



Government of Jammu and Kashmir
School Education Department
Civil Secretariat, Jammu/Srinagar

Subject:- T.A No. 2300/2021 titled Mohammad Shafi Bhat and others Vs UT of J&K and others.

Government Order No: 259-JK (Edu) of 2024

Dated: 05.07.2024

Whereas, 46 employees i.e. Lecturers/ Masters/ Teachers/ Non-Teaching staff/class-IV of School Education Department, Jammu/Kashmir were assigned duties as Superintendent/ Deputy Superintendent/ Assistant Superintendents in various Board Examinations during academic session 2016-17 across the State of J&K including the petitioners/ applicants;

Whereas, during the said assignment, applicants/ petitioners were found abetting use of unfair means during the examination and accordingly the applicants/ petitioners were placed under suspension vide Government Order No. 757-Edu of 2017 dated 11.10.2017;

Whereas, amongst the 46 officers/ officials, 09 officers/ officials were exonerated from all the charges and were re-instated vide Government Order No. 917-Edu of 2017 dated 27.10.2017 by treating their period of suspension as on duty;

Whereas, the School Education Department requested the Director School Education, Kashmir/Jammu to frame and serve charge sheets to the remaining delinquent officers/ officials. Accordingly, charge-sheets were served upon the delinquent officers/ officials containing Article of charges alongwith statement of imputation;

Whereas, these delinquent officers/ officials responded to the charge-sheets and furnished their replies and the replies of these officers/officials including the applicants were examined and the Department reinstated them vide different Government orders by treating their period of suspension as on leave, whatever kind due including extra-ordinary and leave without pay;

Whereas, being aggrieved with the reinstatement orders and imposition of penalty, some of them have represented before the School Education Department to review their reinstatement order on case to case basis;

Whereas, the School Education Department examined the matter and placed the cases before the Review Committee for suspension and the Committee in its meeting held on 22.01.2019 decided to treat the suspension period of these 33 officials as on duty and imposition of minimum penalty, as per Rule, 30 of J&K Civil Services,

CCA (Rule) 1956 i.e. withholding one increment with cumulative effect and fine of Rs. 25000/- each upon in-service officers/officials;

Whereas, pursuant to the decision of review committee, the School Education Department vide Government Order No. 159-Edu of 2019 dated 16.04.2019, treated the suspension period of 33 officers/ officials including the petitioners as on duty and imposition of minimum penalty as per Rule, 30 of J&K Civil Services, (Classification, Control and Appeal) Rules 1956 i.e. withholding one increment with cumulative effect and fine of Rs. 25000/- each upon in-service officers/officials;

Whereas, the applicants approached the Hon'ble Central Administrative Tribunal, Srinagar to challenge the Government Order No.159-Edu of 2019, dated-16-04-2019 through TA No. 2300/2021 titled Mohammad Shafi Bhat and others Vs UT of J&K and others and prayed before the Hon'ble Central Administrative Tribunal, Srinagar that the petitioners are similarly situated and an identical issue already been settled in TA No. 2360/2020 titled Dev Raj Sharma V/s State of J&K & Ors by the Hon'ble Central Administrative Tribunal, Jammu Bench and requested that similar benefits may also be granted to the applicants;

Whereas, the Hon'ble Central Administrative Tribunal, Jammu Bench in T.A No. 2360/2020 titled Dev Raj Sharma V/s State of J&K & Ors, vide its order dated 19.11.2020 was pleased to pass the following order:-

"We, therefore, allow the TA to the extent it concerns the applicant and set aside the penalty imposed. However, the direction as to the manner in which the period of suspension must be treated as the one, on duty, shall remain. There shall be no order as to costs".

Whereas, the Hon'ble Central Administrative Tribunal, Srinagar Bench in T.A No. 2300/2021 titled Mohammad Shafi Bhat and others Vs UT of J&K and others, vide its order dated 13.04.2022 was pleased to pass the following order:-

"Considering the submissions made by the learned counsel for the applicants as well as perusal of the pleadings the justice would be met if the matter be sent to the Department for verification of the whole matter. Accordingly, I direct the respondents to verify as to whether the applicants case is identical to the applicants in T.A.No.2360/2020 passed by the Jammu Bench of this Tribunal, if they found that the applicants are similarly situated with those of applicants of T.A.No. 2360/2020, the similar benefits be extended to the present applicants."

Whereas, the matter was examined in the Department and it has been found that the case of the petitioners/ applicants in the instant TA is not of the same analogy as that of T.A No. 2360/2020 titled Dev Raj Sharma Vs UT of J&K and others, since the order dated 21.11.2022 has been specifically quashed by the Hon'ble Tribunal only to the extent of Dev Raj Sharma's. Apt to reproduce herein the operative part of the order passed in the case of Dev Raj Sharma:-

"...We find no reason to differ with the view taken by the CAT Jammu. We

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however, make it clear that the Impugned Judgment order of penalty shall be
4742475/2024/O/A Under Secy DSE deemed to have been quashed only quo Respondent No. 1".

Whereas, the Department vide Government Order No. 159-Edu of 2019 dated 16.04.2019, imposed of minimum penalty as per Rule 30 of J&K Civil Services, (Classification, Control and Appeal) Rules 1956 i.e. withholding one increment with cumulative effect and fine of Rs. 25000/- each after affording due opportunity of being heard to the applicants.

Now, therefore, after having considered the case of applicant in compliance with the judgment/order dated 13.04.2022, having regard to the rules and regulations governing the field, it has been found that the claim of the applicants do not merit consideration based upon the observations and findings made in the preceding paras and as such the claim of the applicants, being devoid of merit, are rejected.

By order of the Government of Jammu & Kashmir.

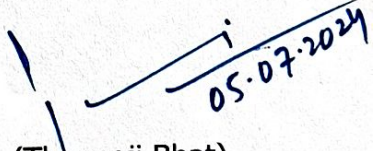
Sd/-
(Alok Kumar)IRS,
Principal Secretary to the Government
School Education Department

No:- Edu/LGLOKmr/203/2022-01-SED (180660)

Dated: 05.07.2024

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. OSD with Advisor (B) to the Lieutenant Governor, UT of J&K for kind information.
4. Private Secretary to Principal Secretary to the Government, School Education Department.
5. Applicants for information.
6. I/C Website for uploading the same on official website.
7. Government Order File/ Concerned File (w.2.s.c).


(Thannaji Bhat)
Under Secretary to the Government
School Education Department