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

Subject: -CP No. 48/2024 in OA No 61/1359/2023 titled Suman Lata Vs UT of J&K and others.

Government Order No: -272- JK (Edu) of 2025

D a t e d: - 04 - 04- 2025

Whereas, the applicant namely Suman Lata filed an Original Application bearing O.A no. 61/1359/2023, titled Suman Lata V/s U.T of J&K and others before the Hon'ble Central Administrative Tribunal at Jammu seeking following reliefs:-

- (i) Quashing the transfer order No. 1129-DSEJ of 2023 dated 17.07.2023 issued by respondent no. 2, transferring the applicant from HS Kalu Chak, Zone Purmandal to HS Adlehar, Zone Arnia.
- (ii) Commanding and directing the respondents to transfer the applicant to an appropriate place.

Whereas, the Hon'ble Central Administrative Tribunal vide its order dated 12.10.2023, disposed of Original Application with the following direction:-

*".....At the outset, learned counsel for the applicant submits that the applicant would be satisfied and it would meet the ends of justice, if the Respondent No. 3 is directed to decide her pending representation dated 21.07.2023 keeping in threat to her life within a period of four weeks by passing a reasoned and speaking order. Ordered accordingly. Respondents are further directed to communicate the order so passed to the applicant within a period of one week thereafter. With these directions, OA No. 1359/2023 is disposed of. No costs.*

*It is made clear that I have not gone into the merits of the case. All the points and contentions of the parties are kept open."*

Whereas, the petitioner filed a contempt petition no. 48/2024 before the Hon'ble Central Administrative Tribunal, which was listed on 28.02.2025 and the Hon'ble Tribunal after considering the matter passed the order with the following direction:

*"As per status report dated 10.12.2024, the communication no. DSEJ/NG/Tr-I/2588 dated 19.11.2024 was sent by the Director School Education, Jammu to the Secretary/Principal, School Education Jammu alongwith the list which has to be adjusted on security ground. What, more than three years have been passed and nothing has been done till date. The Secretary, School Education is directed to take a call on this issue, failing which he would remain present before this Tribunal on the next date of hearing."*

**Whereas**, in terms of **Rule 27 of J&K 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."*

*"...transfer of a government servant appointed to a particular cadre of transferable posts from one place to the other is an incident of service. No government servant or employee of Public Undertaking has legal right for being posted at any particular place. Transfer from one*



place to other is generally a condition of service and the employee has no choice in the matter. Transfer from one place to other is necessary in public interest and efficiency in the public administration. Whenever, a public servant is transferred he must comply with the order but if there be any genuine difficulty in proceeding on transfer it is open to him to make representation to the competent authority for stay, modification or cancellation of the transfer order. If the order of transfer is not stayed, modified or cancelled the concerned public servant must carry out the order of transfer. In the absence of any stay of the transfer order a public servant has no justification to avoid or evade the transfer order merely on the ground of having made a representation, or on the ground of his difficulty in moving from one place to the other. If he fails to proceed on transfer in compliance with the transfer order, he would expose himself to disciplinary action under the relevant rules."

**Whereas, In *E. P. Royappa v. State of Tamil Nadu AIR 1974 SC555*, it has been held that:-**

"...Transfer of a Government servant appointed to a particular transferable post from one place to another place is an incidence of service and does not affect or alter his terms and conditions of service. The Government has power to transfer its employees from one post to another carrying equivalent pay scale and grade."

**In *Rajendra Singh & Ors. v. State of U.P. & Ors.*, (2009) 15 SCC 778 it has been held that:-**

"... It is well settled that transfer is an exigency of service. An employee does not have any indefeasible right to remain posted at a particular place ad-infinitum or seek a posting of his choice. It is also no longer res integra that orders of transfer can only be interfered with by courts if the same are questioned on the ground of malafides or lack of jurisdiction or if the same is otherwise contrary to statutory rule governing such transfers. (*J&K Central Non-Gazetted Electrical Employees Union, Rajouri v. State of J&K & Ors 2017 (6) JKJ[HC] 431* See & *Shanti Kumari v. Regional Deputy Director, Health Services, Patna Division, Patna & Ors. (1981) 2 SCC 72*).

In **National Hydroelectric Power Corpn. Ltd. v. Shri Bhagwan, (2001) 8 SCC 574**, it has been held that:-

*"... No government servant or employee of a public undertaking has any legal right to be posted forever at any one particular place or place of his choice since transfer of a particular employee appointed to the class or category of transferable posts from one place to other is not only an incident, but a condition of service, necessary too in public interest and efficiency in the public administration. Unless an order of transfer is shown to be an outcome of mala fide exercise or stated to be in violation of statutory provisions prohibiting any such transfer, the Courts or the Tribunals normally cannot interfere with such orders as a matter of routine, as though they were appellate authorities substituting their own decision for that of the employer/ management, as against such orders passed in the interest of administrative exigencies of the service concerned..."*

In **Syed Hilal Ahmad & Ors. v. State 2015 (3) JKJ[HC] 398; 2015 SLJ** it has been held that:-

*"...transfer is an incidence of service and a Government Servant is subject to orders of transfer on administrative exigencies and a Government Servant cannot insist that he is entitled to continue in a particular station/post for a definite period."*

In **A. D. Manhas (Dr) v. State & ors 2005 JKJ (HC) (1) 314**, it has been held that:-

*"...transfer is an exigency of service and it is the prerogative of the employer to see at what place the service of an employee can be utilized properly in the larger public interest. An employee holding transferable post has no right to insist that he should be allowed to serve at a particular place for a particular period. Simply because he has been transferred against the higher post, does not mean that he would have to perform the duties of that post. The only purpose of his transfer against the post appears to be that his pay etc shall be drawn against said post..."*

Whereas, in compliance to the directions of the Hon'ble Central Administrative Tribunal Jammu, the case of the applicant was examined in the Department and found that the applicant is already posted in Jammu district, the fact which itself averts the apprehension of the applicant of



having any threat to her life in a most secure and protected area/district. However, the cases of the security grounds are under consideration in the department and will be considered along with other similar cases who are seeking transfer on security grounds, if found fit. The case of the applicant cannot be considered in isolation, keeping in view the vacancy position as well as requirement of student community.

Now therefore, keeping in view, the facts and circumstance of the case and in compliance to the directions of the Hon'ble Central Administrative Tribunal's order dated 12.10.2023 passed in O.A No. 1359/2023 titled Suman Lata V/s U.T of J&K and others, the claim of the applicant has been considered in the Department and being untenable under rules is hereby rejected.

**By order of the Government of Jammu & Kashmir.**

**Sd/-**

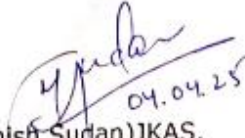
Shantmanu, (IAS)  
Financial Commissioner (Additional Chief Secretary)  
School Education Department.

No:- Edu-LGL0Jmu(CAT)/102/2024-01

Dated:- 04.04.2025

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 to Hon'ble Minister for School Education Department for information.
4. Concerned Ld. AAG, Hon'ble Central Administrative Tribunal, Jammu for information.
5. Private Secretary to Financial Commissioner, (Additional Chief Secretary), School Education Department for information.
6. Suman Lata (Applicant) for information.
7. I/C Website for uploading the same on official website.
8. Government Order File/ Concerned File (w.2.s.c).

  
(Manish Sudan)JKAS,  
Under Secretary to the Government,  
School Education Department.