



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

Subject: CCP(S) No. 299/2020 in SWP No. 623/2015 titled Nittu Sudan Vs
UT of J&K and others.

**GOVERNMENT ORDER NO: -347-JK (Edu) of 2023
DATED: - 06 - 11-2023**

Whereas, the Jammu & Kashmir Service Selection Board vide Advertisement Notification No. 05 of 2013 dated 02.03.2013 and Advertisement notification No. 06 of 2013 dated 10.05.2013 advertised various posts including the post of Teacher district cadre Poonch in School Education Department;

The Breakup of the post is as under:-

(05 of 2013) OM-90, RBA-31, SC-13, ST-15, ALC-05, OSC-03 Total-157

(06 of 2013) OM-133, RBA-46, SC-18, ST-23, ALC-07, OSC-04 Total-231

Whereas, the Jammu and Kashmir Services Selection Board conducted common written test for the above said post and the candidates were separately shortlisted with reference to each notification. Ms.Nittu Sudan was shortlisted for one notification only i.e 05 of 2013 on the basis of her merit and was not considered for another notification i.e 06 of 2013 as the Board contended that Ms.Nittu Sudan has not applied against the subsequent advertisement and because of her lower merit vis-a-vis the merit of the candidate last selected under OM category against advertisement no. 05 of 2013 she could not make it to the select list;

Whereas, the Jammu and Kashmir Services Selection Board forwarded the select list to the School Education Department vide No. SSB/Sel/Secy/014/5634-40 dated 03.04.2014 and the School Education Department forwarded the same to the Director School

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Education, Jammu vide No. Edu-II/213/2007 dated 05.08.2014 for issuing formal appointment orders;

Whereas, the Chief Education Officer, Poonch issued appointment orders in favour of the selected candidates vide No. CEO/P/Estt/11023-406 dated 13.09.2014;

Whereas, aggrieved by non-selection of Ms.Nittu Sudan, filed SWP No. 623/2015 before the Hon'ble High Court and the Hon'ble High Court in APSWP No.13/2015 C/w SWP No. 623/2015, CMA Nos. 740/2015 & 741/2015 has directed the respondents on 02.03.2015 as under:-

"Subject to objections from the other side and till next date before the Bench, respondents to keep reserved one post of Teacher, District Cadre, Poonch in pursuance of Advertisement Notice No. 06 of 2013 dated 10.05.2013 under open merit category".

Whereas, the SWP No.623/2015 was listed before the Hon'ble High Court and the Hon'ble High Court disposed of the said writ petition on 24.06.2020 with the following directions:-

".....The appointment, to be offered to the petitioner, shall be against the vacancy reserved vide interim order dated 02-03-2015 passed in this petition.

The petitioner, if found, entitled to selection in reference to Advertisement Notification No. 06/2013 shall be appointed retrospectively with effect from the date the candidate selected pursuant to the Notification No. 06/2013 were appointed.

The retrospective appointment of the petitioner shall be notional in nature and would qualify for pecuniary and other benefits prospectively with effect from the date of issuance of appointment order."

Whereas, the petitioner filed contempt petition bearing CCP(S) No. 299/2020 before the Hon'ble High Court. The J&K Services Selection Board filed LPA against the order dated 24.06.2020 bearing LPA No. 71/2021 and the said LPA was dismissed by the Hon'ble Division Bench on 09.02.2022;

Whereas, the case of the petitioner in pursuance of the judgment of the Hon'ble High Court dated 24.06.2020 was examined by the Jammu and Kashmir Service Selection Board and the Jammu and Kashmir Service Selection Board vide Order No. 125-SSB of 2022 dated 05.04.2022 has recommended to the indenting department

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(School Education Department) for the post of teacher in district cadre Poonch under OM category at serial No. 118 in pursuant to advertisement Notification No. 06 of 2013 under item No. 536 subject to approval of the General Administration Department in terms of communication No. SSB/Adm/09/2022/3531-32 dated 31.03.2022 whereby Board has recommend to exclude certain cases including the instant case from the ambit and scope of instructions conveyed by the General Administration Department vide communication dated 03.03.2022 for reasons adequately explained in the said communication. However the terms and condition will be same as mentioned in the recommendation letter forwarded to the indenting department vide communication No. SSB/Sel/Secy/014/5634-40 dated 03.07.2014;

Whereas, the School Education Department has submitted the matter to the General Administration Department vide U.O. dated 27.05.2022. The matter was considered and after interdepartmental consultation with Finance Department, General Administration Department and Department of Law, Justice and Parliamentary Affairs, the department vide letter dated 01.08.2023 take up the matter with J&K Service Selection Board with the request to kindly review the case & evaluate whether there are substantial reasons to challenge the judgment dated 09.02.2022 by way of filing SLP as per the advise of Law Department and General Administration Department as the LPA in the matter was filed by J&K Service Selection Board;

Whereas , the contempt petition in the instant case was listed for hearing on 03.03.2020, 06.04.2022 and 16.08.2022 and the Hon'ble High Court was pleased to pass the following order on 16.08.2022:-

".....Having said that, the Commissioner/Secretary to Government, Department of School Education is directed to comply with the judgment and issue order of appointment in favour of the petitioner on the basis of recommendations made by the Jammu & Kashmir Service Selection Board without waiting for any approval, whatsoever, from the General Administration Department. While implementing the judgment by issuing appointment order in favour of the petitioner, respondent No.1 shall keep in mind that the petitioner has been held entitled to be appointed retrospectively with effect from the candidates selected pursuant to Notification No.06 of 2013 have been appointed, though, notionally.

Respondent No.1 is, therefore, granted one last and final opportunity of four weeks to submit the compliance report in light of the observations made herein above positively by the next date of

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hearing. It is made clear that in case the judgment is not complied with, as indicated above, respondent No.1 shall appear in person on the next date of hearing.

List on 21st September, 2022".

Whereas, the J&K Service Selection Board vide communication No. SSB/Legal/2023-24/946-48 dated 14.08.2023 has stated that the LPA bearing no. 71/2021 titled UT of J&K &Ors Vs Nittu Sudan filed by the Board has been dismissed by the Hon'ble High Court vide order dated 09.02.2022. The matter was considered in the Board and accordingly, the case of the petitioner was recommended to the indenting department vide Order No. 125-SSB of 2022 dated 05.04.2022 for the post of Teacher District Cadre Poonch OM category pursuant to Advertisement Notification No. 06 of 2013 subject to approval of GAD and accordingly the compliance report has been filed in the contempt petition after having complied with the directions passed by the Hon'ble High Court;

Whereas, the contempt petition was again listed on 19-04-2023 and the Hon'ble Court has passed the following order:-

".....Mr. Raman Sharma, learned AAG seeks and is granted three weeks' time to file updated compliance report, indicating compliance in letter and spirit, failing which the officer concerned shall appear in person on the next date of hearing....."

Whereas, the LPA in the matter was filed by the J&K SSB as whole record lies with them. JKSSB was again requested vide communication dated 20.09.2023 to kindly intimate as whether the recommendation of the petitioner is made within the number of posts provided in the indent and if not, provide the grounds for filing SLP in the matter alongwith the consent to be a party in the SLP. J&K SSB has replied to the communication dated 20.09.2023 vide their communication dated 11.10.2023 in which they again stated that the Board has already complied the judgment and recommended the case of the petitioner at Serial number 118 in the select list vide order No. 125-SSB of 2022 dated 05.04.2022 under OM category and also advised the department to take its own stand regarding filing of LPA/SLP on any of new facts and circumstances;

Whereas, the matter was again listed on 16.09.2023 before the Hon'ble High Court and passed the order with the following directions:-

".....Despite the orders having been passed, the respondents being directed to comply with the judgment in light of the observations, the respondents have failed to comply with the

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judgment and issue orders of appointment in favour of the petitioner on the basis of recommendation made without awaiting any approval from General Administration Department. Despite repeated directions, the respondents have not complied with the judgment dated 24.06.2020 till date.

In the interest of justice, last and final opportunity of three weeks is granted to the respondents to comply with the judgment, failing which, respondent-Administrative Secretary to Government, School Education Department, shall appear in person on the next date. List on 11.10.2023."

Whereas, since the J&K SSB has recommended the candidate and complied the judgment so filing of SLP before the Hon'ble supreme Court by the School Education Department in selection matter is not a feasible option, the Department vide letter dated 10.10.2023 requested DSEJ to identify one post of teacher in District cadre Poonch for implementing the judgment dated 24.06.2020. The Director School Education Jammu vide communication No. DSEJ/legal/30428-29 dated 20.10.2023 has apprised that the Chief Education Poonch vide communication No. CEO/P/Legal/23817 dated 11.10.2023 has intimated that one post of General Line Teacher district cadre Poonch is lying vacant in HS, khajoordhara, Zonie Mankote.

Whereas, the matter is again listed on 11.10.2023 before the Hon'ble High Court and Hon'ble High Court has passed the order with the following directions:-

".....Mr. Raman Sharma, learned AAG requests for exemption of Administrative Secretary to Government, School Education Department/respondent No. 1 from the personal appearance on the ground that he is coordinating the visit of Hon'ble President of India. His oral request is acceded to and personal appearance of respondent No. 1 is exempted for today only. List on 03.11.2023."

Now, in view of the above sanction is hereby accorded to the appointment of Smt. Nittu Sudan w/o Sh. Bhaskar Sharma R/o W. No. 5, Poonch City Tehsil Haveli, District Poonch as Teacher in District cadre Poonch at Serial number 118 in the Select list pursuant to advertisement Notification No. 06 of 2013 under item No. 536 under OM category, notionally w.e.f. 13.09.2014 and monetarily from the date of joining of the petitioner on the post identified by the Director School Education Jammu in light of the recommendation received from J&K SSB and in compliance to the directions passed by the Hon'ble

High Court vide order dated 24.06.2020 passed in SWP No.623/2015 titled Nitu Sudan Vs State of J&K &Ors read with judgment dated 09.02.2022 passed in LPA No. 71/2021 titled UT of J&K &Ors vs Nitu Sudan. The appointment of the petitioner shall be subject to production of the following certificates before being allowed to join.

1. Domicile certificate.
2. Qualification Certificate.
3. Matriculation Certificate.
4. Character/antecedents certificate.
5. Other certificates, if any required.

By order of the Government of Jammu & Kashmir.

Sd/-

(Alok Kumar) IRS,

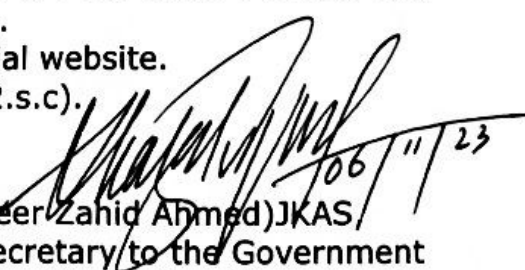
Principal Secretary to the Government,
School Education Department

No:-Edu-LGL0Jmu(HC)/173/2022-01

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. Her salary shall be released after receiving verification report of the character and antecedents from the Criminal Investigation Department.
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. Raman Sharma Additional Advocate General, Hon'ble High Court UT of J&K for information.
6. Smt. Nittu Sudan w/o Sh. Bhaskar Sharma R/o W. No. 5 Poonch City Tehsil Haveli, District Poonch for information.
7. I/C Website for uploading the same on official website.
8. Government Order File/ Concerned File (w.2.s.c).


(Peer Zahid Ahmed) JKAS
Deputy Secretary to the Government
School Education Department.