



**Government of Jammu and Kashmir**  
**School Education Department**  
Civil Secretariat, Jammu/Srinagar

Subject:- Contempt No. 724/2017 in SWP No. 56/2016 titled Mushtaq Ahmad Banday V/s State and others.

**Government Order No. 961 - Edu of 2018**

**Dated. 19.12.2018**

Whereas, Mr. Mushtaq Ahmad Banday, Sr. Lecturer (Geography) filed writ petition bearing SWP No. 56/2017 titled Mushtaq Ahmad Banday V/s State and others before Hon'ble High Court with a prayer to grant retrospective effect of promotion alongwith all service benefits since 1994 as has been done in case of junior i.e Mr. Abdul Rashid Bhat and others; and

Whereas, the Hon'ble High Court disposed of the writ petition vide order dated 18.07.2018, the operative part of which is reproduced as under:-

*"Disposed of with a direction to the respondents to consider the case of the petitioner in light of the representation which he shall file within one week"*

Whereas, the case was under examination in the department the petitioner initiated contempt proceedings by filing Contempt Petition bearing No. 724/2017 against the department (Respondent). The Hon'ble High Court passed an order dated 25.10.2017 on the petition, the operative part of which is reproduced as under:-

*"Notice to the respondents for filing statement of facts within two weeks"*

Whereas the case has been examined in the department and it has been found that the petitioner now contemnor was appointed as teacher on 04.08.1980, promoted as Master on 28.11.1996, acquired Post Graduate degree in Geography in the year 1994 and was promoted as lecturer on substantive basis vide Govt. Order No. 1361-Edu of 1999 dated 29.10.1999 (prospectively from the date he join as such) as per the eligibility criteria and availability of vacancy at that time. While as Mr. Abdul Rashid Bhat was appointed as teacher on 01.03.1978, acquired PG degree in the discipline of geography 28.12.1982, after fulfilling the eligibility was placed as I/c lecturer on 08.01.1993 and thereafter was regularized/confirmed vide G.O No. 740-Edu of 1999 dated 20.05.1999 read with G.O No. 1147-Edu of 1999 dated 02.09.1999 notionally with effect from 12.11.1991 and on regular basis with effect from 08.01.1993 i.e after nine years of completion of his PG degree as per the vacancy, eligibility criteria at that time.

Whereas, the detail of service particulars of Mr. Abdul Rashid Bhat and Mushtaq Ahmad Banday (Petitioner now contemnor) are as under:-

Name of the applicant	D.O.B	Dt. of appointment as teacher	Dt. of promotion as Master	Year of passing of PG	Dt. of placement as Lecturer	Date of regularization of lecturer
Ab. Rashid Bhat	16.11.1955	01.03.1978	Not promoted as master	28.12.1982	08.01.1993	Notionally form 12.11.1991 and on regular basis form 08.01.1993
Mushtaq Ahmad Banday (petitioner/ contemnor)	08.08.1959	04.08.1980	28.11.1996	March-1994	Not placed	Prospectively vide G.O No.1361-Edu of 1999 dt. 29.10.1999

Whereas, the mode of recruitment to the post lecturer at that time as notified vide SRO-83 of 1992 dated 07.04.1992 is as under:-

**“50% by direct recruitment.**

**50% by promotion from Masters in grade of 1300-2500 and in case no suitable candidate is available from Masters grade then by promotion from Sr. Teachers (1075-2320) and if no suitable candidate is available then by promotion General Line Teachers (900-1830) with at least 3 years experience as teacher”**

Whereas, the case has been examined in the department as per the relevant recruitment rules and it has been found that at the time of elevation of Mr. Abdul Rashid Bhat, the then Teacher as lecturer, the petitioner now contemnor was not eligible for promotion as lecturer and was rightly elevated as lecturer on prospective basis vide G.O No. 1361-Edu of 1999 dated 29.10.1999 as per the eligibility criteria and availability of the vacancy by the DPC at that time.

In view of the above, the plea for grant of retrospective effect in promotion of the petitioner (now contemnor) on the analogy of Mr. Abdul Rashid does not merit consideration and the claim of the petitioner has been considered and is hereby rejected henceforth.

**By order of the Government of Jammu and Kashmir.**

Sd/-

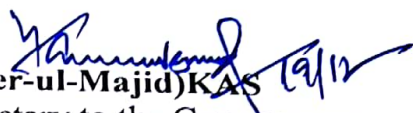
**(Ajeet Kumar Sahu)IAS**  
Secretary to the Government  
School Education Department

No. Edu/V/legal/K/24/016-I

Dated 19.12.2018

Copy to the:-

1. Director School Education, Kashmir
2. OSD to Advisor(G) to Hon'ble Governor.
3. Additional Secretary (legal), School Education Department for information.
4. Pvt. Secretary to Secretary to the Government, School Education Department.
5. PA to Special Secretary to Government, School Education Department.
6. In-charge website, School Education Department.
7. Government order file (w.3.s.c).

  
(Tanveer-ul-Majid)KAS

Under Secretary to the Government  
School Education Department

