



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

Subject: SWP No: 1566/2015 titled Shaista Parveen Sirwal and another V/S State and others.

Government Order No: 611 - Edu of 2015

D a t e d: 01 - 12 - 2015

Whereas, vide Government Order No: 243-Edu of 2015 dated: 21.05.2015, petitioners Smt. Shaista Parveen and Sh. Sewa Ram were posted as Sr. Headmaster, Govt. High School, Sangram Bhatta and Sr. Headmaster GHS, Trehgam respectively; and

Whereas, the petitioners filed the above titled writ petition bearing SWP No: 1566/2015 titled Shaista Parveen Sirwal and another V/S State and others which was disposed of vide judgment dated: 26.05.2015 with the following orders:-

"In view of the statement of learned counsel for the petitioners, the writ petition is taken on board and is disposed of by granting liberty to the petitioner to make a representation to respondent No. 1 within a period of three days from today and respondent No: 1 is directed that on receipt of the representation from the petitioners, same shall be considered and decided within a period of one week and till such time that the petitioners' representation is decided, status quo shall be maintained".

Whereas, the representation of the petitioners for modification of transfer order was received and was under examination of the Department; and

Whereas, in the meantime vide Government Order No: 382-Edu of 2015 dated: 03.08.2015, petitioner Smt. Shaista Parveen Sirwal has been placed as I/C Principal and equivalent and was adjusted in Higher Secondary School, Filler; and

Whereas, that Sh. Sewa Ram has wrongly contended in his representation submitted to Administrative Department that he has been demoted as Headmaster whereas the officer has been posted as Sr. Headmaster, GHS Trehgam which is equivalent to ZEO in terms of The Jammu and Kashmir School Education (Gazetted) Service Recruitment Rules; and

Whereas, the medical prescription enclosed by the petitioner No: 2 Sh. Sewa Ram with the representation does not indicate any chronic problem which renders petitioner unable to perform duties. Besides the official has been posted as Sr. Headmaster, GHS Trehgam which is only few Kms from Kishtwar and as such he can avail medical facilities at his new place of posting; and

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Whereas, an employee holding transferable post has no right to insist that he should be allowed to serve at a particular place for a particular period. Transfer is generally a condition of service and employee has no choice in the matter. Transfer from one place to other is necessary in public interest and efficiency in the public administration. Whenever a public servant is transferred, he must comply with the order; and

Whereas, in terms of Rule 27 of Classification Control and Appeal Rules, 1956, a member of a service or class of a service may be required to serve in any part of the Jammu and Kashmir State in any post borne on the cadre of such service or class; and

Whereas, the issue of transfer and postings has been considered time and again by the Hon'ble High Court and the Apex Court, and the entire law is settled by catena of decisions of the Apex Court. It is settled law that transfer of a Government servant appointed to a particular cadre of transferable post from one place to the other is an incident of service. No Government servant, therefore, has any legal right for being posted at any particular place; and

Whereas, in terms of Jammu and Kashmir School Education, Gazetted (Service) Recruitment Rules, 2010, the posts of Zonal Education Officer and Sr. Headmasters are equivalent posts and as such does not involve any demotion and disturbance of the status of the cadre.

Now, therefore, the claim of the petitioner for modification of transfer order has been duly examined in the Department and it has been found that request of the petitioner Sh. Sewa Ram for continuation/modification is not justified, hence rejected thereupon and order impugned is maintained.

By Order of the Government of Jammu and Kashmir.

Sd/-

(Shaleen Kabra)

Commissioner/Secretary to Government
School Education Department
Dated: 01-12-2015

No: Edu/Legal/J/Misc/348/2015

Copy to the:-

1. Sh. Ravinder Gupta, Ld. Additional Advocate General, J&K High Court, Jammu for information and necessary action.
2. Director School Education, Jammu for information and necessary action.
3. Chief Education Officer, Kishtwar for information and necessary action.
4. Pvt. Secretary to Commissioner/Secretary to Government, School Education Department for information of Commissioner/Secretary.
5. Sh. Sewa Ram S/O Sh. Bhoop Ram R/O Village Pochal, Tehsil and District Kishtwar.
6. Incharge Website
7. Govt. Order file (w.3.s.c)
8. Stock file.

(R.K Misri)

Under Secretary to Government
School Education Department