



Government of Jammu and Kashmir
School Education Department
(Human Resource Management Section)
Civil Secretariat, J&K

Subject: CPSW No. 135/2008 titled Anita Sharma VS G A Peer and Other.

Reference: Letter No. DSEJ/Legal/2206-09 dated 19.04.2023 from Directorate of School Education Jammu.

Government Order No. 161-JK (Edu) of 2024.
Dated: 05 .03.2024.

Whereas, the Director School Education Jammu vide communication No. DSEJ/Legal/12206-09 dated 19.04.2023 submitted case of the petitioner Anita Sharma wherein it was conveyed that initially the petitioner (Anita Sharma) was appointed as Teacher in District Kathua and thereafter vide Government Order No. 17-Edu of 2004 dated 16.01.2004 she had been promoted as I/c Lecturer in the discipline of Chemistry and adjusted in Government Higher Secondary School, Mansar; and

Whereas, after her joining in GHSS Mansar on 29.01.2004, the petitioner was asked by the then concerned Principal to submit her original service book along with qualification certificates but the petitioner instead of providing her original certificates furnished photocopy of M.Sc. Degree in Chemistry which she had obtained from MAGADH University, Bodh Gaya in one sitting examination in the year 2003. The then Principal, HSS Mansar, District Udhampur kept her annual increment as well as charge allowance w.e.f. 02/2004 to 02/2006 withheld as she failed to submit her original degree of M.Sc. in Chemistry in the school for proper verification of the same. Thereafter, the petitioner approached the Hon'ble High Court, Jammu through a medium of writ petition bearing SWP No. 577/2003 titled Anita Sharma v/s State and Ors, which stands disposed off on 22.04.2008 with the following direction:-

"Mrs. Neeru Goswami, Dy. AG further submitted that in case the petitioner again applies for the sanction of extraordinary leave for study, then her application will be considered by the respondent-1 according to the rules within a period of three months. With regard to the prayer of the petitioner that her annual increment be released, the said relief has already been granted in her emoluments and charge allowance has been placed on record.

In view of the statement of the learned deputy AG, this petition is disposed of."

Whereas, in compliance with the aforementioned directions, charge allowance was released in favour of the petitioner w.e.f 02/2004 to 02/2006 but her

annual increments w.e.f. 02/2004 to 02/2006 remained withheld for want of clarification regarding authenticity of her degree of M.Sc. in Chemistry which the petitioner had obtained from Magadh University; and

Whereas, the petitioner again approached the Hon'ble High Court through a medium of Contempt Petition bearing CPSW No. 135/2008 titled Anita Sharma v/s G.A Peer and others for non-compliance of court order dated 22.04.2008 which is still pending for adjudication; and

Whereas, after examination, it came to fore that the petitioner had obtained her M.Sc. Degree in Chemistry from Magadh University, Bodh Gaya in one sitting examination which has created doubts regarding the validity/authenticity as well as applicability of the said degree in the UT of J&K. The Directorate took up the matter with Registrar, University of Jammu as well as Secretary, Public Service Commission, J&K vide communications No. DSEJ/Legal/8815-16 dated 12.03.2019 and DSEJ/Legal/97/9704-05, dated 18.03.2019 respectively; and

Whereas, vide letter No. DSEJ/Legal/12144-45, dated 25.03.2019 Directorate of School Education, Jammu had requested this Department to take up the matter with the Equivalence Committee constituted for the purpose in Higher Education Department, Civil Secretariat, J&K, so as to verify the genuineness of the said degree; and

Whereas, in response, University of Jammu vide letter dated 01.07.2019 had apprised that there is no norm of one sitting examination for the whole time two year M.Sc Course in Chemistry in this University and for verification/authentication, the concerned University may be approached. Thereafter, vide letter No. DSEJ/Legal/32446 dated 15.10.2019, Directorate requested the Vice Chancellor, MAGADH University to make clarification regarding the genuineness of the M.Sc Degree in Chemistry obtained by the petitioner in one sitting and simultaneously, vide letter No. DSEJ/Legal/32445 dated 15.10.2019 again requested the Administrative Department to impart further instructions in the matter; and

Whereas, In the meanwhile, the Hon'ble High Court on 31.12.2019 issued following directions; and:-

"....Grant of annual increment to the petitioner rests on authentication and verification of the M.Sc Degree relied upon by the petitioner as issued by the MAGADH University, Bodh Gaya.

It is submitted by Mr. Aseem Sawhey, learned counsel for the respondents that the same is still awaited.

The petitioner has placed reliance on the verification effected on the similar Degree issued to Mr. Raman Chariyal.

The respondents may examine the case of Mr. Raman Chariyal and, if the submission of the petitioner is correct and permissible, the respondents may adopt the similar procedure in the case of the petitioner as well."

Whereas, further the Hon'ble High Court on 25.10.2021 issued following directions, the operative part of which is reproduced as under:-

"Perusal of the order would reveals that the petitioner had to apply for the sanction of extra ordinary leave for study to be considered by respondent No.1 according to the rules within a period of three months.

Accordingly to the counsel for the petitioner, an application in this regard had been submitted before the respondent No. 1, however, counsel for the petitioner is not aware of the status of the said application.

Mr. Ravinder Gupta, AAG, appearing counsel for the respondents to verify the petition and report the same without filing any status or compliance report".

Whereas, after aforementioned direction and keeping in view the communication No.Edu/Legal/J/130/08, dated 15.12.2008 of Administrative Department, compliance report has been filed before the Hon'ble High Court on 01.12.2021, wherein, it has been stated that no representation had been received by the Administrative Department from the petitioner. However, an application dated 12.05.2008 was submitted by the petitioner for release of her annual increments; and

Whereas, the Directorate of School Education, Jammu has now informed that the entire case file of the petitioner has been examined by the post facto committee and after thorough examination, the committee found that single sitting courses were discontinued by UGC w.e.f. 1998 onwards at PG level and further the students already registered were allowed to complete their course by 30th June, 1999, therefore, the degree obtained by the petitioner in single sitting mode from Magadh University, Bodh Gaya, has no equivalence with the two year degree course as per UGC norms. Further, the information brochure of Post Graduate Programmes in Open and distance learning mode of Magadh University, Bihar clearly reflects the fact that the said university offered only PG in Humanities and no such course has been offered by the said University in Science Stream; and

Whereas, the said Teacher on the basis of this degree had already been promoted as Lecturer in Chemistry, then placed as Senior Lecturer and now, promoted as look-after Principal in the School Education Department vide Government Order No. 32-JK-(Edu) of 2023 dated 02.02.2023 and accordingly, adjusted in Higher Secondary School Sarna, Samba; and

Whereas, the Director School Education Jammu has requested for review of the instant case and also review the case of Raman Chanyal as directed by the Hon'ble Court vide its order dated 31.12.2019 in view of example quoted by the petitioner that he had also obtained degree of M.Sc in Physics from the same university and also necessary instructions in the matter may kindly be imparted in order to proceed further accordingly; and

Whereas, on perusal of the marks sheet/degree of the petitioner (Anita Sharma) issued by Magadh University, Bodh Gaya, it has been found that the petitioner registered herself for the said course i.e. PG (Chemistry) under registration No. 133 of 1998 and appeared for the examination held on May 2002 and passed the

same on **06.03.2003** (under single sitting). However, there is nothing mentioned anywhere in the marks sheet/degree awarded by the concerned University that the petitioner has passed the said course in regular or distance mode; and

Whereas, in respect of other private respondent namely Mr. Raman Chanyal as directed by the Hon'ble High Court, it is submitted that from perusal of the marks sheet/degree of Mr. Raman Chanyal issued by the Magadh University, Bodh Gaya registered himself for the course i.e. PG (Physics) under registration No. 5797 of **1996** and appeared for the examination held on May 2002 and passed the same on **15.12.2002** (under single sitting also). However, there is nothing mentioned anywhere in the marks sheet/degree awarded by the concerned University that the petitioner has passed the said course in regular or distance mode; and

Whereas, the University Grants Commission (UGC) vide its communication dated 21.01.1998 has already given directions on the issue of validity of M.A/M.Sc/M.Com Degree (one sitting) that:

"The Commission has considered the request and representation received from several candidates regarding the validity of M.A/M.Sc/M.Com Degree (one sitting) and decided that no University may be allowed to enrol candidates for one sitting M.A/M.Sc/M.Com from the academic year beginning in 1998 onwards and the students already registered may be allowed to complete their course by 30th June, 1998 and the degree awarded to these candidates up to that period may be treated as valid." and

Whereas, both the petitioner (Anita Sharma) as well as private respondent (Raman Chanyal) have passed their degrees in science stream (under single sitting) from the same University (Magadh University, Bodh Gaya) on 06.03.2003 and 15.12.2002 respectively i.e. after the cut off the date as fixed by the UGC (30.06.1998). Hence, it reveals that both these degrees as obtained by petitioner as well as private respondent are not recognized in terms of aforementioned directions of the UGC; and

Whereas, presently the petitioner (Anita Sharma) has been promoted as look-after Principal vide Government Order No. 32-JK (Edu) of 2023 dated 02.02.2023 and accordingly, adjusted in Higher Secondary School, Sarna, Samba. Besides, the private respondent (Raman Chanyal) is presently working as Senior Lecturer in the Department on the basis of said degree; and

Whereas, the Hon'ble High Court, Jammu in the instant case (CPSW No. 135/2008, IA No. 2/2018, 1/2018, CM No. 1764/2019 (1/2019) 2127/2019 (2/2019) has issued following directions on 29.05.2023; and

"In the interest of justice, one last and final opportunity is granted to the respondents to file statement of facts by or before the next date of hearing, failing which, respondents shall remain present before the Court on the next date of hearing. and

Whereas, reported by Director School Education Jammu in the communication No. DSEJ/Legal/12206-09, dated 19.04.2023 that the case of the petitioner was examined by the post-facto committee which has reported as; and

"The committee found that single sitting courses were discontinued by UGC w.e.f. 1998 onwards at PG level and further the students already registered were allowed to complete their course by 30th June, 1999, therefore, the degree obtained by the petitioner in single sitting mode from Magadh University, Bodh Gaya, have no equivalence with the two year degree course as per UGC norms. Further, the information brochure of Post Graduate Programmes in Open and distance learning mode of Magadh University, Bihar clearly reflects the fact that the said university offered only PG in Humanities and no such course has been offered by the said University in Science Stream."

Whereas, the case was further examined and it was decided that the promotions granted to the petitioner and the private respondent may be withdrawn on the basis of the report of the Directorate; and

Now, therefore based upon above facts of the case, it is hereby ordered that all the promotions which were granted to the petitioner (Anita Sharma) as well as the private respondent (Raman Chanyal) are hereby withdrawn ab-initio and they are reverted back to the posts of Teachers.

By Order of the Government of Jammu and Kashmir.


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

No:Edu-LGL0jmu(HC)/85/2023-01-SED

Dated: 05.03.2024.

Copy to the:

1. Joint Secretary (J, K & L), Ministry of Home Affairs, GoI.
2. Director, School Education Jammu with the request to take further necessary action in the matter and adjust the petitioner and private respondent as Teachers on available posts as per norms.
3. Private Secretary to Administrative Secretary, School Education Department.
4. Concerned.
5. I/c website.
6. Government Order file (w.2.s.c).


Deputy Secretary to the Government,
School Education Department.



