

GOVERNMENT OF JAMMU AND KASHMIR
SCHOOL EDUCATION DEPARTMENT,
CIVIL SECRETARIAT JAMMU/KASHMIR
(Legal Section)

Subject: - OA No. 61/519/2022 titled Mohd Reyaz Khan Vs UT of
J&K and others.

Government Order No. 87 - JK(Edu) - 2023
Dated 28-03-2023

Whereas, vide Government order No. 868-JK(Edu) of
2022 dated 09.05.2022, Sh. Mohd. Rayaz Khan, Lecturer
English, Government Higher Secondary School, Mendher,
District Poonch was transferred and posted in Government
Higher Secondary School, Behruti Poonch;

Whereas, Sh. Mohd. Rayaz Khan, Lecturer English
being aggrieved of the above said Government order No.
868-JK(Edu) of 2022 dated 09.05.2022 filed O.A. No.
61/519/2022 titled Mohd. Rayaz Khan Vs Union Territory of
Jammu and Kashmir and others before the Hon'ble Central
Administrative Tribunal, Jammu Bench, Jammu praying
therein for the following reliefs;

1. Quash the Government order No. 868-JK (Edu) of 2022
dated 09.05.2022 passed by the respondent No. 1 by virtue
of which the applicant who is at verge of retirement, left
with only one year service, retiring in the year 2023, has
been transferred from Government Higher Secondary
School, Mendher, District Poonch and posted in
Government Higher Secondary School, Behruti Poonch.
2. Commanding the respondent No. 1 to continue to allow the
applicant at his present place of posting i.e. Government
Higher Secondary School, Mendher for his happy retirement
from the service.

Whereas, the Hon'ble Central Administrative Tribunal
Jammu vide order dated 26.05.2022 disposed of
the O.A of the applicant with the following
directions:-

....On consideration of the above submissions of

the counsels for both the parties, this O.A. is disposed of at admission stage, without expressing any opinion on merits of the case, directing the respondents to treat a copy of this O.A. a applicant as representation of the applicant and consider it as per provisions in relevant applicable rules relating to transfer of Senior Lecturers and binding instructions on the subject, and decide it before 30.06.2022 and within one week thereafter to communicate to the applicant. The respondents are further directed not to relieve the applicant from the present place of his posting till the end of summer vacations i.e., till 09.07.2022".

Whereas, the claim of the applicant was examined in the Department in light of Circular No. 09- JK(Edu) of 2022 dated 13.06.2022 issued by the School Education Department wherein it was notified that those lecturers who are retiring by or before 31st March 2023 will be considered for retention at their present place of posting. However, the applicant did not apply within the notified time frame for his retention at his present place of posting;

Whereas, the post of Lecturer is a U.T. cadre post and the official borne on the UT cadre post is required to serve in any part of the Union Territory of J&K upon and as per the Administrative requirement of the Government and as such the applicant cannot insist for his posting at a particular place of his choice;

Whereas, in terms of Rule 27 of J&K Civil Service (Classification Control and Appeal Rules, 1956, a member of a service or class of a service may be required to serve in any part of the Union Territory of Jammu and Kashmir on any post borne on the cadre of such service or class;

Whereas, the issue of transfer and postings has been considered time and again by the Hon'ble Supreme Court, and the entire law is settled by catena of decisions of the Apex Court. It is settled law that transfer of a Government servant appointed to a particular cadre of transferable post from one place to the other is an incident of service. No Government servant, therefore, has any legal right for being posted at any particular place. Moreover transfer from one place to another is necessary in public interest



and exigency in public administration as held in "**Gujrat Electricity Board Vs Atma Ram Sugomal Poshani**", AIR 1989 SC 1433, which reads as under:-


"An employee holding a transferable post cannot claim any vested right to work on a particular place as the transfer order does not affect any of his legal rights and Court cannot interfere with a transfer/posting which is made in public interest or on administrative exigency."

Whereas, the Hon'ble High Court of Jammu and Kashmir at Jammu vide its judgment dated 18.05.2018 passed in **SWP No. 891/2018 titled Shivani Manhas Vs State of J&K and others** has held that the transfer of an employee is the mandate of the employer and an employee can be transferred at any place keeping in view the administrative exigency;

Whereas, in another judgment the Hon'ble Supreme Court of India has held as under:-

"It is not for the employee to insist to transfer him/her and/or not to transfer him/her at a particular place. It is for the employer to transfer an employee considering the requirement."

Now, therefore, in compliance to the order/direction of the Hon'ble Central Administrative Tribunal dated 26.05.2022 passed in O.A. No. 61/519/2022 titled Mohd. Rayaz Khan Vs UT of J&K and others, the claim of the applicant has been considered in light of the directions passed by the Hon'ble Supreme Court of India passed from time to time and other rules and regulations governing the ~~file~~ and the same has been found devoid of any merit, hence rejected.

 The applicant/ officer shall be deemed to be relieved from the date of passing of this order with the direction to join his new place of posting forthwith.

By Order of the Government of Jammu and Kashmir.

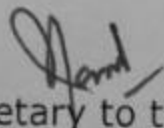
Sd/-

(Alok Kumar) IRS

Principal Secretary to the Government
School Education Department

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 the Advisor (B) to the Lieutenant Governor, UT of J&K for information.
4. Chief Education Officer Poonch for information and necessary action.
5. Principal Govt. Higher Secondary School Mendhar/Behruti District Poonch for information and necessary action.
6. Private Secretary to the Principal Secretary to Government, School Education Department for information.
7. I/C Website for uploading the same on Official website.
8. Government Order File/Concerned File (w.2.s.c.)


Deputy Secretary to the Government
School Education Department