



GOVERNMENT OF JAMMU AND KASHMIR  
SCHOOL EDUCATION DEPARTMENT,  
CIVIL SECRETARIAT JAMMU/SRINAGAR  
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**GOVERNMENT ORDER NO : 2147 - JK( Edu) of 2022**  
**DATED: - 11 - 11-2022**

**Subject: - Contempt No. 491/2015 in SWP No. 940/2014 Zatoon Begum Vs State of J&K and others.**

Whereas, the petitioner, Zatoon Begum was appointed as Teacher on 16.10.1978 and was promoted as Master Grade on 09.08.1995 and I/C Headmaster on 15.05.1997. The School Education Department prepared a seniority list of all the Masters who have worked/working as Incharge Headmaster and equivalent, for their regularization as Headmaster and the petitioner was placed at S.No. 2616 in the said list. The date of appointment of the petitioner has been recorded as 16.10.1978 as teacher and then further as Master in 1995 and further Incharge placement as Headmaster on 15.05.1997.

Whereas, in view of the Cabinet Decision dated 16.12.2012, Government order No. 684-Edu of 2012 dated 04.09.2012 was issued for regularization of Master worked/working as Incharge Headmaster and equivalent in which the petitioner is placed at S.No. 2177 under ST category and the regularization of the petitioner as Headmaster is shown as 29.04.2010.

Whereas, the petitioner submitted a representation regarding his date of regularization to the Department with the grievance that much juniors to the petitioners were also regularized in the year 2010. The petitioner has further submitted that the respondents have ignored the Incharge promotion/placement as ZEO in the year 2005 and Principal in the year 2009 and regularized Headmaster since the year 2010, whereas the

petitioner was required to be regularized as Headmaster since May 1997 from the date the petitioner was placed/promoted as Incharge Headmaster in his own pay and grade with charge allowance on clear vacancy because the vacancy was available and the petitioner was rightly promoted in In charge capacity in the year 1997. She further contended that her right of regularization as ZEO and the Principal is taken away and even those placed as Incharge Headmaster in the year 2007 and 2010 have been regularized from the year 2010 as Headmaster and the petitioner was placed as Incharge Headmaster in May 1997 and she was wrongly regularized as Headmaster from 29.04.2010 whereas the petitioner was required to be regularized from the year 1997 as Headmaster.

Whereas feeling aggrieved of her grievance been not redressed, the petitioner, Zatoon Begum, filed a writ petition bearing SWP No. 490/2014 with the contention that the candidates in ST category as well as in General category who were junior to the petitioner and placed as Incharge Headmaster in the year 2002, 2007, 2009, 2010, were regularized from 29.04.2010 in the said Government Order. She contended that candidates at S.No. 2774 and 2749 in the seniority list namely Maqsood ul Nisa and Zarifa Akhter were placed as Incharge Headmasters in the year 2008 and regularized since 01.08.2010. So there is a gap of 13 years in respect of petitioner and hardly two years gap has been given to other candidates.

Whereas , the SWP No. 490/2014 was decided by the Hon'ble High Court on 28.04.2015, the relevant order of the judgment is reproduced as under:-

*"At the request of learned counsel for the petitioner and on the no objection of learned counsel for the respondents the petition in hand is taken up for final disposal and as such is disposed of with a direction to consider the case of the petitioner to give effect of seniority with effect from 15.05.1997 instead of 29.04. 2010 in light of the recommendations made by the Chief Education Officer, Poonch vide No CEO/P/GAZ/6066 dated 14.07.2014 and having regard to the averments made in the writ petition of course under rules and pass -appropriate consideration order within a*





period of eight weeks from the date a certified copy of this order along with complete set of writ petition, is made available to the respondents".

Whereas, the petitioner has filed contempt petition bearing No CCP(S) No. 491/2015 before the Hon'ble High Court for implementation of the Judgment dated 28-04-2015 passed by the Hon'ble High Court.

Whereas, the seniority of an employee is determined by the Rule 24 of J&K Civil Services (Classification, Control and Appeal) Rules, 1956 which is reproduced as under:

"24. Seniority.- (1) The seniority of a person who is subject to these rules has reference to the service, class, category or grade with reference to which the question has arisen. Such seniority shall be determined by the date of his first appointment to such service, class, category or grade as the case may be. Provided that the inter se seniority of two or more persons appointed to the same service, class, category or grade simultaneously will, notwithstanding the fact that they may assume the duties of their appointments on different dates by reason of being posted to different stations, be determined.


(a) in the case of those promoted by their relative seniority in the lower service, class, category or grade;

(b) in the case of those recruited direct except those who do not join their duties when vacancies are offered to them according to the positions attained by and assigned to them in order of merit at the time of competitive examination or on the basis of merit, ability and physical fitness etc., in case no such examination is held for the purpose of making selections;

(c) as between those promoted and recruited direct by the order in which appointments have to be allocated for promotion and direct recruitment as prescribed by the rules.

(2) A member of a service, class, category or grade, unless he is reduced in seniority as a punishment shall retain seniority in such service or grade as determined by sub-rule (1) notwithstanding any delay in the completion of his probation or his appointment as a member of such service, class, category or grade.

(3) Where a member of any service, class, category or grade reduced to a lower service, class, category or grade he shall be placed at the top of the latter unless the authority ordering such reduction directs that he shall rank in such lower service, class, category or grade next below any specified member thereof."



Whereas, General Administration Department, in compliance to the judgment passed in case titled Suraj Prakash Gupta V/s State & Others and in light of the report submitted by a High Power Committee, issued a Government Order vide No.107-GAD of 2002 dated 16-01-2002 wherein it has been categorically mentioned that in cases where the promotion should be made with retrospective effect, it should be made **from the date of occurrence of vacancy or date of acquiring eligibility whichever is later**. The same was also clarified by the General Administration Department vide another Government Order No:-743-GAD of 2007 dated 28-06-2007.

Whereas the Hon'ble Apex Court has consistently held that no retrospective promotion can be granted nor can any seniority be given on retrospective basis from a date when the regular vacancy did not exist.

Whereas The Hon'ble Supreme court in case titled D.Ganesh Rao Patnaik & Ors Vs State of Jharkhand & Ors (2005 8 SCC,454) has held that the petitioners whose appointment are fortuitous in nature cannot get advantage of such fortuitous appointment until a substantive vacancy was available in their quota.

Whereas Department prepares a seniority list on the basis of service particulars of each member of the cadre of master and on the basis of occurrence of vacancy due to retirement or creation, the regularization of the I/C Headmasters takes place .Here, in the case of Zatoon Begum ,the regularization takes place w.e.f 29-04-2010 as the date of occurrence of vacancy which were newly created .The candidates from seniority No 2548 to seniority No 2637 were regularized against the newly created vacancies of Headmasters which were created by way of Government Order No 420-Edu of 2010 dated 29-04-2010,the petitioner, Zatoon Begum lies in between these seniority No's and is placed at seniority No 2616.(Copy of Government Order No 420-Edu of 2010 dated 29-04-2010 is enclosed as Annexure A)

Whereas the petitioner, Zatoon Begum is claiming her regularization above to more than 2176 masters who are senior to her and it will open a



flood gate for similar demands from other members of the cadre of masters who are senior to her. The service particulars of Petitioner Zatoon Begum along with 10 members ,five immediate seniors and five immediate juniors and the candidate who is placed at seniority position 2(serial no.1) is placed as Annexure B to this Government Order.

Now, therefore the case of the petitioner has been examined in light of recommendations made by the Chief Education Officer vide communication No CEO/P/GAZ/6066 dated 14-07-2014 read with Judgment dated 28-04-2015 passed in SWP No. 490/2014 as well as orders passed in the Contempt petition CPSW No 491/2015 and found that the petitioner has rightly been promoted as per Rule 24 of CSR,1956 read with Government Order No: 107-GAD of 2002 dated 16-01-2002 and Government Order No: 743-GAD of 2007 dated 28-06-2007, keeping in view her seniority position as well as the date of accrual of vacancy i.e 29-04-2010 .Her claim of date of regularization w.e.f 15-05-1997 is not tenable as it will disturb the seniority of more than 2100 members of the same cadre(Masters) who are senior to her. Hence, the claim of the petitioner is rejected.

**By Order of Government of Jammu and Kashmir**

**Sd/-**

Alok Kumar (IRS),  
Principal Secretary to the Government,  
School Education Department.

No: Edu-LGL0Jmu (HC)/90/2022-01

Dated: 11-11-2022

Copy to the:-

1. Joint Secretary (J&K) Ministry of Home Affairs, Government of India.
2. Commissioner/Secretary to the Government, General Administration Department.
3. Director School Education Jammu for information.
4. Director, Archives, Archaeology and Museum, J&K.
5. OSD with the Advisor (B) to the Lieutenant Governor, UT of J&K for information.



6. Chief Education Officer concerned for information.
7. Private Secretary to the Principal Secretary to Government, School Education Department for information.
8. Sh. Raman Sharma.AAG, High Court of J&K& Ladakh for information.
9. Mst. Zatoon Begum (Petitioner) for information.
10. I/C Website for uploading the same on Official website.
11. Government Order File/Concerned File(w.2.s.c)



(Umesh Sharma),  
Deputy Secretary to the Government,  
School Education Department.