

GOVERNMENT OF JAMMU AND KASHMIR
SCHOOL EDUCATION DEPARTMENT,
CIVIL SECRETARIAT, J&K

Subject:- SWP No. 245/2011 titled Khurshheed Ahmad Itoo Vs State of J&K and others.

GOVERNMENT ORDER NO:- JSJK(Edu) of 2024
DATED:- 01.03.2024

Whereas, the petitioners namely Khurshheed Ahmad Itoo and Parveez Ahmad Dar applied for the post of 2nd EV in EGS Centre in habitation village Takiya Reban Zone Imam Sahab District Shopian pursuant to Advertisement Notification No. CEO/PUL/SSA/205/319 dated 16.08.2005 issued by the Chief Education Officer, Shopian;

Whereas, Zonal Education Officer, Imam Sahib, Shopian vide Order No. ZEO/M/554-56 dated 05.06.2008, appointed Parveez Ahmad Dar as 2nd EV in EGS Centre Takiya Reban, Shopian;

Whereas, the Chief Education Officer, Shopian, vide Order No. CEO/SPN/Lit/09/131-133 dated 11.01.2009 cancelled the appointment of Parveez Ahmad Dar on the ground that the appointment order of the petitioner has been issued by an incompetent authority/ person;

Whereas, aggrieved of the cancellation of his selection, Parveez Ahmad Dar filed SWP No. 325/2009 before the Hon'ble High Court with the prayer to quash the order No. CEO/SPN/Lit/09/131-133 dated 11.01.2009 and direct the respondents not to disturb or dislodge the status of the petitioner as 2nd EV of EGS Centre, Takiya Reban, Shopian;

Whereas, in the meantime, Sh. Khurshheed Ahmad Itoo also approached the Hon'ble High Court and filed a writ petition bearing SWP No. 245/ 2011 seeking directions for quashment of the engagement of the respondent No. 6, petitioner in SWP No. 325/2009 (Parveez Ahmad Dar) and further seeking his adjustment against the said post on the ground of being more qualified than the respondent No. 6 (Parvaiz Ahmad Dar);

Whereas, the Hon'ble High Court vide order dated 25.03.2011 clubbed both the writ petition and the case was finally listed by the Hon'ble High Court on **27.06.2022** wherein the Hon'ble High Court passed following orders:-

"The order No. ZEO/M/554-56 dated 05.06.2008 is self-explanatory. It is very amazing that such an order finds space in the administrative corridors and is given effect too. It is pathetic, to say the least, to see how people are accommodated in the Government Institutions. Such a bizarre order is not bravely put to use but is sought to be enforced also by this Court.

The situation therefore is vividly clear. The petitioner is seeking protection of 'right' that is flowing from an illegal arrangement itself, which cannot be granted by any stretch of imagination as this court cannot perpetuate the wrong. In view of above, the writ petition fails and is dismissed along with all CMs interim direction dated 26.04.2011 shall stand vacated.

SWP No. 245/2011

"In view of the dismissal of the writ petition, SWP No. 325/2009, the present writ petition has become infructuous insofar as relief of quashment of petitioner in SWP No. 325/2009 is concerned.

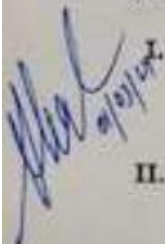
The respondents, however, shall be at liberty to consider the case of the petitioner in light of the dismissal of SWP No. 325/2009 and pass appropriate orders in accordance with law".

Whereas, the petitioner namely Parveez Ahmad Dar filed LPA No. 116/2022, against the order dated 27.06.2022 passed by the Hon'ble Single Bench which was also dismissed by the Hon'ble Court on 07.11.2023;

Whereas, the petitioner Khursheed Ahmad filed representation for his engagement as Education Volunteer (EV) in deference to Hon'ble High Court order dated 27.06.2022;

Whereas, the representation of the applicant has been considered and examined in the Department in light of the judgment passed by the Hon'ble High Court vide order dated 27.06.2022;

Whereas, during the examination of the case, it has been found that though the cancellation of engagement of Parvaiz Ahmad Dar has been upheld by the Hon'ble High Court as well as Hon'ble Division of J&K High Court, however the cancellation of selection would not pave way for selection/ engagement of applicant Khursheed Ahmad as Education Volunteer for the below reasons:-

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- I. That the scheme governing engagement of EV has already been closed/ winded up by the Government and therefore there is no rule or statute in vogue which would govern the engagement of Khursheed Ahmad in case his representation is considered.
 - II. That in terms of the scheme the Education Volunteer after rendering his service for a particular period was to be converted into ReT and thereafter he was to be governed by that scheme. It is already known that the ReT scheme has already been closed by the Government in the year 2018 and therefore there is no scheme in existence under which the engagement of EV would be regulated.
 - III. That it is also the admitted position that Mr. Parvaiz Ahmad has worked over the post of EV for these years and his continuation was also protected by the order of the Hon'ble Court. It is settled legal position that once the post of occupied, same become the future vacancy and no person who has participated in the selection process or who is next in the selection panel can be appointed/

engaged over the said post. As such the representation of the petitioner is not tenable.

Now, therefore, after having considered the case of petitioner in compliance with the judgment/order dated 22.06.2022 passed in SWP No. 325/2009 titled Parvaiz Ahmad Dar c/w SWP No. 245/2011 titled Khursheed Ahmad Itoo Vs State of J&K and others, it has been found that the claim of the petitioner namely Khursheed Ahmad Itoo does not merit consideration based upon the observations and findings made in the preceding paras and as such the claim of the petitioner is devoid of merit and is hereby rejected.

By order of the Government of Jammu & Kashmir.

Sd/-

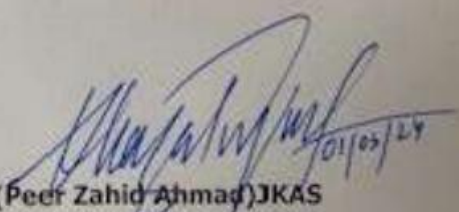
Dr. Piyush Singla (IAS),
Secretary to the Government,
School Education Department.

No:- Edu-LGL0Kmr/411/2023-01 SED (7355647)

Dated:-01-03-2024

Copy to the:-

1. Joint Secretary (J&K) 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 Secretary to Government, School Education Department for information.
6. Petitioner for information.
7. I/C Website for uploading the same on official website.
8. Government Order File/ Concerned File (w.2.s.c).


(Peer Zahid Ahmad) JKAS
Deputy Secretary to the Government,
School Education Department.