



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

(Legal Section)

Subject: SWP No: 1561/2014 titled Tabasum Tanveer Ahmad Bhat V/S State and others.

Government Order No: 531 - Edu of 2015

D a t e d : 19 - 10 - 2015

Whereas, Sh. Tabasum Tanveer Ahmad Bhat filed SWP No:1561/2014 before the Hon'ble High Court seeking appointment against the post of Junior Assistant in terms of Rule 3 of SRO-43; and

Whereas, the Hon'ble High Court vide its order dated: 22-07-2014 passed the following order:-

"This writ petition alongwith connected IA(s) is disposed of and respondents are directed to consider the claim of the petitioner for his appointment against the vacancy in lowest rank in non-gazetted services in light of the aforesaid judgment of the court.

Respondents to consider and take decision on the claim of the petitioner within eight weeks from the date copy of this order is served".

Whereas, in pursuance to the direction of Hon'ble High Court order dated: 22-07-2014, the case of petitioner has been examined by the Department and found that the case of the petitioner was referred to General Administration Department for grant of relaxation in upper age bar by 01 years 07 months and 14 days as on 01.01.2012 for his appointment as Class-IV; and

Whereas, the General Administration Department vide O.M. No: GDC-482/CM/2011-SRO dated: 31.7.2012 conveyed approval to the temporary appointment of the petitioner as Class-IV in School Education Department in District Cadre Bandipora in relaxation of provisio to Sub Rule (1) of Rule 3; and

Whereas, accordingly, petitioner was appointed as Class-IV in the School Education Department District Cadre Bandipora under SRO-43 of 1994; and

Whereas, case of the petitioner stand settled as applicant had accepted appointment offered to him and so he cannot thereafter claim to the appointment on higher post on the basis of higher qualification or any other grounds whatsoever; and

Whereas, the Apex Court has also observed that compassionate appointment cannot be claimed as a matter of right, as it is not a vested right; and

Whereas, compassionate grounds has been carved out in order to remove the financial constraints on the bereaved family which has lost its bread earner; and

Whereas, claim for appointment to higher post is not sustainable, on the basis of higher qualification or any other ground, whatsoever, as the object is only to alleviate the financial distress of offering sustenance; and

Whereas, every appointment to public office must be made by strictly adhering to the mandatory requirements of Article 14 and 16 of the constitution.

Now, therefore, claim of petitioner for appointment as Junior Assistant is devoid of merit, hence rejected.

By Order of the Government of Jammu and Kashmir.

Sd/-

(Shaleen Kabra)

Commissioner/Secretary to Government
School Education Department

Dated: 19-10-2015

No: Edu/Legal/K/149/2014

Copy to the:-

1. Sh. Shabir Ahmed Naik, Sr. Additional Advocate General, J&K High Court, Srinagar for information and necessary action.
2. Director School Education, Kashmir for information and necessary action.
3. Chief Education officer, Bandipora for information and necessary action.
4. Pvt. Secretary to Commissioner/Secretary to Government, School Education Department for information of Commissioner/Secretary.
5. Sh. Tabasum Tanveer Ahmad Bhat S/O Sh. Mohammad Bhat R/O Aragam Bandipora.
6. Incharge Website
6. Govt. Order file (w.3.s.c)
7. Stock file.

(Kanchan Bala)

Under Secretary to Government
School Education Department