-Edu of 2012 dated: 4.9.2012.

Whereas, the Hon'ble High Court vide its order dated 28.7.2015 disposed of the writ petition of the petitioners, the relevant portion whereof is reproduced as under:-

"...This writ petition alongwith connected CMP(s) is disposed of and respondents are directed to accord consideration to the claim of the petitioners for being appointed by way of promotion on the post of Head Master on regular and substantive basis from the date they have been promoted on officiating basis on the posts of Head Master which treatment has been meted to other similarly circumstances persons.

Respondents to complete the aforesaid exercise and pass orders within eight weeks from the date copy of this order is served.

Respondents are further directed to give all service benefits to the petitioners in consequence of passing of orders of promotion on regular basis in favour of the petitioners".

Whereas, the case of the petitioners in compliance to the directions of the Hon'ble High Court have been examined;

Whereas, on examination it has been found that a committee was constituted vide Government Order No: 73-Edu of 2012 dated 4.2.2012 reads with corrigendum dated 15.2.2012 for purposes of regularization of officers of the School Education Department;

Whereas vide Government Order No: 618-Edu of 2012 dated: 2.8.2012, a final seniority list of Masters (working/worked as I/C Headmasters) comprising of 3911 members were issued including the petitioners;

Whereas, on the basis of said seniority, the department prepared regularization proposal of eligible Masters (worked/working as I/C Headmasters) against the available 2533 posts of Headmasters fallen vacant and placed before the Committee constituted for the purpose in pursuant to the Cabinet Decision No: 225/2011 dated 16.12.2011;

Whereas, on the recommendations of the committee, 2529 I/C Headmasters & equivalent were regularized as Headmasters vide Government Order No: 684-Edu of 2012 dated: 4.9.2012;

Whereas, at the time of retirement of the petitioners there was no clear vacancy of Headmasters or equivalent against which the petitioners would claim regularization, as such to claim for regularization/confirmation against non-existent vacancy is de hors of rules;

Now, therefore, in view of the above, the claim of the petitioners have not been found in consonance with the rules and rejected accordingly.

By Order of the Government of Jammu and Kashmir.

Sd/-

(Shaleen Kabra)

Commissioner/Secretary to Government
School Education Department

No: Edu/Legal/K/13/2014

Dated: 05 -10-2016

Copy to the:-

1. Director School Education, Kashmir for information and necessary action.
2. Ld. Deputy Advocate General, J&K High Court, Srinagar for information and necessary action.
3. Pvt. Secretary to Commissioner/Secretary to Government, School Education Department for information of Commissioner/Secretary.
4. Incharge Website
5. Mohammad Sidiq Lone S/O Mohammad Khalil Lone R/O Wampora Gurez.
6. Incharge Website
7. Govt. Order file (w.3.s.c)
8. Stock file.

(R.K. Misri)

Under Secretary to Government
School Education Department