



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

**Subject: OA No.596/2023 titled Abdul Gani Lone & Ors Vs UT of J&K and others.**

**Government Order No: 403-JK (Edu) of 2024.**

**Dated: 07 -10-2024.**

**WHEREAS**, the applicants have filed Original Application No. 596/2023 titled Abdul Gani Lone and Ors Vs UT of J&K and others before the Hon'ble Central Administrative Tribunal at Srinagar wherein the applicants have prayed for following reliefs:-

1. To Set aside and quash the Government Order No. 205-JK (Edu) of 2023 dated 08-07-2023 whereby the Masters (working as I/c Headmasters and equivalent) have been regularized/promoted as Headmasters and equivalent but the applicants have been dropped in the said Government Order.
2. To direct the respondents to grant promotion/confirmation in favour of the applicants to the post of Headmaster without any further delay.

**AND WHEREAS**, the Hon'ble Central Administrative Tribunal at Srinagar disposed of the above OA vide order dated 31.07.2023 at its threshold with the following order/directions, the operative part of which is reproduced as under:-

*"In view of the limited prayer made by the Learned Counsel for the applicants, respondents are directed to consider claim of the applicants for regularization with retrospective effect in accordance with law on the same analogy as has been done in the case of other in-charge Head Masters, who are similarly circumstanced with the applicants. The exercise to be completed within a period of six weeks from the date copy of this order is served on them by passing a reasoned and speaking order".*

**AND WHEREAS**, in compliance to the directions of the Hon'ble Central Administrative Tribunal, Srinagar the case of the applicants was examined in the department and it was found that the applicants were initially appointed as Teachers and promoted as Masters and thereafter came to be placed as I/C Headmasters; and

**AND WHEREAS**, the School Education Department updated/issued the final inter-se-seniority list of Masters (working/worked as I/C Headmasters and equivalent) vide Government Order No. 43-JK(Edu) of 2023 dated 15.02.2023; and

**AND WHEREAS**, as per the eligibility list for regularization of Headmasters (working/worked as I/C Headmasters and equivalent), the applicants retired from active service before 01.12.2011, when the last candidate Sh. Ram Lal was regularized in the Departmental Promotion Committee (DPC) held on 26.06.2012. In the said DPC all the 2529 vacancies which accrued up to 01.12.2011 have been utilized strictly as per seniority, while the applicants stand retired before the date 01.12.2011 before accrual of vacancy in the DPC; and

**AND WHEREAS**, in the DPC held on 16.05.2023 the process of regularization has been carried forward from 01.12.2011 onward when the last



candidate Sh. Ram Lal was regularized in the Departmental Promotion Committee (DPC) held on 26.06.2012 as per rules and set procedure of DPC; and

**AND WHEREAS**, the School Education Department issued Government Order No. 205-JK(Edu) of 2023 dated 08.07.2023, whereby the Masters (working/worked as I/C Headmasters and equivalent) have been regularized as Headmasters and equivalent and all the accrued vacancies were utilized w.e.f. 01.12.2011 to 31.12.2022 in the DPC meeting conducted in the year 2023. In the said DPC meetings, eligible incumbents/officers were regularized as per their eligibility and accrual of vacancies strictly in terms of the Government Order No.743-GAD of 2007 dated 28.06.2007, issued by General Administration Department. As per the available records the applicants could not be regularized since all of them have retired from active service before 01.12.2011 i.e. before accrual of clear vacancies; and

**AND WHEREAS**, the effect/regularization of the promotion has to be made on the date of acquiring of eligibility, placement or accrual of vacancy, whichever is later. Since the vacancy has not accrued till the retirement of the applicants in the DPC held on 26.06.2012, as such the claim of the applicants cannot be considered for their promotion to the post when the vacancy in a particular cadre does not exist at the specified date; and

**AND WHEREAS**, the applicants could not be regularized with effect from the date they were placed as I/C Headmasters for the reason of non-availability of the post/clear vacancy. It is the settled law that regularization is always made against a clear vacancy, as such the In-charge placement to an incumbent does not confer any right to promotion from that date. Since the applicants have retired before the accrual of vacancies and the Department cannot violate/deviate from the instructions set forth by the General Administration Department issued vide Government Order No. 743-GAD of 2007 dated 28.08.2007 governing the criteria for promotion/regularization and, therefore, the applicants are not entitled for promotion/regularization in light of set of procedure of DPC and as such the claim of the applicants is not tenable. Moreover, no parity of the applicants can be drawn with the non applicants, as there is a material difference of date of retirement and the fact that the latter were promoted/regularized against the clear vacancy, which was not existent in the case of the former; and

**Now, therefore**, in view of the above stated facts and the rule position governing the promotions/confirmation, the claim of the applicants was considered in compliance to the judgment/order dated 31.07.2023 and being not tenable under rules is hereby rejected.

**By order of the Government of Jammu & Kashmir.**

**Sd/-**

**(Alok Kumar)IRS**

Principal Secretary to the Government.

No:- Edu/LGL0Kmr/262/2023-01(7247744)

Dated:- 07.10.2024

Copy to the:-

1. Joint Secretary, (J&K), Ministry of Home Affairs, GoI.
2. Director, School Education Kashmir/Jammu.



3. OSD to Advisor (B) to the Hon'ble Lieutenant Governor, J&K UT.
4. Concerned Chief Education Officer.
5. Concerned officials.
6. Private Secretary to Principal Secretary to the Government, School Education Department.
7. I/c Website for uploading the Order.
8. Government Order file (w.2.s.c).

*i*  
*07.10.2024.*

(Thannaji Bhat),  
Under Secretary to the Government.