

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

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Subject:- O.A No. 284/2022 titled Bashir Ahmad Hajam and others Vs UT of J&K and others.

**GOVERNMENT ORDER NO:- 390 JK(Edu) of 2023**  
**DATED:- 05.12.2023**

**Whereas,** the applicants have filed above titled O.A before the Hon'ble Central Administrative Tribunal at Srinagar wherein the applicants have prayed for following relief/s:-

- I) Directing the respondents to give regular effect to the services of the applicants from the date when they were formally put the charge of the post of Lecturers.
- II) Directing the respondents to treat the applicants at par with other similarly situated employees to whom regular effect has been given from the date of their charge upon the posts.
- III) Directing the respondents to release all the service benefits of the applicants without any further delay which they are entitled after promotion upon the said post.

**Whereas,** the Central Administrative Tribunal disposed of the above O.A vide order dated 16.06.2022 with the following orders/directions:-

*"...In view of the limited prayer made by the learned counsel for the applicants the respondents are hereby directed to consider the pending representation of the applicants dated 17.01.2022 along with the averments made in the present O.A and dispose of the same by passing a Reasoned and Speaking order within a period of four weeks from today. A copy of the speaking order so passed by provided to the applicants".*

**Whereas,** in compliance with the above directions of the Central Administrative Tribunal, the case of the petitioners were considered and examined in the Department and found that the post of Lecturer (10+2) in the School Education Department is a Gazetted post is to be filled up 50% by direct recruitment and 50% by promotion.

**Whereas,** on the basis of final seniority list, the department has issued promotion order of the eligible PG Masters/Teachers as I/c Lecturer in various disciplines vide Government Order No. 419-Edu of 2013 dated 30.03.2013,

*[Handwritten signature]*

Government Order No. 349-Edu of 2014 dated 21.03.2014, Government Order No. 575-Edu of 2014 dated 14.08.2014, Government Order No. 628-Edu of 2014 dated 01.09.2014 and Government Order No. 662-Edu of 2014 dated 13.10.2014 and in the said placement/promotion order, the applicants were promoted as I/c Lecturer.

**Whereas**, on the basis of final seniority list, a Departmental Promotion Committee (DPC) meeting for considering promotion/regularization eligible PG Masters/Teachers (I/c Lecturers) in the discipline of various discipline was conducted on 11.08.2021 and among others eligible candidates, the cases of the applicants were also placed before the Departmental Promotion Committee.

**Whereas**, after seeking approval of the Departmental Promotion Committee, the applicants were regularized as Lecturers vide G.O No. 1693-Edu of 2021 dated 10.12.2021. The regularization order was made on the basis of following conditions:-

- a. **That the mode of acquiring degree (i.e. 10+2+2) for those who were enrolled for first degree course prior to 04.06.1986 or 10+2+2 with bridge course or 10+2+3) as well as genuineness of P.G Certificates/Institutions from which he/she has acquired such degree are valid. However, in light of the clarification issued by UGC vide letter No. 1-15/2015 (CCP-II) dated 17.08.2015 to the UGC regulation notification dated 25th November 1985 officials who had enrolled themselves in the first degree course prior to June-4, 1986 in (10+2+2) mode and who had successfully completed their first degree course, prior to June 4, 1986 irrespective of their duration shall be treated at par with those who have completed 03 years degree course and they are not required to undergo a further one year bridge course.**
- b. **That Drawing and Disbursing Officers shall take an undertaking from the concerned Lecturer in a shape of an affidavit duly attested by the 1st Class Magistrate to the effect that if his/her service particulars/PG Certificate is found fake/forged/tempered or issued by un-recognized University or the course is proved as un-recognized at a later stage, he/she shall have no claim for the regularization and the regularization order issued in his/her favour be treated as cancelled ab-initio without further notice.**
- c. **That to re-verify that the concerned had acquired P.G Degree after availing the leave during his/her studies/obtained the proper permission, from competent authority.**



**Whereas**, the eligibility list was strictly prepared on the basis of criteria of regularization as laid down under norms in vogue i.e. date of placement, availability of vacancy, date of eligibility whichever is later as per Government Order No. 743-GAD of 2007 dated 28.06.2007 issued by the General Administration Department which provides 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**, based upon the availability of post/vacancy in terms of Government Order No. 743-GAD of 2007 dated 28.06.2007, the applicants were regularized as Lecturers vide G.O No. 1693-Edu of 2021 dated 10.12.2021, from the date of accrual of clear vacancy.

**Whereas**, the Department has utilized all the vacancies and the Departmental Promotion Committee was conducted as per the Government order No. 743-GAD of 2007 dated 28.06.2007 and the applicants were regularized from the date of accrual of substantive vacancy.

**Whereas**, the Sr. counterparts of the applicants have also been given the effect of regularization from the date of accrual of clear vacancy, eligibility as Lecturers as were given to the applicants and the applicants could not be regularized with effect from the date they were placed as I/C Lecturer because of non-availability of the post as the regularization is always made against a vacancy subject to otherwise eligibility of the incumbent.



**Whereas**, the General Administration Department vide their Circular No. 41-JK(GAD) of 2021 dated 06.10.2021 has observed that in service matters, applications/claims are 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, are not required to be entertained by the concerned Department and has clarified as under:-

*"It is 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 redressal of an alleged grievance, the same should be*



*addressed to the competent authority concerned with in a stipulated period of Six months from the date the alleged grievance has arisen, or any other period provided in any rule, regulation or law, whichever is later after which the claim shall be treated as time barred".*

**Whereas**, the Hon'ble High Court in **WP(C) No. 1170/2020 titled Charanjit Kour Sudan Vs UT of J&K and others**, it was held that Incharge arrangement is not a recognition of right to a higher post. An incharge arrangement is not a recognition of or is necessarily based on seniority and that, therefore, no rights, equities, or expectations could be built upon it asking an officer/official, who substantively holds a lower post, merely to discharge the functions of a higher post cannot be treated as promotion, It is also well settled that when incharge arrangement is made, it has to as far as possible, for a short duration; not exceeding six months and such an arrangement does not confer any right whatsoever on the officer/official holding the post on incharge basis, except entitling him," her to the Charge allowance, The basic idea of making incharge arrangement emanates from administrative reasons, however, ordinarily, any order governing such incharge position contains a stipulation that it shall for a period of six months purely on temporary basis against available vacancies or till the posts are filled up under rules on regular basis by the DPC/PSC, whichever is earlier. In the case on hand, admittedly, the petitioner is substantively holding the post of Assistant Administrative Officer in the respondents Corporation and merely because the petitioner has been placed as incharge on the post of Administrative Officer, the petitioner cannot, as a matter of right, claim that she had been regularly promoted on the said post or that on the basis of said services rendered by her, she deserves to be regularized/confirmed/promoted against the said post. This incharge arrangement of the petitioner can, in no circumstances, be treated as a promotion and it does not give the petitioner any right over the said post. The said post has to be filled up by the respondent Corporation in accordance with the relevant recruitment rules governing the subject as well as the seniority position in vogue and, in the said process, the petitioner, if eligible, has a right of consideration alongwith all other eligible officers working in the Corporation. The Hon'ble High Court dismissed the said writ petition on 20.07.2020 as well as LPA No. 88/2020 on the ground that any reason to interfere in the present appeal. It is not a matter of dispute that mere posting to an incumbent on a higher post as incharge basis without carrying out regular promotion in terms of the rules has been strongly deprecated, with reference to the then State of Jammu and Kashmir, by Hon 'ble the Supreme Court in the case of **Suraj Parkash Gupta and others Vs. State Of and others reported as (200()) 7 SCC 561.**



Now, therefore, after having considered the case of applicants in compliance with the judgment/order dated 16.06.2022 passed in O.A No. 284/2022 titled Bashir Ahmad Hajam and others Vs UT of J&K and others, it has been found that the claim of the applicants does not merit consideration based upon the observations and findings made in the preceding paras and as such the claim of the applicants for their regularization with effect from the date as I/C Lecturer 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/221/2022-01(194803)**

**Dated:- 05-12-2023**

Copy to the:-

1. Joint Secretary (J&K) Ministry of Home Affairs, Government of India,
2. Commissioner/ Secretary to the Government, General Administration Department.
3. Director School Education Jammu/Kashmir for information and necessary action.
4. OSD with Advisor (B) to the Lieutenant Governor, UT of J&K for information.
5. Private Secretary to Principal Secretary to the Government, School Education Department for information.
6. (All Petitioners) for information.
8. I/C Website for uploading the same on official website.
9. Government Order File/ Concerned File (w.2.s.c).



**(Masood Ahmad),**  
**Deputy Secretary to the Government,**  
**School Education Department**

