



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

Subject:- CPSW No 132/2017 in SWP No. 2590/2016 titled Dharam Paul Sharma Vs Shaleen Kabra & Ors.

GOVERNMENT ORDER NO: 361 - JK (Edu) of 2023.

DATED: 13.11.2023.

Whereas, the petitioner has filed writ petition before the Hon'ble High Court wherein prayed as under:-

- i) Writ of Mandamus directing the respondents to regularize the service of the petitioner as ZEO w.e.f January 1999 instead of February 2000 in light of government order No. 743-GAD of 2007 dated 28.06.2007 which has been issued after the report of Higher Power Committee and directions issued by the Hon'ble Apex Court in case titled Suraj Parkash Gupta Vs State & Ors with all consequential benefits; further
- ii) Writ of Mandamus directing the respondent to take a decision on the representation of the petitioner dated 15.04.2014 pursuant to which he is seeking regularization of his services as ZEO w.e.f January 1999 instead of February, 2000.

Whereas, the Hon'ble High Court vide order dated 07.12.2016 has disposed of the writ petition with the following directions:-

" In view of the aforesaid submissions and in the facts of the case instead of admitting the writ petition, i deem it appropriate to dispose of the same with the directions to the respondent-Commissioner Secretary to Government Education Department Civil Secretariat Jammu to consider the representation of the petitioner which stands already filed by passing a speaking order within a period of two months from the date of receipt of certified copy of the order passed by this court today.

According, with the aforesaid directions the petition is disposed of along with connected MP."

Whereas, the petitioner has also filed contempt petition against the department for non-implementation of the order dated 07.12.2016 passed by the Hon'ble High Court;

Whereas, in compliance with the above directions of the Hon'ble High Court the case of the petitioner was considered and examined in the Department and it has been observed that the petitioner was appointed as Teacher thereafter promoted as Headmaster in the year 1991 and subsequently vide G.O.No.19-Edu of 1999 dated 07.01.1999 he was promoted as incharge ZEO. The said official retired on 30-11-2006.

Whereas, the department initiated a process for confirmation/regularization of incharge ZEOs/equivalent through DPC/JKPSC. On the recommendation of the JKPSC as conveyed vide No.PSC/DPC/Edu/2/2010 dated 01.07.2011, among others, Sh. Dharam Pal (Petitioner) was also regularized as ZEO w.e.f. 01.02.2000 vide G.O. No.494-Edu of 2011 dated 30-08-2011 figuring at S.No.77, Sty No.87.

Whereas, the petitioner is seeking his regularization as ZEO w.e.f January 1999 instead of February 2000 in light of government order No. 743-GAD of 2007 dated 28.06.2007 which has been issued after the report of Higher Power Committee and directed issued by the Hon'ble Apex Court in case titled Suraj Parkash Gupta Vs State & Ors with all consequential benefits.

Whereas, the regularization of the applicant has been made purely in terms of Government order No. 743-GAD of 2007 dated 28.06.2007 issued by the General Administration Department which reads as under:

"Promotion of a Government employee shall take effect from the date, he has been formally put incharge of the higher post, subject to

his eligibility in accordance with the recruitment rules and availability of the vacancy. His clearance/regularization shall take effect from the date of his placement against the higher post or availability of vacancy or the date of his eligibility, whichever is later. In all other cases, the promotion of a Government employee to the next higher post shall take effect from the date of issuance of the order."

Whereas, as per the eligibility list as prepared and placed before the DPC /PSC at the time of regularization, it has been found that the vacancy against which the petitioner has been regularized was accrued on 01.02.2000 due to the promotion of Smt. Raj Kumari as Principal. Besides, number of senior counterparts of the applicant were also given the effect of regularization from the date as given to the applicant/petitioner;

Whereas, it is clear that the regularization effect which was given to the petitioner, respondent has been given correctly on the basis of criteria of regularization as laid down under norms in vogue i.e. date of placement or **availability of vacancy** or date of eligibility whichever is later as per Government Order No.743-GAD of 2007 dated 28.06.2007;

Now therefore, keeping in view, the facts and circumstance of the case and in compliance to the directions of the Hon'ble High Court passed in SWP No. 2590/2016 titled Dharam Paul Sharma Vs Shaleen Kabra & Ors, the claim of the petitioner have been considered in the department 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(HC)/82/2023-01

Dated: 13.11.2023.

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. Raman Sharma Ld. AAG, High Court of J&K & Ladakh for information.
6. Dharma Paul Sharma (petitioner) 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.

