



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

Subject: - SWP No. 2953/2017 titled Khem Chand V/s State and others.

**Government Order No: 77 - Edu of 2018**

**Dated: 19 - 01 - 2018**

Whereas, while effecting the transfers and postings of Principals of +2 Schools and equivalent, among others, petitioner Mr. Khem Chand, I/C Principal, Higher Secondary School Tikri, Udhampur was attached with the Director School Education, Jammu till further orders vide Government Order No. 1014-Edu of 2017, dated 16.12.2017; and

Whereas, the petitioner, aggrieved of his transfer, filed a writ petition bearing SWP No. 2953/2017, before the Hon'ble High Court at Jammu. The said writ petition came to be disposed of on 19.12.2017, the operative part whereof is reproduced as under:-

*"This contention appears to be justified, but in view of the Full Bench decision of this Court reported in 2015(3) JKJ 398 (HC), Syed Hilal Ahmad and ors vs. State of J&K and others. While declining no interfere with the order of transfer, Court is inclined to grant liberty to the petitioner to make a representation to respondent No. 1 forthwith to accord consideration to his claim for retention at present place of posting i.e., Govt., Higher Secondary School, Tikri, Udhampur. The representation shall be made on or before 22<sup>nd</sup> December, 2017 without waiting for the copy of this order. The authority will decide the same on or before 30<sup>th</sup> December, 2017. Till such time, present posting of the petitioner shall not be disturbed".*

Contd.....2

*[Handwritten signature]*  
19/01/2018

Whereas, the petitioner has not filed any representation as directed by the Hon'ble High Court, but his writ petition has been considered as representation and the claim of the petitioner was considered in the Department in light of the Transfer Policy notified vide Government Order No. 622-Edu of 2015 dated 22.12.2015; and

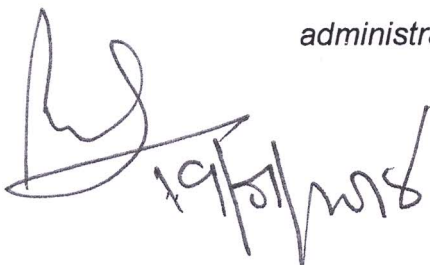
Whereas, the claim of the petitioner was further examined in light of Government Order No. 861-GAD of 2010 dated 28.07.2010, and it was found that the said Government Order is not applicable to the School Education Department as the School Education Department has its own Transfer Policy notified vide Government Order No. 622-Edu of 2015 dated 22.12.2015; and

Whereas, the claim of the petitioner is not covered under any of the conditions laid down in the Transfer Policy; 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 on any post borne on the cadre of such service or class. The post of Principal is a State level post and the State cadre Officer is required to serve in any part of the State upon Administrative requirement of the Government and as such cannot insist upon posting at a particular place of his choice; and

Whereas, the issue of transfer and postings has been considered time and again by this 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. Moreover transfer from one place to another is necessary in public interest and exigency in public administration as held in "Gujrat Electricity Board Vs Atma Ram Sugomal Poshani", AIR 1989 SC 1433, which reads as under:-

*"An employee holding a transferable post cannot claim any vested right to work on a particular place as the transfer order does not affect any of his legal rights and Court cannot interfere with a transfer/posting which is made in public interest or on administrative exigency."*

A handwritten signature in black ink, followed by the date '19/07/2018' written in the same ink.

Contd.....3



Now, therefore, in compliance with the directions of the Hon'ble High Court on 19.12.2017, with reference to the transfer policy issued vide Government Order No. 622-Edu of 2015 dated 22.12.2015, with due consideration of the facts germane to the individual and the claim of the I/C Principal/petitioner for continuance in the same institution is considered and found without any merit and hence rejected.

Consequent upon above, it is further ordered that the Government Order No. 1014-Edu of 2017, dated 16.12.2017 issued under endorsement No. Edu/GAZ-A/39/2017-II dated 16.12.2017, shall remain intact to the extent of the petitioner and the petitioner (Mr. Khem Chand, I/C Principal) shall be deemed to have been relieved from Higher Secondary School Tikri, Udhampur with the direction to report to the office of Director School Education, Jammu.

By Order of the Government of Jammu and Kashmir.

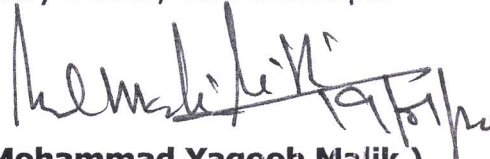
Sd/-  
**(Farooq Ahmad Shah) IAS**  
Secretary to Government  
School Education Department

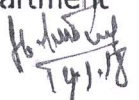
No: Edu/Gaz-A/160/2017

Dated: 19 -01-2018

Copy to the:-

1. Director School Education, Jammu for information and necessary action.
2. Chief Education Officer, Udhampur for information and necessary action.
3. OSD to Hon'ble Minister for Education for information of Hon'ble Education Minister.
4. Spl. Assistant to HMoS, Education for information of Hon'ble Minister.
5. Pvt. Secretary to Secretary to Government, School Education Department.
6. Khem Chand S/O Late Sh. Bajan Chand R/O Village Kotli Mancuan Tehsil Katra District Reasi (petitioner).
7. Principal, Higher Secondary School, Higher Secondary School, Tikri Udhampur
8. I/C Website
9. Govt. Order file (w.3.s.c)
10. Stock file

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

  
14/1/18