



GOVERNMENT OF JAMMU & KASHMIR
DIRECTORATE OF SCHOOL EDUCATION, JAMMU
MUTHI CAMP, JAMMU-181205

Subject:- O.A. No. 75/2024 titled Gulfranz Ahmed v/s UT of J&K & Others.

ORDER No. 116 -DSEJ of 2024

DATED: 09 - 03 -2024

Whereas, the applicants namely Gulfranz and others approached the Hon'ble CAT, Jammu Bench, Jammu through a medium of O.A. No. 75/2024 titled Gulfranz Ahmed v/s UT of J&K & others, wherein, they prayed for the following:-

"Directions may be issued to the respondents to adopt the uniform criteria/procedure for fixing the seniority of General Line Teachers/Regularized Rehbar-e-Taleem Teachers (Trained Graduates and Post Graduate Teachers) of Education Department for their promotion to the next higher post of Master, as has been done previously by the department/respondents.

Further appropriate directions be issued to the respondents not to promote the Teachers of Jammu Division to the next higher post of Master by adopting different criteria/procedure till the final outcome of the above titled O.A.

Issue appropriate directions to the respondent No.1 to accord consideration to the representation dated 25-01-2024 filed by the applicants by passing a speaking and reasoned order and also by affording an opportunity of being heard to the applicants and till then, directions may be issued to the respondents not to promote the General Line Teachers/Regularized Rehbar-e-Taleem Teachers(Trained Graduates and Post Graduate Teachers) of Jammu Division to the next higher post of Master by adopting different criteria/procedure/method till the final outcome of the above titled O.A.

Prayer for the grant of any other interim or final relief as may be deemed appropriate in the facts and circumstances of the case in favour of the applicant."

Whereas, the Hon'ble CAT, Jammu Bench, Jammu on 30.01.2024 has disposed off the aforementioned O.A. with the following directions:-

"At the outset, learned counsel for the applicants submitted that the promotion of the applicants in some cases is being considered on the basis of age and in other it is considered on the basis of merit. Two yardsticks cannot be adopted for the same category. So, learned counsel for the applicants submitted that the applicants would be satisfied if the present Original Application is

disposed off with a direction to respondents to treat this O.A. as representation of the applicants and decide the same within time frame.

Accordingly, the Original Application is disposed off with a direction to respondents to treat this O.A. as representation of the applicants and decide the same.

Respondents are further directed to communicate the order so passed to the applicants. The whole exercise shall be completed within a period of one week from the date of receipt of a certified copy of this order.

With these directions, the O.A. No. 75 of 2024 is disposed off.

It is made clear that I have not entered into the merits of the case.

However, there shall be no orders so as to costs.

Till then, no promotion should be made for the post of Teachers of Jammu Division."

Whereas, after above said directions of the Hon'ble CAT, Jammu Bench, Jammu, the representation annexed with the Original Application as **Annexure-A4** has been carefully examined and thereafter, it has come to the fore that the applicants have prayed for adoption of common criteria for both (GLT/RRET) for fixation of seniority of teachers for conducting DPC; and

Whereas, the teachers have been appointed/ recruited either directly through SSRB as General Line Teachers or engaged as Rehbar-e-Taleem Teachers in pursuance of Govt. Order No. 396-Edu of 2000 dated 28-04-2000 on honorarium basis for a period of five years and after completion of satisfactory five years of service regularized as Regularized RETs in School Education Department.

Whereas, the ReT teachers have been engaged w.e.f. 28.04.2000 to 16-11-2018 and now these Regularized RET Teachers are re-named as Teachers Grade-II and III. and

Whereas, the Teachers recruited through SSRB, their published merit forms the basis of inter-se seniority. Seniority of these teachers is governed as per Rule 24 of The Jammu and Kashmir Civil Services (Classification, Control and Appeal) Rule, 1956 viz. from the date of first appointment. Further, **Rule 24 of The Jammu and Kashmir Civil Services (Classification, Control and Appeal) Rule, 1956** reads as under:-

"Seniority (1) The seniority of a person who is subject to these rules has reference to the service, class, category or grade with reference to which the question has arisen. Such seniority shall be determined by the date of his first appointment to such service, class, category or grade as the case may be.

Note 1:- the rule in this clause will not effect the seniority on the date on which these rules come into force of a member of any service, class, category or grade as fixed in accordance with the rules and orders in force before the date on which these rules come into force.

Interpretation:- The words "date of first appointment" occurring in the above rule will mean the date of first substantive appointment, meaning thereby the date of permanent appointment or the date of first appointment on probation on a clear

vacancy, confirmation in the latter case being subject to good work and conduct and /or passing of any examination or examinations and/or tests:

Provided that the inter-se seniority of two or more persons appointed to the same service, class, category or grade simultaneously will, notwithstanding the fact that they may assume the duties of their appointments on different dates by reason of being posted to different stations, be determined: -

(a) in the case of those promoted by their relative seniority in the lower service, class, category or grade;

(b) in the case of those recruited direct except those who do not join their duties when vacancies are offered to them according to the positions attained by and assigned to them in order of merit at the time of competitive examination or on the basis of merit, ability and physical fitness etc., in case no such examination is held for the purpose of making selections;

(c) as between those promoted and recruited direct by the order in which appointments have to be allocated for promotion and direct recruitment as prescribed by the rules.

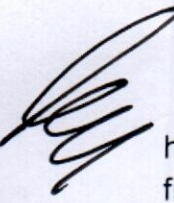
Note 2:- *Any substantive appointments or permanent promotions made in any department prior to 15th May, 1953, will not be disturbed if otherwise in order unless such appointments or promotions are already the subject of any appeal, review or revision or otherwise pending decision.*

(2) *A member of a service, class, category or grade, unless he is reduced in seniority as a punishment shall retain seniority in such service or grade as determined by sub-rule (1) notwithstanding any delay in the completion of his probation or his appointment as a member of such service, class category or grade.*

(3) *Where a member of any service, class, category or grade reduced to a lower service, class, category or grade he shall be placed at the top of the latter unless the authority ordering such reduction directs that he shall rank in such lower service, class, category or grade next below any specified member thereof.*

Whereas, the rule speaks of the date of first appointment and not the date of first joining the duty, hence seniority of a Govt. servant commences from the date of issue of the orders of appointment instead from the date of assumption of charge or date of joining the duties; and

Whereas, further, the date from which seniority is to be reckoned may be laid down by rules or instructions: -

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- i. On the basis of the date of appointment;
 - ii. On the basis of confirmation;
 - iii. On the basis of regularization of service; and

Whereas, with regard to the appointment of RETs for a period of five years on honorarium basis, the selection was made at village level/ hamlet level for a period of five years and then regularized as RRET(now Grade-II & Grade III teachers) , their seniority has also fixed on the basis of Date of Regularization in case these officials are appointed on different dates.

Whereas, in case of RRETs regularized on the same date, their length of service is to be considered as the basis of inter-se seniority and in case the length of service is also same then the seniority is fixed on the basis of age as no specific criterion has

been given/prescribed under the ReT Scheme for the purpose of fixation of their seniority; and

Whereas, further it is also clarified that if the date of appointment of General Line Teacher and Date of Regularization of RRET is same, then General Line Teacher shall be considered as Senior among the two.

Whereas, in compliance with the directions of the Hon'ble Central Administrative Tribunal dated 30.01.2024, it is impressed upon all the CEOs to adhere to the instructions mentioned here in above paras and take appropriate action..

(Ashok Kumar Sharma) JKAS
Director School Education

Jammu
Dated: 09-03-2024

DSEJ/Legal/ 5636-48

Copy information to the:-

1. Secretary to Govt. School Education Department, Civil Secretariat, J&K for information.
2. Chief Education Officers (All), Jammu Division for information and n/action
3. Applicants.
4. I/c Computer cell for uploading the order on the official website of DSEJ.
5. Office file.