



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

Subject: OA No 1134/2021 titled Kuldeep Kour Vs UT of J&K.

GOVERNMENT ORDER NO: 343 - JK (Edu) of 2023.

DATED: 06 - 11 - 2023.

Whereas, the applicant Sh. Kuldeep Kour has filed Original application before the Hon'ble Central Administrative Tribunal wherein prayer for the following reliefs:-

- i. Allow the present Original Application.
- ii. Respondents may kindly be directed to consider the case of the petitioner in terms of the service rules and the constitutional provisions and she be given her due promotion and other incidental benefits retrospectively and also in terms of the Order dated 01.09.2017 passed by the Hon'ble High Court in SWP No.887/2005 titled "Kuldeep Kour Vs State of J&K & Ors and they may kindly be directed to promote the petitioner to the post of Lecturer from the date her juniors were promoted as Lecturers i.e from 19.10.1995 and she be given the incidental service benefits of seniority promotion and her dues retrospectively.
- iii. Any other order or direction which this Hon'ble Tribunal may deem fit or proper in the facts and circumstances of the present case.

Whereas, the Hon'ble Central Administrative Tribunal vide order dated 21.12.2022 has disposed of the OA with the following directions:

".....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 admission stage with direction to respondents to treat a copy of this O.A. as representation of applicant and decide the same, keeping in view the order dated 01.09.2017 passed by Hon'ble High Court of Jammu & Kashmir in SWP No. of 2005 titled Kuldeep Kour V/s State of J&K & Ors. as well as relevant rules and

other instructions on the subject, and pass 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 the speaking order shall be communicated to applicant within one week thereafter.

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

Whereas, in compliance with the above directions of the Hon'ble Central Administrative Tribunal the cases of the applicants were considered and examined in the Department and it has been observed that some P.G Masters/Teachers do not submit their particulars in time nor they file objections against the tentative seniority list at the relevant point of time. Subsequently they file writ petition(s) before the Hon'ble High Court on the plea that they are senior to the officials who have been promoted on the basis of their names being in the seniority list(s). The instant case is also of such nature. Once opportunity has been given to file objections against the tentative seniority within stipulated time and a candidate/official fails to submit his/her objection or claim in time, thereafter his/her representation deserve outright rejection. As he/she has no right to claim that retrospective promotion on the analogy of other officials who were figuring in the seniority list at a particular point of time.

Whereas, from the perusal of the file, it is clear that the petitioner had challenged the seniority list after a period of 10 years in 2005, when the seniority list got finalized in 1995, hence caused inordinate delay and laches to challenge the seniority determined by the department. The petitioner has waved of her right by not challenging the provisional seniority list when the department has called for taking objections from the aggrieved employees. This is the settle law that any who feels aggrieved by the seniority assigned to him/her should approach the court as early as possible as otherwise he/she will lose her claim.

Whereas, the name of the applicant was not incorporated in the seniority list of PG Masters/ Teachers in the discipline of Philosophy at the relevant point of time as her service particulars for inclusion of her name in the seniority list was not received in the department for further placement/promotion as Lecturer. The names of the private respondents on the capacity of Teachers were included in the seniority list of relevant point of time and they were promoted as I/c Lecturer and later on regularized as Lecturer w.e.f 19.10.1995. However, the petitioner was promoted on the post of Master w.e.f 01.01.1998 and she was further elevated as I/c Lecturer on 09.06.2009 and subsequently regularized w.e.f 09.06.2009.

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Whereas, the General Administration Department vide Circular No. 41-JK (GAD) of 2021 dated 06.10.2021 has issued necessary instructions regarding disposal of time barred representations/applications etc regarding service matters. In the said circular, it provides that:

"It has been observed that in service matter, applications/claims rare being presented by a Government Servant to Competent Authorities for consideration after delay of a considerable period of time. Such stale claims are not legally tenable, as such are not required to be entertained by the concerned department. In this regard, the law has been laid down by Hon'ble Supreme Court of India in following judgments:

1. *State of Uttaranchal and another Vs Shri Shiv Charan Singh Bandari and others*, 2013 (6) SLR629.
2. *C.Jacob v. Director Geology and Mining and another* (2008) 10 SCC 155.
3. *Union of India and others V. M.K.Sarkar*, (2010) 2 SCC 59.
4. *Karnataka Power Corpn. Ltd through its Chairman & Managing Director V.K. Thangappan and another*, (2006) 4 SCC 322.
5. *State of Orissa V. Pharimohan Samantaray*, (1977) 3 SCC 396 and *State of Orissa v.Arun Kumar Patnaik*, (1976) 3 SCC 579.
6. *State of T.N vs Seshachalam* (2007) 10SCC 137.
7. *Bal Krishan Vs state of Punjab and others*, 2013(2) RSJ 18 (P&H).
8. *Vijay Kumar Kaul and others Vs Union of India and others*, 2012 (7) SCC 610.
9. *State of Jammu & Kashmir Vs R.K Zalpuri and others*, 2015 (15) SCC 602.

Whereas, it is, therefore clarified that whenever, in any matter connected with his/her service rights or conditions, a Government servant wishes to press a claim or to seek redress of an alleged grievance, the same should be addressed to the competent authority **concerned within a stipulated period of six months from the date the alleged grievance has arisen**, or any other period specifically provided in any rule, regulation or law whichever is later, after which the same shall be treated as time-barred.

Whereas, further it is enjoined upon all the Administrative Departments not to entertain any such claims which are time-barred and close all such old cases which cannot be resolved on account of inordinate delay."

Whereas, in the instant case, the petitioner had approached the Hon'ble Court in the year 2005 and challenging the seniority list/ promotion after a period of more than 10 years. The Hon'ble Court has also issued

directions in the said SWP in the year 2017. All the applicants' i.e petitioner/ private respondents have already been retired from Government service.

Whereas, the promotion/ regularization as made in the year 1995 and such issues/seniority have already been settled and now at this juncture it would not be appropriate to consider such old case.

Keeping in view, the facts and circumstance of the case, and in compliance to the directions of the Hon'ble Central Administrative Tribunal passed in OA No. 1134/2022 in case titled Kuldeep Kour 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 & Kashmir.

Sd/-

Alok Kumar (IRS),

Principal Secretary to the Government,
School Education Department.

No:-Edu-LGL0Jmu(CAT)/43/2023-01

Dated: 06-11-2023.

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. OSD with Advisor (B) to the Lieutenant Governor, UT of J&K for information.
4. Private Secretary to Principal Secretary to Government, School Education Department for information.
5. Sh. Sudesh Magotra, Deputy Advocate General, Hon'ble Central Administrative Tribunal UT of &K and Ladakh for information.
6. Smt. Kuldeep Kour (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.