



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

Subject: SWP No: 1557/2012 titled Farooq Ahmad Ganai V/S State and others.

Government Order No: 572 - Edu of 2017

D a t e d: 24 - 08 - 2017

Whereas, the J&K Services Selection Board issued an advertisement notice No. 1 of 2008 dated 22.04.2008 invited applications from the eligible candidates for the posts of Teacher, District Cadre Bandipora ; and

Whereas, the Service Selection Board published the selected list of the candidates recommended for appointment on 22.01.2009 along with the waiting list of 25 candidates under open merit and the petitioner was figuring at Serial No. 21; and

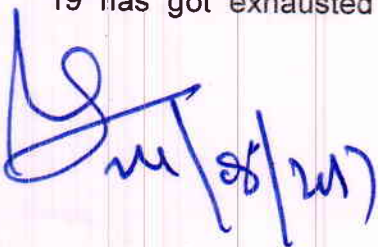
Whereas, the number of candidates did not join, thereby leaving some posts vacant, as a result waiting list was operated and exhausted up to serial No. 19; and

Whereas, one candidate namely Reyaz Ahmad Lone S/O Abdul Rehman Lone selected as Teacher and was figuring at serial No. 81 in the select list resigned from his post on 21.05.2010; and

Whereas, the Chief Education Officer, Bandipora vide letter No. CEO/Bpr/Estt/1297 dated 12.06.2010 intimated the Director School Education, Kashmir about the resignation of Sh. Reyaz Ahmed Lone and further submitted particulars of the petitioner figuring at serial No. 21 in the waiting list under OM category; and

Whereas, it was also communicated to the Director School Education, Kashmir by the Chief Education Officer, Bandipora that waiting list upto serial No. 19 has got exhausted and the candidate namely Manzoor-ul-Haq S/O Mohd.

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(m/28/21)

Sharif Din R/O Arin Bandipora figuring at serial No. 20 in the waiting list under OM category has already got appointed as 3rd Teacher in the Department from 18.10.2008; and

Whereas, the Department as one time dispensation, taken a decision vide Government Order No. 185-Edu of 2011 dated 14.03.2011 in consultation with the Department of Law, Justice and Parliamentary Affairs regarding the filing of vacancies accrued due to resignation of the candidates after their appointment as Teachers, in order to stop the wastage of time of the school going children due to deficiency of teaching staff; and

Whereas, Shri, Manzoor-UI-Haq who was figuring at serial No. 20 of the waiting list find in place at serial No. 7 in the Annexure-A of the Government Order No. 185-Edu of 2011 dated 14.03.2011; and

Whereas, Shri, Manzoor-UI-Haq withdrew himself from his selection as Teacher by furnishing duly executed affidavit dated 05.04.2011 attested by the Chief Judicial Magistrate Bandipora, in view of the fact of already being absorbed in the Department as 3rd Teacher; and

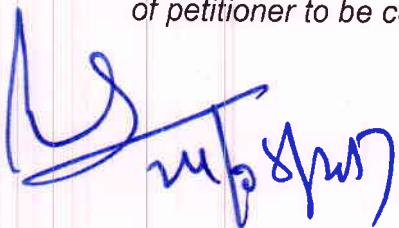
Whereas, the petitioner approached the Hon'ble High Court by filing SWP No. 1557/2012 and sought following reliefs:-

- I. Writ of certiorari quashing the name of private respondent from Annexure-A to the Government Order No. 185-Edu of 2011 dated 14.03.2011.
- II. Writ of Mandamus commanding the respondents to issue appointment order in favour of the petitioner as general line teacher being next in queue in the waiting list at serial No. 21 being entitled to take the benefit of one time dispensation as per Government Order No. 185 Edu of 2011.

Whereas, the said petition came to be disposed of on 06.08.2015, with the following directions:-

"As a result of the said Government order, in Annexure "A" name of the Mohammad Manzoor-ul-Haq amongst others was recommended as figured in the list. The case of the petitioner is that Mohammad Manzoor-ul-Haq was already appointed somewhere else, the next candidate in the wait list was the petitioner as is clearly reflected in the communication of the Chief Education Officer, Bandipora addressed to the Director School Education Kashmir dated: 12.6.2010 but due to inadvertence instead o Farooq Ahmad Ganie, in Annexure "A" name of Mohammad Manzoor-ul-Haq was reflected, hence the instant petition by the petitioner seeking the name of petitioner to be considered for appointment against the post as has

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become available in view of the resignation by Mr. Riyaz Ahmad Lone to which he is entitled to in terms of the Government Order No: 185-Edu of 2011 dated: 14.03.2011.

The position as projected by the petitioner is not denied by learned AAG, rightly so, because records suggests so.

In the aforesaid background, the respondents, in Annexure "A" of Government Order No: 185-Edu of 2011 dated: 14.03.2011 in place of Mohammad Manzoor-ul-Haq shall consider petitioner, Shri Farooq Ahmad Ganai for appointment, being a next meritorious candidate available for the post, necessary orders shall be passed by the respondents within a period of four weeks from the date copy of the order is served upon them".

Whereas, the claim of the petitioner was examined in light of the directions passed by the Hon'ble High Court and it was found that the Government order dated 14.03.2011, was a one time dispensation and Shri Manzoor-UI-Haq was rightly figured in Annexure-A to the Government Order No. 185-Edu of 2011 dated 14.03.2011, the said candidate did not withdraw and relinquished his claim from the post of Teacher before issuance of the Government Order and withdrew his claim only on 05.04.2011; and

Now, therefore, keeping in view above facts, the claim of the petitioner was considered in compliance to the directions passed by the Hon'ble High Court dated 06.08.2015 and found devoid of merit, hence rejected accordingly.

By Order of the Government of Jammu and Kashmir.

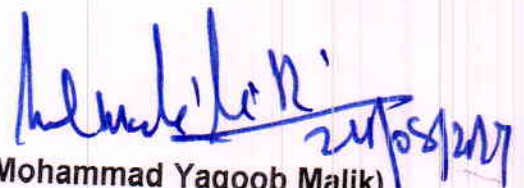
Sd/-
(Farooq Ahmad Shah)
Secretary to Government
School Education Department

Dated: 24 -08-2017

No: Edu/Legal/K/150/2015

Copy to the:-

1. Director School Education, Kashmir for information and necessary action.
2. Sh. Abdul Majid Mir, Deputy Advocate General, J&K High Court, Srinagar for information and necessary action.
3. Chief Education officer, Bandipora for necessary action.
4. Pvt. Secretary to Secretary to Government, School Education Department.
5. Sh. Farooq Ahmed Ganai S/O Mohammad Sultan Ganai R/O Nowpora Bandipora.
6. Incharge Website
7. Govt. Order file (w.3.s.c)
8. Stock file.


(Mohammad Yaqoob Malik)
Under Secretary to Government
School Education Department

