



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

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Subject:- **OA NO. 61/1363/2022 in case titled Sh. Khalid Hussain Shah Vs UT of J&K & Ors.**

**Government Order No: 197 - JK (Edu) of 2023.**

**Dated: 03 - 07 - 2023.**

Whereas, Sh. Khalid Hussain Shah has filed OA application before the Hon'ble Central Administrative Tribunal and sought following relief in the matter:-

- I. To command and direct the respondents to promote the applicant as Lecturer in the discipline of Economics under the OSC category being eligible and qualified w.e.f 30.03.2013 along with all consequential benefits and to include the name of the applicant for promotion in the light of Govt. Order No. 409 of 2013 dated 30.03.2013.**
- II. To command and direct the respondents to accord promotion to the applicant as I/C Lecturer in the discipline of Economics under the OSC category on the same analogy as has been adopted in the similarly situated case who have been promoted as I/C Lecturer in the light of Govt. Order No. 191-Edu of 2014 dated 26.02.2014.**

Whereas, the Hon'ble Central Administrative Tribunal vide its order dated 28.09.2022 has disposed of the writ petition, the operative part is reproduced as under:-

**"..... I have considered the submissions made by the Ld. counsels for both the sides and perused the material on record. without expressing any opinion on the merits of the case, the O.A. is disposed of at the admission stage with direction to the respondents to consider the representation dated 17.02.2020 and decide it, as per relevant rules, regulations and instructions on the subject, by passing a reasoned and speaking order within a period of four weeks from the date of receipt of a certified copy of this order. A copy of speaking order be communicated to the applicant within one week thereafter.**

**With the above direction, the O.A. stands disposed of. No costs.**

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Whereas, the Hon'ble Central Administrative Tribunal vide order dated 12.10.2022 in MA No. 796/2022 has passed following directions:-

**".....M.A. No. 61/796/2022 has been filed by applicant seeking modification in paragraph number 07 of order dated 28.09.2022 passed in OA No. 1363 of 2022 to the extent the line 'the O.A. is disposed of at Admission stage with direction to respondents to consider the representation dated 17.02.2020' is read as 'the O.A. is disposed of at Admission stage with direction to respondents to consider the O.A. as representation of the applicant for consideration of his case for promotion as Lecturer in the discipline of Economics under the OSC Category'.**

**Ld. A.A.G. appearing for the respondents submitted that he has no objection, if the M.A. is allowed.**

**Accordingly, considering the grounds and reasons stated in the M.A. as well as no objection from the other side, the M.A. is allowed. Necessary corrections have been made in order dated 28.09.2022 passed in O.A. No. 1363 of 2022."**

Whereas, pursuant to the directions of the Hon'ble Central Administrative Tribunal, the case of the applicant was examined in the department and it was found that in the year 2013, a proposal for placement of eligible PG Masters/ Teachers as I/c Lecturer in the discipline of Economics has been initiated against the total available vacancies of 82. In the said proposal, it has been noted that "in order to fill up these 82 posts of Lecturers (Economics), the department has already utilized upto Roster Point No. 27 and now the department have to start from Roster Point No. 28 onwards.

Whereas, the department has filled up these vacant 82 posts after utilizing roster of reservation from roster Nos. 28 to 100 and 01 to 09. The candidate from OSC category was not considered in the said proposal due to the fact that the turn of Social Caste (OSC) roster No. 10 (in the 100 points roster) has not come out in the said proposal as the last roster Point (i.e. 09) was utilized in the said proposal. The placement order of these 82 posts as I/c Lecturer (Economics) was issued vide G.O No. 409-Edu of 2013 dated 30.03.2013.

Whereas, in the year 2014, the department has again initiated the process of placement of I/c Lecturer in the discipline of Economics against the available vacancies (including due to non-joining i.e. in terms of G.O No. 409-Edu of 2013 dated 30.03.2013) after utilizing roster of reservation. In the said proposal, among other reserved categories, 01 post under OSC category i.e. roster point No. 10 (OSC) was available and the same was filled up by considering the eligible OSC candidate namely Mr. Mohd Kabir (who was much senior to the petitioner). The placement order of these available



vacancies as I/c Lecturer (Economics) was issued vide G.O No. 191-Edu of 2014 dated 26.02.2014 in respect of 47 officials.

Whereas, in the year 2019, the department has again initiated the process of placement of I/c Lecturer (Economics) against the available vacancies. However, at that relevant point of time, it has been found that the benefit of reserved categories shall not be given to any official due to the fact that reservation in promotion being barred in view of the Hon'ble Supreme Court directions, as such, the posts need to be reserved to facilitate their placements as and when embargo is lifted. Further, the incumbents belonging to various categories who normally fall in the seniority are being considered for placement.

Whereas, on the basis of final seniority list of PG Masters/ Teachers in the discipline of Economics (issued vide G.O No. 443-Edu of 2018 dated 27.03.2018), 121 numbers of officials have been promoted as I/c Lecturer in the discipline of Economics vide G.O No. 231-Edu of 2019 dated 15.07.2019. In the said placement order, the last person is Mr. Ab Aziz Bhat (Sty No. 121) who was promoted as I/c Lecturer on the basis of date of promotion as Master is 26.08.2010. However, the name of petitioner (Khalid Hussain Shah, OSC) appeared at Stry No. 237 in the said seniority (whose date of promotion Master is 06.07.2011) was not considered due to his lower position in the list.

Whereas, the General Administration Department vide Circular No. 10-JK(GAD) of 2021, dated 05.03.2021 has issued following instructions/clarifications for preparation of select list for promotion:-

**"-----It shall be ensured that the vacancies/roster points allocable to the reserved category candidates are kept vacant/unfilled, unless no eligible candidate belonging to such reserved category to be considered against reserved slot is available, in which eventuality, the said roster point shall be treated as un-reserved, as provided under rule 11(4) of the J&K Reservation Rules, 2005 and utilized for promotion of the candidate, next in the order of seniority, belonging to the general category. On the next occasion of conduct of DPCs, the succeeding un-reserved vacancy i.e. 1 st OM roster point shall be treated as reserved for that category, as per sub-rule (2) of Rule 5 read with Rule 11 of the Jammu & Kashmir Reservation Rules, 2005;**

**Where, the candidates belonging to the reserved categories are available, the vacancies/roster points allocable to them shall be kept vacant/unfilled and utilized/filled for such reserved category candidates only when they become available for promotion on the basis of their own seniority."**



Whereas, all the employees belonging to the reserved category (including the petitioner) are to be considered for promotion/confirmation/regularization only when they become eligible for same on the basis of their own seniority irrespective of the category they belong to. The Department vide Government Order No. 2070-Edu of 2022 dated 16.08.2022 has issued final seniority list of PG Master/Teachers in the discipline of Economics wherein the name of the applicant/petitioner is figuring at Seniority No 143.

Keeping in view, the facts and circumstances of the case and in compliance to the directions of the Hon'ble High Court passed in OA No. 61/1363/2022 in case titled Khalid Hussain Shah Vs UT of J&K & Ors, the claim of the applicant is considered and being not tenable under rules is hereby rejected.

By Order of the Government of Jammu and Kashmir.

**Sd/-**

**Alok Kumar (IRS)**

Principal Secretary to the Government,  
School Education Department.

No: Edu-LGL0Jmu(CAT)/268/2022-01

Dated: 03-07-2023.

Copy to the: -

1. Joint Secretary (JK&L) Ministry of Home Affairs, Government of India.
2. Director School Education Jammu for information.
3. OSD with the Advisor (B) to the Lieutenant Governor, UT of J&K for information.
4. Private Secretary to the Principal Secretary to Government, School Education Department for information.
5. Sh. Sudesh Magotra Ld. AAG, Hon'ble Central Administrative Tribunal J&K Jammu for information.
6. Khalid Hussain Shah (applicant) 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 Wani)**

Deputy Secretary to the Government,  
School Education Department.