



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

**Subject: O.A No. 628/2023 titled Nighat Angale Vs Department of School Education;  
Central Administrative Tribunal Order dated 24.02.2024; consideration  
thereof.**

**Government Order No: 424 - JK (Edu) of 2024.  
D a t e d: 10.10.2024**

*WHEREAS*, an Original Application/petition came to be filed by one, Mst. Nighat Angale before the Central Administrative Tribunal Srinagar Bench, bearing O.A no. 628/2023, titled Nighat Angale V/s Department of School Education, UT of J&K. It was stated that the applicant who was initially appointed as a Teacher on 01.04.1973, promoted to the post of Master on 16.03.1995 and thereafter placed as In-charge Headmaster, vide Order No.1185-DSEK dated 23.06.2007 and superannuated from the active service on 31.03.2010, from the same position. It was the case of the applicant that she was figuring at Serial no. 262 of the seniority list, however, her juniors namely Mtr. Nabla Bano and Mr. Gh. Mohi-Ud-Din Mir who figured at S. No. 615 and 360 of the seniority list respectively, have been regularized as Head Masters in terms of Government Order no. 205-JK (Edu) dated 08.07.2023, ignoring the claim of the applicant. As such, the applicant has sought her regularization to the post of Headmaster from the date when she was entitled to her regularization as Head Master and accordingly fixation of her pension and release of all arrears in her favor;

*AND WHEREAS*, the Hon'ble Tribunal while considering the matter, disposed of the said O.A on 24.02.2024 and passed an order, the operative part of which is reproduced as under:

"...In view of the limited prayer made by the learned counsel for the applicant, O.A is disposed of, with a direction to the respondents to consider the representation of the applicant, received by them on 18.06.2018, in accordance with law and rules, within a period of two months from today..."

*AND WHEREAS*, the School Education Department vide Government Order No. 43-Edu of 2023 dated 15.02.2023, issued final Inter-se-Seniority of Masters (worked/working as In-Charge Headmasters & equivalent) in which the applicant is figuring at seniority position No.206 and retired on 31.03.2010, before accrual of vacancy i.e. 01.12.2011, which was utilized for the last candidate Mr. Ram Lal, who was regularized in the DPC meeting held in the year 2012;

*AND WHEREAS*, two Departmental Promotion Committee (DPC) meetings were conducted with regard to the said service/cadre on 26.06.2012 and on 16.05.2023 and all the accrued vacancies were utilized up to the date of 31.12.2022. However, the case of the applicant could not be considered for non existence of any vacancy at the relevant point of time, which accrued only on 01.12.2011, by the time the applicant superannuated from service on 31.03.2010;

*AND WHEREAS*, the DPC meeting held on 16.05.2023 regarding confirmation /regularization of Masters (worked/working as In-Charge Headmasters & equivalent) as

*Dm*

Headmasters & equivalent and the Department regularized 3895 In-Charge Headmasters as Headmasters & equivalent;

*AND WHEREAS*, the 'counterparts' of the applicant, namely Mtr. Nabla Bano, figuring at seniority position no.1531, was regularized w.e.f. 15.01.2013 up to date of retirement i.e. 30.04.2014 and Mr. Gh. Mohi-ud-Din Mir figuring at seniority no.1590, was regularized w.e.f. 01.03.2013 up to date of retirement i.e., 31.08.2017;

*AND WHEREAS*, the comparative data of the service particulars of the applicants and her counterparts, stated to be her juniors, is as under:-

STY. NO.	NAME	PLACE OF POSTING	DATE OF BIRTH	DATE OF RETIREMENT	DATE OF APPOINTMENT AS TEACHER	DATE OF PROMOTION AS MASTER	DATE OF VACANCY	PROPOSED DATE OF REGULARIZATION
206	NIGHAT ANGALE (Applicant)	BHS TULMULLA	10-03-52	31-03-10	01-04-73	16-03-95	RETIRED BEFORE 01-12-2011 WHEN THE LAST CANDIDATE RAM LAL WAS REGULARIZED IN THE DPC OF 2012	
1531	NABLA BANO (Non-Applicant)	BHS TULMULLA	04-04-56	30-04-14	07-04-80	20-07-01	15-01-13	REGULAR W.E.F. 15-01-2013 UPTO DATE OF RETIREMENT
1590	GH MOHI-U-DIN MIR (Non-Applicant)	BHSS BEHINIPORA	02-08-57	31-08-17	01-06-80	20-08-01	01-03-13	REGULAR W.E.F. 01-03-2013 UPTO DATE OF RETIREMENT

*AND WHEREAS*, on perusal of the above, it came to fore that the applicant Mtr. Nighat Angale, figuring at seniority No. 206 retired on 31.03.2010, much before the accrual of vacancy i.e., 01.12.2011, when the last incumbent Mr. Ram Lal was regularized in the DPC held in the year 2012. However, the other referred to incumbents (Nabla Bano and Gh. Mohi-u-din Mir) figuring at seniority no. 1531 and 1590, retired on superannuation on 30.04.2014 and 31.08.2017 respectively. For them the vacancies accrued on 15.01.2013 and 01.03.2013 which were utilized in their favour for regularization as Headmasters. As such, there cannot be any comparison between the applicant and the referred to 'counterparts' and by no stretch of imagination parity can be drawn between them;

*AND WHEREAS*, perusal of the records reveal that Mtr Nighat Angale retired in 2010. However she was placed as Incharge Headmaster in 2007 and the vacancy accrued had to be utilized w.e.f. 01.12.2011 when the last incumbent was regularized in the DPC held in 2012;

*AND WHEREAS*, the eligibility list was strictly prepared on the basis of criteria of regularization as laid down under norms in vogue i.e. date of placement, availability of vacancy, date of eligibility whichever is later as per Government Order No. 743-GAD of 2007 dated 28.06.2007 issued by the General Administration Department which provides as under:-

"Promotion of a Government employee shall take effect from the date, he has been formally put incharge of the higher post, subject to his eligibility in accordance with the recruitment rules and availability of the vacancy. His clearance/regularization shall take effect from the date of his placement against the higher post or availability of vacancy or the date of his eligibility, whichever is later. In all other cases, the promotion of a Government employee to the next higher post shall take effect from the date of issuance of the order." So it is clear that placement is not synonymous with regularization.

**AND WHEREAS**, the non applicants were appointed much after the applicant and the vacancies of non applicants accrued for regularization as Headmasters on 15.01.2013 and 01.03.2013 ( i.e., after the date of retirement of applicant viz on 31.03.2010). More importantly there was no vacancy available up to the date of retirement of applicant against which her claim for regularization could have been considered as Headmaster , as vacancies accrued after her date of retirement on superannuation.

**NOW, THEREFORE**, keeping in view the directions of the Hon'ble Central Administrative Tribunal Srinagar, dated 24.02.2024 passed in O.A No. 628/2023, titled Nihat Angale V/s Department of School Education, the claim of the applicant has been considered in light of the foregoing facts and circumstances of the case and relevant provisions of the law governing the field and the same has been found devoid of any merits, under rules and is hereby rejected.

**By Order of the Government of Jammu and Kashmir.**

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

No:-Edu-LGL0Kmr/265/2023-08/7257165

Dated:- / 10 -10-2024

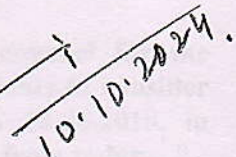
Copy for information:

1. Joint Secretary, (J K & L), Ministry of Home Affairs, Gol.
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 official.
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).

(Thannaji Bhat)

Under Secretary to the Government,



  
10.10.2024