



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

(Legal Section)

Subject: SNIP No. 1040/2017 filed Rajiv Kumar VS State and others.

Government Order No: 926 - Edu of 2017

D a t e d : 13 - 11 - 2017

Whereas, the petitioner was working as Data Entry Operator at ZEO Office, Wajpur District Samba and was transferred vide Order No. 65 Ujala of 2017 dated 25.04.2017 to ZEO Office, Ghagwal, District Samba; and

Whereas, the petitioner approached the Hon'ble High Court through the medium of SNIP No. 1040/2017 titled Rajiv Kumar VS State and others with the plea that Circular No. EduSPD/SSA/Ajrodar/11317-43/14 dated 27.08.2014, provides that the contractual employees appointed under SSA at a particular place do not have transferable services; and

Whereas, the Hon'ble High Court vide its order dated 29.04.2017 disposed of the writ petition, the operative part of the order is reproduced as under:-

"In view of the aforesaid submission and in the facts of the case, the writ petition is disposed of with the direction to the respondent-1 to decide the representation, in case of the petitioner submits the same within a period of one week from the date of receipt of certified copy of the order passed today. The aforesaid authority shall decide the representation submitted to respondent-1, in light of the Circular dated 27.08.2014 within two weeks from the date of receipt of representation along with certified copy of the order passed today. Till the representation submitted by the petitioner is decided, the status quo as it exists today with regard to the services represented any opinion on merits of the case of the petitioner.

Accordingly, the petition is disposed of"

Whereas, the petitioner filed representation before State Project Director, Sarva Shiksha Abhiyan for modification of his order and requested for transfer to a nearer place of posting from his residence i.e. Vijaypur; and


Whereas, representation of the petitioner was examined and it revealed that the Sarva Shiksha Abhiyan being a Centrally Flagship Programme and the employees of the SSA are governed by the J&K Ujala Society (The State Implementation for Sarva Shiksha Abhiyan) Service Regulations, 2005. The Rule 5 (I) of the Regulations provides as under:-

"A member of service engaged either on contract basis or on deputation shall be liable be posted anywhere within the state of Jammu & Kashmir or in any other department of government, corporate body, society in the affairs of which the Society may have interest and in such cases, the member shall have no option against such posting or transfer".

Whereas, the Service Regulation 2005 has overriding effect on any circular, issued by the State Project Director, Sarva Shiksha Abhiyan and it does not create any right upon the petitioner for being posted at a particular place of 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 decision 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 other is necessary in public interest and exigency of 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."



Now, therefore, the representation of the petitioner has been considered in light of the directions of the Hon'ble Court issued on 29.04.2017, and found devoid of merit and hence rejected.

By Order of the Government of Jammu and Kashmir.


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

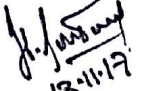
No: Edu/Legal/J/Misc/198/2017

Dated: 13 -11-2017

Copy to the:-

1. Director School Education, Jammu for information and necessary action.
2. Additional Advocate General, J&K High Court, Jammu for information and necessary action.
3. State Project Director, SSA, Jammu.
4. Chief Education Officer, Samba.
5. Zonal Education officer, Vijaypur Distt Samba
6. Pvt. Secretary to Secretary to the Government, School Education Department.
7. Rajiv Kumar S/O Late Sh. Mulkh Raj Sharma R/O ward No. 9 H.No 11 Vijaypur Distt. Samba.
8. Incharge Website
9. Govt. Order file (w.3.s.c)
10. Stock file.


13-11-17
(Javed Ahmed Reshi)
Under Secretary to Government
School Education Department


13-11-17