



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

Subject: OA No.1148/2023 titled Rakesh Kumar Vs UT of J&K & Ors.

Government Order No. 25 -JK (Edu) of 2024

Dated: 05 -01-2024

Whereas, vide Notification No. 01-JK (Edu) of 2023 dated 26.04.2023, online representations were invited from various teaching cadres of Education Department including the Lecturer Cadre for consideration of transfer during the year 2023 and in response, representation of Rakesh Kumar was received by the Department through Online Transfer Portal;

Whereas, the representation of Rakesh Kumar was considered under the provisions of the Transfer Policy issued by the Department vide Government Order No. 103-JK(Edu) of 2023 dated 24.04.2023 and subsequently, the applicant, Rakesh Kumar Lecturer Chemistry working at BHSS Kathua was transferred and posted at HSS Girls Poonch vide G.O No. 283-Jk(Edu) of 2023 dated 01.09.2023 ;

Whereas, Rakesh Kumar, pursuant to his transfer, has filed OA No.1148/2023 titled Rakesh Kumar Vs UT of J&K & Ors before the Hon'ble Central Administrative Tribunal, Jammu praying for following reliefs:

- i. Allow the instant Original application;
- ii. Quash the Government order no. 283-JK(Edu)of 2023 dated 01.09.2023 to the extent applicant has been transferred from Higher Secondary School (Boys) kathua to Higher Secondary School (Girls) Poonch and respondents no. 5 has been posted in Higher Secondary school (Boys) kathua;
- iii. Direct the respondents to suitably adjust the applicant as per the preferences given by him at the time of initiation of the transfer drive.
- iv. Direct the respondents do not disturb the applicant from the present place of posting during the middle of the academic session.
- v. Any other order or direction which this Hon'ble tribunal may deem fit and proper in the facts and circumstances of the case may also be granted in favour of the applicant and against the respondents;

Whereas, the Hon'ble CAT after hearing the applicant disposed of the OA by passing order dated 08.09.2023, the operative part of which is reproduced as under:

"...Accordingly, the Original Application is disposed of with a direction to the Principal Secretary to Government, Department of School Education, Union Territory of Jammu & Kashmir to decide the applicant's representation dated 18.07.2023 and revisit the order of his transfer issued on 01.09.2023. Before taking such a decision, the applicant shall also be afforded an opportunity of hearing. The whole exercise shall be undertaken within a period of ten days from the date of receipt of a certified copy of this order. So long as the applicant's representation remains pending with the Principal Secretary to Government, Department of School Education, Union Territory of Jammu & Kashmir, the applicant shall not be displaced from Government Higher Secondary School (Boys), Kathua. Ordered accordingly. However, there shall be no orders so as to costs."

Whereas, in compliance to the directions of the Hon'ble Central Administrative Tribunal, vide letter dated 19.09.2023, the applicant was requested to appear in the Administrative Department for hearing on 21.09.2023. The applicant appeared on the scheduled date and time and the applicant was heard in person and was also allowed to submit his written statement as well;

Whereas, in his written statements, the applicant has stated that he has been transferred from BHSS Kathua to HSS(G) Poonch which is about 400 Kms away from his residence and has joined the new place of posting on 15.09.2023. Further the applicant has stated that his wife is also serving as lecturer and was posted at GHSS Halaran Doda on promotion in the year 2022 which is about 300 KMs from her home. They have two school going children studying in CBSE affiliated school and there is no one to look after them. The applicant has requested that either his wife may be posted in Kathua or his transfer order may be modified so that either of the parents can look after their children;

Whereas, the case of the applicant was thoroughly examined in the Department and in light of the directions of the Hon'ble Central Administrative Tribunal and it has been found that in Clause-C16 of the Transfer Policy-2023 provided that where both the husband and wife are in Government Service they may be posted conveniently as far as practicable, subject to the availability of posts. The wife of the applicant is already posted at GHSS Halaran, Distt. Doda on promotion in the year 2022 which is about 300 KMs from her home distt. Kathua. The claim of the applicant can be

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consider for modification of his transfer in light of the Clause-C16 of the transfer policy-2023;

Now, therefore, in light of the above stated facts and circumstances, the claim of the applicant has been considered in light of the directions passed by the Hon'ble Central Administrative Tribunal, Jammu on 08.09.2023 passed in OA No.1148/2023 titled Rakesh Kumar Vs UT of J&K & Ors and the applicant is hereby transferred and posted at DIET kathua. The applicant is further directed to immediately join at new place of posting without any further delay, failing which strict disciplinary action shall be initiated against him under rules.

By order of the Government of Jammu and Kashmir.


Sd/-
(Alok Kumar), IRS
Principal Secretary to the Government

No: Edu-LGL0Jmu(CAT)/351/2023-04

Dated:- 05.01.2024

Copy to the:-

1. Joint Secretary, J&K, Ministry of Home Affairs, Government of India.
2. Director, SCERT, J&K.
3. Secretary, JKBOSE.
4. Director, School Education, Jammu/Kashmir.
5. OSD to Advisor (B) to the Hon'ble Lieutenant Governor, J&K UT.
6. Project Director, Samagra Shiksha J&K.
7. Chief Education Officer Kathua.
8. Principal Concerned for necessary compliance in the matter.
9. Sh. Rakesh Kumar (applicant) for compliance.
10. Private Secretary to Principal Secretary to Government, School Education Department.
11. I/c website.
12. Government Order file (w.2.s.c).


(Abhishake Abrol) JKAS
Deputy Secretary to the Government
School Education Department