



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

(Legal Section)

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Subject:- CCP(S) No. 22/2022 in SWP No. 1613/2009 titled Vijay Kumar Vs State of J&K and Ors.

Government Order No: 1834 - Edu of 2022

Dated: 29 - 07-2022

Whereas, in pursuance to the advertisement notice No. 10/2005 dated 27.12.2005, the J&K Service Selection Board vide communication No.SSB/Sel/Secy/07/1047-51 dated 26.02.2008 selected and recommended list of 236 candidates for the appointment of teacher District Cadre Kathua. Out of aforesaid 236 candidates, 24 candidates/selectees of different categories did not choose to join. In so far as General Category is concerned 09 candidates did not join against which the Directorate vide communication No. DSEJ/NG/Gen/2429-38 dated 09.09.2008 recommended 09 General category candidates after operating waiting list from 1 to 9.

Whereas, subsequently, Chief Education Officer, Kathua vide his communication No. CEOK/5079-82 dated 20.10.2008 intimated that two more candidates/selectees figuring at serial No. 60 & 29 of General Category also did not join apart from another candidate figuring at S. No.27 (Gen) has resigned. However, in response to aforesaid communication dated 20.10.2008, no decision had been taken at the relevant point of time despite the fact that waiting list was still in operation and two candidates from waiting list of General category figuring at Serial No. 10 & 11 could have been recommended for their appointment against the vacancies having fallen vacant due to non-joining of selectees figuring at S. No. 60 & 29.

Whereas, Sh. Vijay Kumar who was figuring at S. No. 13 of waiting list of General Category approached the Hon'ble High Court of J&K at Jammu through the medium of SWP No. 1613/2009 titled Vijay Kumar Vs State & Ors *inter alia*, prayed for a direction to the respondents, particularly, respondent Nos 2 and 3 to operate the waiting list and appointment of the petitioner as a Teacher in district Cadre Kathua;

Whereas, the Hon'ble High Court its order dated 06.06.2018, disposed of the writ petition, the operative part of which is reproduced as under:-

*"Having heard learned counsel for the parties and perused the record, I am of the opinion that this petition, in the facts and circumstances narrated above, can be disposed of by directing respondent No. 2 and 3 to consider her appointment against one of the two posts which have fallen vacant due to non-joining of the candidates in the open merit category figuring at serial No. 29 and 60 and make recommendation in his favour provided the petitioner is the only candidate available next in the order of merit and candidates at serial No. 11 and 12 of wait list and are not interested and that the waiting list is in operation.*

*Let the respondents consider the case of the petitioner as aforesaid within a period of four weeks from the date a certified copy of this order is made available to respondent Nos. 2 and 3. It is further provided that in case respondent Nos. 2 and 3 recommend- the name of the petitioner, the appointing authority shall issue the order of appointment in favour of the petitioner within four weeks' from the date it receives the recommendation from respondent Nos. 2 and 3."*

Whereas, in compliance of the above order dated 06.06.2018 passed by the Hon'ble High Court has been examined and found that School Education Department vide communication No. Edu-NGJ/158/2021-01 dated 08.09.2021 requested the Director School Education, Jammu to intimate as to whether the posts of teacher pursuant to Advertisement Notice No. 10/20-15 dated 29.12.2015 accrued due to non-joining of selected candidates under OM category are still available with the Department or utilized for conversion of RReTs into Teacher Grade -II & III or otherwise. Further, the Director School Education, Jammu was also requested to intimate if the post(s) of above said notification are still available in the department, then recommend the waiting list candidates figuring next in order of merit under OM category in light of Hon'ble High Court dated 06.06.2018;

Whereas, the Director School Education, Jammu vide No. DSEJ/Legal/30406-08 dated 18.09.2021 has intimated that **all vacant posts of Teachers i.e 659 existed as on 29.07.2020 have been utilized for the conversion of RReT into Teacher Grade-II & III.** The vacancies of General Line Teachers arising due to resignation, superannuation, death, promotion or otherwise shall be converted to Grade -II/III and equivalent number of supernumerary posts shall be abolished as per point 2(i)b of Government Order No. 20-Edu of 2019 dated 22.01.2019;

Whereas, it is to mention here that the validity of the select/wait list has already outlived its validity on 25.02.2009 and the Hon'ble Court in its order dated 06.06.2018 has directed that for considering the case of the petitioner subject to waiting list is in operation. However, the waiting list had expired at the time of judgment;

Whereas, it is further mentioned that the General Administration Department has issued Circular No.27-JK (GAD) of 2021 dated 10.08.2021 for adhering the earlier instructions issued vide Circular No. 38-JK(GAD) of 2020 dated 24.12.2020 and 23-JK(GAD) of 2021 dated 16.07.2021. In the said circular instructions of General Administration Department dated 10.08.2021 it has been impressed upon:-

*"All the administrative departments to adhere to the statutory provisions with circular instructions/advisories issued on the subject with the advice to refrain from*





recommending the cases for re-validation of select list/wait list in relaxation of the Jammu and Kashmir Civil Services (Decentralization & Recruitment) Rules, 2010, particularly those which have lost their validity prior to 31<sup>st</sup> of October, 2019 considering the change in legal framework and re-organization of erstwhile State."

Whereas, the case of the petitioner does not merit consideration, as the validity of the select/wait list in question has already outlived its validity on 25.02.2009.

Now, therefore, in view of the above, the claim of the petitioner has been considered in light of the directions passed by the Hon'ble High Court on 06.06.2018 in SWP No. 1613/2009 titled Vijay Kumar Vs State of J&K and others and found not in consonance with the rules, and hence rejected.

By Order of the Government of Jammu and Kashmir.

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( B.K. Singh )

Principal Secretary to Government  
School Education Department

Dated 20-07-2022

No. Edu-NGJ/18/2021-01

Copy to the:-

1. Joint Secretary, (J&K), Ministry of Home Affairs, Government of India.
2. Director School Education, Jammu for information and necessary action.
3. Chief Education Officer, Kathua for information and necessary action.
4. Pvt. Secy. to Principal Secy. to Government, School Education Department.
5. Concerned petitioner.
6. I/C Website
7. Govt. Order file (w.3.s.c).

*Javid Ahmed*  
22/7/2022

( Javid Ahmed )

Additional Secretary to Government  
School Education Department