



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

Subject: OA No. 61/357/2024 titled Mushtaq Ahmed Vs UT of J&K and others.

**Government Order No. 323-JK (Edu) of 2025**

**Dated: 22 -04-2025**

Whereas, the applicant Mushtaq Ahmed filed Original Application before the Hon'ble Central Administrative Tribunal Jammu Bench wherein praying for following reliefs:

(i) Direct the respondents to issue order of placement of the applicant as Lecturers w.e.f 09.10.2023 pursuant to his promotion in terms of notification No. HRM/114/2023 dated 28.08.2023 granting exemption of the required permission or considering the post facto permission either to have been granted or after issuing/obtaining the same from concerned authority.

Whereas, the Hon'ble Central Administrative Tribunal Jammu vide order dated 28.03.2024 has disposed of the OA with the following directions:

"... Accordingly, the Original Application is disposed of with a direction to respondents to treat this O.A. as representation of the applicant and decide the same by passing a reasoned and speaking order within a period of four weeks in the light of Annexure A-1 and A-2 and legal notice dated 11.10.2023 served by the applicant through its counsel to the respondents.

Respondents are further directed to communicate the order so passed to the applicant. Before passing any order, the applicant shall also be afforded an opportunity of hearing. The whole exercise shall be undertaken within a period of four weeks from the date of receipt of a certified copy of this order.

With these directions, O.A. No. 357 of 2024 is disposed of."

Whereas, the case of the applicant was examined in the Department and it has been found that vide Government Order No.242-JK(Edu) of



2023 dated 18.08.2023, final seniority list of PG Masters/Teachers in the discipline of Botany was issued, wherein the applicant is figuring at Seniority No.158 with the remarks that the inclusion in seniority / promotion is subject to the condition that permission for pursuing PG during service is granted by the Competent Authority. The details of the service particulars is given below::

S. No.	Name	Design.	Place of posting	Date of birth	Date of 1st Apptt.	Date of promotion as Master	Date/ year of passing pg	Mode of acquiring PG	Name of university	Permission/ leave taken or not	Remarks
158	Mushtaq Ahmed (RBA)	Master	High School Dhara Morha Poonch	15.08.70	05.02.97	20.12.22	07.09.98	Regular	Aligarh Muslim University	Applied for post facto	The inclusion in seniority / promotion is subject to the condition that permission for pursuing PG during service is granted by the Competent Authority.

Whereas, vide Government Order No.325-JK(Edu) of 2023 dated 09.10.2023, placement of PG Masters/Teachers in the discipline of Botany as In-charge Lecturer was issued, wherein the applicant was not considered for promotion as In-charge Lecturer due to the fact that he acquired PG degree during the service in Regular Mode from Aligarh Muslim University without seeking proper permission from the competent authority..

Whereas, Rule 73 of J&K Civil Service (Leave) Rules 1972 reads as under:

“The concerned Administrative Department shall be competent to sanction study leave without pay and allowances under these rules within/outside the State or outside the country.”

Rule 73 of J&K Civil Service (Leave) Rules, 1979 was re-cast vide SRO-274 dated 30.05.2019 which reads as under:-

1. The concerned Administrative Department shall be competent to sanction the study leave under these rules within the State.
2. The General Administration Department on the recommendations of the Administrative Department concerned and with the consent of



the Finance Department may grant study leave under these rules for purpose of study outside the state within India”.

Whereas, in terms of Government Order No. 940-Edu of 2017 dated 17.11.2017, it is imperative upon the in-service candidate to pursue higher qualification after seeking proper permission from the competent authority at the relevant point of time.

Whereas, in Rabindra Nath Barman Vs Gauhati High Court, 2012 (2) GLT 111, it was held that the petitioner who has obtained degree in Law while serving in Gauhati High Court without proper authorization was held to be the misconduct because of which he was proceeded in departmental enquiry and the Gauhati High Court up-held it as a misconduct to undertake LL.B course without permission.

Whereas, in Nongmaithem Rejan Singh Vs State of Manipur, 2013 (1) GLT 7 it was held that if a person obtains graduation certificate without authorization, it amounts to misconduct and person who commits misconduct cannot be rewarded by promotion to the next higher post.

Similar in the case of K.N. Pushpavalli Vs The Bar Council of Tamil Nadu WP (C) No. 46022/ 2002 (DOD Feb 26, 1013) reported in (2013) 3 MLJ 237, a full-time High Court employee, who, without getting prior permission from the High Court Registry and without intimating the Registry, joined three year Law Degree Course in SLSRC, Havanur College of Law, during academic year 1984-1987. According to her, she attended the Evening College by securing attendance during weekends and public holidays. On completion of the course, she was awarded Law Degree and the High Court, also, surprisingly, ratified the action of the petitioner in having joined the Law College at Bangalore, without intimating and without getting prior permission from the Registry. After superannuation, the said K.N. Pushpavalli, got enrolled before the Bar Council of Tamil Nadu on 02.05.2002 and subsequently, her enrolment was cancelled on 17.12.2002. Challenging the same, WP (C) No. 46022 of 2002 was filed and the same was dismissed on 26.02.2013 holding that the petitioner's enrolment was rightly cancelled as she was working in High Court of Madras during the period, during which she had alleged to have undergone the Law Course.



Therefore in view of the above settled legal position, the degree obtained by the in-service candidate without obtaining proper permission from the competent authority cannot be reckoned valid particularly for the purposes of seniority and promotion.

Now therefore, keeping in view the above stated facts and circumstances of the case, the claim of the applicant has been considered in the light of directions passed by the Hon'ble Central Administrative Tribunal, Jammu on 28.03.2024 passed in O.A No. 61/357/2024 titled Mushtaq Ahmed Vs UT of J&K and others and the same has been found not tenable under rules and is therefore hereby rejected.

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

No: Edu-LGLOJmu(CAT)/173/2024-01

Dated: 22.04.2025

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. Sh. Mushtaq Ahmed applicant for information.
7. I/C Website for uploading the same on official website.
8. Government Order File/ Concerned File (w.2.s.c).

(Thannaji Bhat),  
Under Secretary to the Government,  
School Education Department