



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

Subject: OA.No.1197/2023 titled Suresh Kumar v/s UT of J&K & Ors.

Government Order No. 38 -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 Suresh Kumar was received by the Department through Online Transfer Portal;

Whereas, the representation of Suresh 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, Mr. Suresh Kumar, Senior Lecturer, English working at HSS Dachhan, Kishtwar was transferred and posted at HSS Dansal, Jammu vide G.O No. 277-Jk(Edu) of 2023 dated 01.09.2023;

Whereas, Suresh Kumar, pursuant to his transfer, has filed OA.No.1197/2023 titled Suresh Kumar v/s UT of J&K & Ors before the jurisdictional Tribunal of Hon'ble Central Administrative Tribunal at Jammu praying for following reliefs:

- i. Quashing impugned transfer Order no.260-JK (Edu) of 2023 dated 30.08.2023 issued under endorsement No.Edu-Lect./84/2023-01 dated 30.08.2023 to the extent of transfer of applicant from HSS Dachhan Kishtwar Zone-V to HSS Dansal, Zone-III, whereby and where under the applicant who has been working as a lecturer in English stream in HSS Dachhan Kishtwar which is very hard zone and has been transferred to HSS Dansal, Zone-III which is at a distance of 250 Kms away from his residence in violation of Transfer Policy notified vide Govt. Order No.103-JK (Edu) of 2023 dated 24.04.2023 and instructions notified vide notification No.1 JK (Edu) of 2023 dated 26.04.2023 and also in violation of Schedule 1-D of CSR.
- ii. Direct the respondents to allow the applicant to continue at his present place of posting i.e, HSS Dachhan Kishtwar till the disposal of the O.A.

- iii. Direct the respondent No.2 to explain how the applicant has been transferred in violation of transfer policy notified in terms of Govt. order No.948-JK (GAD) of 2020 dated 15.10.2020 and transfer policy dated 24.04.2023 and without obtaining the approval of Chief Secretary and the instruction conveyed by the Chief Secretary and order or direction directing upon the Chief Secretary U.T. of J&K to conduct a full dressed inquiry against the respondent No.2 who has defied the instructions issued in terms of meeting note dated 10.03.2023 with impunity.

Whereas, the Hon'ble CAT after hearing the applicant disposed of the OA by passing order dated 12.09.2023, 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 02.09.2023 while keeping in view the provisions of Clause A(7) of the Transfer Policy dated 24.04.2023 and his medical condition. 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 Education, Union Territory of Jammu & Kashmir, the applicant shall not be displaced from Government Higher Secondary School, Dachhan Kishtwar.

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 09.10.2023, the applicant was requested to appear in the Administrative Department for hearing on 11.10.2023. 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 suffering from a disease of Chronic Arthritis and an under continuous medical supervisions and medication due to which he is facing difficulties to travel long distances and doctors have diagnosed it as an autoimmune disease and requiring regular followup and lifelong medication. Further, the applicant has stated that he had applied for suitable adjustment under ATD 2023 in Zone I of Zone II of Jammu District in accordance with the Transfer Policy issued by the department and he have been posted at HSS

Dansal, Jammu (Zone-III) as my new place of posting is almost 40 Kms away from Jammu city. The applicant has requested that he may be posted in Zone I or Jammu District with in the vicinity of Talab Tillo area or may be retained at his present place of posting;

Whereas, the case of the applicant was thoroughly examined in the Department in light of the written submission adduced by the applicant as well as the standing rule position and the directions of the Hon'ble Central Administrative Tribunal and it has been found that the applicant has applied under Extreme Medical Grounds and his case was placed before the designated committee. However, his case has not been recommended by the designated committee owing to the fact that no medical standing board certificate has been attached. In terms of clause-21 of transfer policy-2023 the medical disease covered are Life consuming disease of self, spouse and dependent children. The applicant has opted his preference viz. Zone 1, Zone 2, Zone 3, Zone 4 of district Jammu and he has been posted as per his choice i.e zone 3 of Jammu District. Now, the applicant is requesting for his modification in Zone 1 of district Jammu or retention at HSS Dachhan, Kishtwar (Zone 5) as per his written statement. Since, no replacement has been provided at HSS Dachhan, Kishtwar and as already mentioned above that the applicant is willing to serve in Zone 5 i.e at HSS Dachhan, Kishtwar. As such, the request for the applicant can be considered for his retention at HSS Dachhan, as no replacement has been provided in the said school;

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 Bench, Jammu on 12.09.2023 passed in OA.No.1197/2023 titled Suresh Kumar v/s UT of J&K & Ors his request for retention at HSS Dachhan, Kishtwar (Zone V) is accepted and therefore the applicant has been retained at HSS Dachhan, Kishtwar (Zone V).

By order of the Government of Jammu and Kashmir.

Sd/-

(Alok Kumar), IRS

Principal Secretary to the Government


Dated: 05.01.2024

No: Edu-LGL/2/2023-01

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, Kishtwar.
8. Principal Concerned for necessary compliance in the matter
9. Concerned.
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 