

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

Subject:- O.A No.1030/2022 titled Nazia Khan Vs UT of J&K and others.

GOVERNMENT ORDER NO:- 258-JK(Edu) of 2024
DATED:- 05.07.2024

Whereas, the applicant namely Mrs. Nazia Khan, Lecturer Urdu presently posted at BHSS Ganderbal, has filed above titled Original Application before the Hon'ble Central Administrative Tribunal, Srinagar wherein the applicant has prayed for following relief:-

- I. By issuance of order or directions, the respondents be directed to decide the leave and station permission application of the applicant w.e.f. 01.10.2021 to 30.09.2025 by granting ex post-facto sanction on the same and take decision in the matter as expeditiously as possible.
- II. By issuance of order, or direction, the respondents be directed to allow the applicant to leave the station and treat the alleged un authorized period of absence as on leave without pay.
- III. Any order or direction as the Hon'ble Tribunal may deem fit and proper under the circumstances of this case may also be granted in favor of the applicant & against the respondents.

Whereas, the Hon'ble Central Administrative Tribunal, Srinagar disposed of the above O.A. vide order dated 27.10.2022 with the following orders/directions:-

"...The respondents are directed to decide the representation made by the applicant in February 2022 for EOL for 5 years within three weeks from today".

Whereas, in compliance with the above directions of the Hon'ble Central Administrative Tribunal, Srinagar, the case of the applicant has been examined in the Department;

Whereas, Director School Education, Kashmir vide communication no. DSEK/Estt.-I/1485 dated at 13-02-2021 furnished the case of the applicant for grant of leave without pay w.e.f 01-03-2021 to 28-02-25 alongwith station leave permission to proceed to Qatar;

Whereas, in the meantime, the applicant has proceeded on Child Care leave w.e.f. 15-04-2021 to 12-08-2021 for 120 days and joined her duties back on 16-09-2021 after availing 34 days in excess of the sanctioned leave period ;

Whereas, Chief Education Officer, Gandarbal, vide communication no. CEO/Gbl/Estt/Gaz/20077-78, dated: 13/11/2021, reported that the applicant has again applied for grant of leave without pay alongwith station leave permission w.e.f. 01-10-2021 to 30-09-2025 to take care of her children;

Whereas, it was further reported that the applicant has already proceeded on leave w.e.f. 11.10.2021 without waiting for the outcome of her leave application;

Whereas, in reference to the said communication, the Director School Education, Kashmir issued show-cause notice to the applicant on 28.01.2022 for remaining un-authorisedly absent from duties w.e.f. 01.10.2021, but no response was received from the applicant;

Whereas, Director School Education, Kashmir referred the matter to Administrative Department, vide communication no. DSEK/Estt-I/1505/2328 Dated: 24/02/2022, with the request to convey necessary instructions in the matter;

Whereas, in reference to the said communication, the Administrative Department vide communication no. Edu-NGK/157/2021-01 dated 01-09-2022 advised Director School Education, Kashmir to issue two (02) more show-cause notices to the applicant through leading newspaper and thereafter, submit the report/recommendations to this department for further action under Article 128 of J&K CSR Vol-I of 1956;

Whereas, in pursuance of the directions of Administrative Department, Director School Education, Kashmir served a show cause notice to the applicant through print media which was published in daily "Greater Kashmir" on 12-10-2022 and in response to the said notice the applicant reported to the office of the Principal BHSS Ganderbal on 17.10.2022;

Whereas, Rule 32 of the Jammu and Kashmir Civil Service (Leave) Rules, 1979 stipulates that extraordinary leave may be granted to an

employee in special circumstances but in the case of applicant, no special circumstances emerge which would justify grant of leave for such a long period of time;

Whereas, the General Administration Department has issued Circular instructions vide No. 08-JK(GAD) of 2021 dated 13.02.2021 which provide as under:-

"The procedure for granting permission in favour of Government employee for private visits to foreign countries has been prescribed clearly by the Government. It has been provided that the station permission for proceeding outside the country on private affairs, shall be granted by the Administrative Department in the same manner as leave outside the country. Further, the Finance Department in terms of Circular No. A/46(2017)-1-862 dated 21.02.2019 inter alia clarified that prior permission of the competent authority for leaving the station shall be mandatory when a Government employee intends to visit a foreign country on private affairs.

It is accordingly impressed upon all the officers/officials working in various Government Departments/PSUs/Boards/Commissions to strictly adhere to the instructions issued on the subject and not to undertake any foreign visit on private affairs without prior approval of the Government".

Whereas, this Department furthered the above instructions vide Circular No. 01-JK(Edu) of 2024, dated 23.01.2024 and directed all the officers/officials of School Education Department to strictly adhere to the instructions issued on the subject and not to undertake any foreign visit on private affairs without prior approval of the Government; and

Whereas, Director School Education, Kashmir vide his communication dated 28.02.23 has intimated that the applicant has proceeded to Qatar without waiting for the approval of station leave permission from the competent authority, thereby violating the rules;

Whereas, it is an established law that leave is not a matter of right but despite that the employee has proceeded abroad in violation of Circular instructions issued by the Government in this regard;

Whereas, the justification/reason tendered by the applicant does not suffice for grant of extra ordinary leave without pay and allowances for a protracted period of four years.

Now, therefore, after having considered the case of petitioner in compliance with the Hon'ble CAT order dated 21.10.2019 passed in O.A No. 1030/2022 titled Nazia Khan Vs UT of J&K and others, it has been found that the application of the petitioner does not merit consideration and as such her application for grant of station leave permission/extra ordinary leave without pay and allowances is hereby rejected.

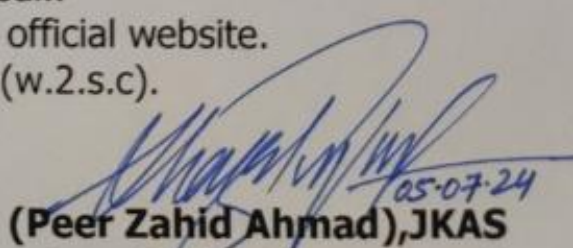
By order of the Government of Jammu & Kashmir.

Sd/-
(Alok Kumar), IRS
Principal Secretary to the Government,
School Education Department.

No:- Edu-LGLOKmr/393/2023-08 SED (7055637) Dated:- 05-07-2024

Copy for information 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, Archaeology and Museums, J&K.
4. OSD with Advisor (B) to the Hon'ble Lieutenant Governor for information.
5. Private Secretary to Principal Secretary to the Government, School Education Department for information.
6. Mrs. Nazia Khan, Lecturer BHSS Ganderbal..
8. I/C Website for uploading the same on official website.
9. Government Order File/ Concerned File (w.2.s.c).


(Peer Zahid Ahmad), JKAS
Deputy Secretary to the Government