



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

Subject: O.A No. 1818/2021 titled Gh. Mohammad Allie and others Vs UT of J&K and others.

GOVERNMENT ORDER NO. 135 - JK (Edu) of 2024.  
DATED: 27.02.2024.

Whereas, the applicants have filed above titled Original Application before the Honble Central Administrative Tribunal, Srinagar wherein the applicants have prayed for following relief/s:-

- I) Call for the records of the non-applicants.
- II) Direct the non-applicants to release and pay the salary of the applicants in the posts of Zonal Education Officers or equivalent from the dates of their respective placement in the said posts along with arrears till the date of their respective retirements.
- III) Order for fixation/re-fixation of the retiral / pensionary benefits of the applicants on the basis of the last pay drawn in the posts of Zonal Education Officers or equivalent and thus release and pay the same to them along with arrears.

Whereas, the Hon'ble Central Administrative Tribunal, Srinagar disposed of the above O.A vide order dated 09.10.2023 with the following orders/directions:-

***"In the backdrop of what has been discussed above, in the interest of justice, we dispose of this O.A. with the direction to the respondents to treat the legal notice dated 08-11-2021, served upon them by the learned counsel for the applicants, as representation on behalf of the applicants, and accordingly, take a decision in the matter, of course, in accordance with the rules occupying the field, within a period of eight weeks from the date a copy of this order is served upon them with further direction to keep this Tribunal aware of the decision."***

Whereas, in compliance with the above directions of the Honble Central Administrative Tribunal, Srinagar, the case of the applicants have been examined in the Department and found that the applicants were confirmed as Headmasters vide Government Order No. 684-Edu of 2012 dated 04.09.2012 and Government Order No. 1132-Edu of 1999 dated 03.08.2009;

Whereas, in order to meet out the exigency of requirement of Zonal Education Officer and for smooth functioning of administrative business, the School Education Department placed the applicants as I/C Zonal Education Officers, who were substantively holding the posts of Headmasters and equivalent in their own pay and grade;

Whereas, while considering the cases of the applicants, it has been found that the applicants were placed as I/C ZEO without availability of clear vacancy. It has also been found that the applicants retired from the service before accrual of clear vacancy and

therefore do not fulfill the criteria for their confirmation through Departmental promotion Committee/J&K, Public Service Commission;

**Whereas**, during the DPC, eligibility list was strictly prepared on the basis if criteria of regularization as laid down under norms in vogue i.e. date of placement, availability of vacancy, date of eligibility whichever is alter 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**, the applicants could not be regularized with effect from the date they were placed as I/C Zonal Education Officer because of non-availability of the post/ clear vacancy. Regularization is always made against a vacancy subject to otherwise eligibility of the incumbent. Since the applicants have retired before the accrual of vacancies and the Department cannot violate/ deviate from the instructions set forth by the General Administration Department issued vide Government Order No. 743-GAD of 2007 dated 28.08.2007 governing the criteria for promotion/ regularization in light of set of procedure of DPC/JKPSC, as such the claim of the applicants for higher post is not tenable;

**Now**, therefore, after having considered the case of applicants in compliance with the judgment/ order dated 09.10.2023 passed in O.A No. 1818/2021 titled Gh. Mohammad Allie 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 is devoid of merit and is hereby rejected.

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


**Sd/-  
Dr. Piyush Singla (IAS),  
Administrative Secretary,  
School Education Department.**

No: Edu-LGL0Kmr/82/2022-01 SED (126395)

Dated: 27.02.2024.

Copy to the:-

1. Joint Secretary (J, K & L) Ministry of Home Affairs, Government of India.
2. Director School Education Kashmir for information and necessary action.
3. Director, Archives, Archives and Museums, J&K.
4. OSD with Advisor (B) to the Lieutenant Governor, UT of J&K for information.
5. Private Secretary to Administrative Secretary, School Education Department.
6. Concerned applicants for information.
7. I/C Website for uploading the same on official website.
8. Government Order File/ Stock File (w.2.s.c).

  
**(Masood Ahmad Wani).**  
Deputy Secretary to the Government.

