

GOVERNMENT OF JAMMU AND KASHMIR  
SCHOOL EDUCATION DEPARTMENT,  
CIVIL SECRETARIAT, J&K  
(E-mail:-eduschlegal2021@gmail.com)  
\*\*\*\*\*

Subject:- C.P No. 160/2022 in OA No.528/2022 titled Altaf Hussain Dar and others Vs UT of J&K and others.

**GOVERNMENT ORDER NO:- 167 JK (Edu) of 2023**  
**DATED:- 12.06.2023**

**Whereas**, the petitioners have filed above titled OA before the Hon'ble Central Administrative Tribunal at Srinagar wherein the petitioners have prayed for following relief:-

1. the respondents/non-applicants be directed to adjust/post the applicants as lecturers in the discipline of Botany, as they have been confirmed/regularized on 18.10.2019 as issued to other juniors in terms of Govt. order dated 12.05.2022 who are figuring in authenticated list of 27.04.2022 along with applicants and till the applicants are not adjusted, no fresh process of elevation in Botany may be initiated.
2. the respondents may be further directed to upgrade the salary of the applicants from the date of their regularization and may be paid the arrears of the same.
3. the respondents/non-applicants be further directed to give due consideration to the seniority and placement orders issued by the department and issue posting orders to the applicants at par with order dated 12.05.2022 for the post of lecturers in the discipline of Botany as per seniority and release the grade.

**Whereas**, the Hon'ble Central Administrative Tribunal at Srinagar disposed of the above OA vide order dated 10.06.2022 at its threshold with the following order/directions:-

*"In view of the limited prayer made by the learned counsel for the applicants. OA is disposed of at the admission stage with direction to the respondents/competent authority to consider the case of the applicants treating the averments made in the present OA as representation of the applicants and dispose of the same by passing a reasoned and speaking order, within a span of four weeks from today and decision so taken shall be communicated to the applicants forthwith".*

**Whereas**, in compliance with the above directions of the Hon'ble Central Administrative Tribunal, the cases of the petitioners were examined and found that as per service particulars mentioned



in the seniority list issued vide Government Order No. 157-Edu of 2019 dated 12.04.2019, all of the petitioners have acquired their PG Degree through distance mode during service from universities outside the UT of J&K without seeking prior permission from the competent authority i.e. Administrative Department. The Petitioners have obtained such degrees without obtaining proper permission from the Competent Authority as required under J&K Leave Rules;

**Whereas**, the petitioners do not meet out the requirements as per the conditions laid down in relevant Government order viz., Government order No. 252-HE of 2012 dated 30.05.2012, Government Order No. 940-Edu of 2017 dated 17.11.2017 and SRO 339 of 2005 dated 20.12.2005 and other rules governing the field;

**Whereas**, the petitioners have pursued their higher qualification degrees in contravention to J&K Leave Rules of 1979 and Government Order No. 940-Edu of 2017 dated 17.11.2017, i.e., without obtaining proper permission from the competent authority in this regard;

**Whereas**, on further examination of the cases of the petitioners in the Department, it emerges that whether the degree obtained without obtaining proper permission from the competent authority and in contravention to J&K Leave Rules of 1979 and Government Order No. 940-Edu of 2017 dated 17.11.2017 and SRO 339 of 2005 dated 20.12.2005, Government Order No. 940-Edu of 2017 dated 17.11.2017 can be considered valid for the purposes of seniority and promotion;

**Whereas**, Rule 73 of J&K Civil Service (Leave) Rules 1972 reads as under:

**"The concerned Administrative Department shall be competent to sanction study leave without pay and allowances under these rules within/outside the State or outside the country."**

**Whereas**, Rule 73 of J&K Civil Service (Leave) Rules, 1979 was re-cast vide SRO-274 dated 30.05.2019 which reads as under:-

- 1. The concerned Administrative Department shall be competent to sanction the study leave under these rules within the State.**
- 2. The General Administration Department on the recommendations of the Administrative Department concerned and with the consent of the Finance Department may grant study leave under these rules for purpose of study outside the state within India".**

**Whereas**, in terms of Government Order No. 940-Edu of 2017 dated 17.11.2017, it is imperative upon the in-service candidate to pursue higher qualification after seeking proper permission from the competent authority at the relevant point of time;



**Whereas, in Rabindra Nath Barman Vs Gauhati High Court, 2012 (2) GLT 111,** it was held that the petitioner who has obtained degree in Law while serving in Gauhati High Court without proper authorization was held to be the misconduct because of which he was proceeded in departmental enquiry and the Gauhati High Court up-held it as a misconduct to undertake LL.B course without permission;

**Whereas, in Nongmaithem Rejan Singh Vs State of Manipur, 2013 (1) GLT 7,** it was held that if a person obtains graduation certificate without authorization, it amounts to misconduct and person who commits misconduct cannot be rewarded by promotion to the next higher post;

**Whereas, in the case of K.N. Pushpavalli Vs The Bar Council of Tamil Nadu WP (C) No. 46022/ 2002 (DOD Feb 26, 1013) reported in (2013) 3 MLJ 237,** a full-time High Court employee, who, without getting prior permission from the High Court Registry and without intimating the Registry, joined three year Law Degree Course in SLSRC, Havanur College of Law, during academic year 1984-1987. According to her, she attended the Evening College by securing attendance during weekends and public holidays. On completion of the course, she was awarded Law Degree and the High Court, also, surprisingly, ratified the action of the petitioner in having joined the Law College at Bangalore, without intimating and without getting prior permission from the Registry. After superannuation, the said K.N. Pushpavalli, got enrolled before the Bar Council of Tamil Nadu on 02.05.2002 and subsequently, her enrolment was cancelled on 17.12.2002. Challenging the same, WP (C) No. 46022 of 2002 was filed and the same was dismissed on 26.02.2013 holding that the petitioner's enrolment was rightly cancelled as she was working in High Court of Madras during the period, during which she had alleged to have undergone the Law Course.

**Therefore in view of the above settled legal position, the degree obtained by the in-service candidate without obtaining permission from the competent authority and proper in contravention to the Rules cannot be reckoned valid particularly for the purposes of seniority and promotion.**

\*\*\*\*\*

**Now, therefore,** after having considered the cases of petitioners in compliance with the judgment/ order dated 10.06.2022, having regard to the Government Order No. 252-HE of 2021 dated 30.05.2012, Government Order No.940-Edu of 2017 dated 17.11.2017 and SRO 339 dated 10.06.2022 and other rules and regulations governing the field, it has been found that the claim of the petitioners does not merit consideration based upon the observations and findings made in the preceding paras and as

*Handwritten signature*

such the claim of the petitioners is being devoid of merit is hereby rejected.

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

**Sd/-**

**Alok Kumar (IRS),**

Principal Secretary to the Government,  
School Education Department.

**No:- Edu/LGLOKmr/351/2022-08 (7049064)**

**Dated:- 12.06.2023**

**Copy to the:-**

1. Joint Secretary (J&K) Ministry of Home Affairs, Government of India.
1. Director, Archives, Archeology and Museums, J&K.
2. Director School Education Jammu/ Kashmir.
3. OSD with Advisor (B) to the Lieutenant Governor, UT of J&K for information.
4. Chief Education Officer (All).
5. Private Secretary to Principal Secretary to Government, School Education Department.
6. Sh. \_\_\_\_\_ (All Petitioners) for information.
7. I/C Website for uploading the same on official website.
8. Government Order File/ Concerned File (w.2.s.c).



**(Masood Ahmad),**

**Deputy Secretary to the Government,  
School Education Department.**

