

GOVERNMENT OF JAMMU & KASHMIR
DIRECTORATE OF SCHOOL EDUCATION JAMMU
Muthi Camp, Jammu – 181205

- Sub:- i). CPSW No. 549/2018 in SWP No. 411/2018 titled Zakir Hussain V/s Farooq Shah & ors.
II. SWP No. 1165/2005 titled Zakir Hussain V/s State & others.
ii). SWP No. 2156/2006 titled Imtiaz Hussain V/s State & others.
III). LPA No. 74/2010 titled Imtiaz Hussain V/s State & others.

ORDER NO: 430-DSEJ of 2022
DATED: 17-09-2022

Whereas, in pursuance to the advertisement as mentioned in Order No. DSEJ/W/803-06 dated 27.07.2010 a panel was framed for engagement of RETs under SSA during 2004-05 in ward No. 13 of Doda town in respect of 5 posts (Two posts in New Check Post Dessa Road, Doda, One post in Akramabad under upgradation quota 2003-04 and two posts in UPS Akramabad under upgradation quota 2004-05) and;

Whereas, a panel was framed at the Zonal level as per the scheme in vogue in terms of Govt. Order No. 1628-Edu of 2003 dated 24.10.2003 where in ward in urban areas has to be taken to be in place of village as in urban areas and;.

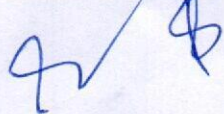
Whereas, as per the panel framed Mr. Imtiaz Ahmed was engaged as RET in Ward No. 13 and;.

Whereas, one Sh. Zakir Hussain S/o Abdul Kabir R/o Ward No. 13, Akramabad Doda filed a writ petition bearing SWP No. 1165/2005 in the Hon'ble High Court Jammu seeking quashment of engagement of Mr. Imtiaz Ahmed S/o Mohd Sabir together with further direction for his engagement in the said school and;.

Whereas, it was reported by the CEO Doda that Mr. Imtiaz Ahmed S/o Mohd Sabir had never applied for engagement as RET, However it was actually applied by Imtiaz Hussain S/o Mohd Sabir having incidentally the same parentage which had been later on clarified by Executive Officer, Municipal Committee Doda with the remarks that Mr. Imtiaz Hussain is the resident of Ward No. 12 and;.

Whereas, the services of Mr. Imtiaz Hussain S/o Mohd Sabir R/o Mohalla Dak Shinal was terminated vide this office Order No. DSEJ/W/20469-70 dated 04.12.2006. However, order passed pursuant to the above by ZEO Doda vide No. ZEO/D/SSA/569-72 dated 12.12.2006 was challenged by Imtiaz Hussain in the Hon'ble High Court through SWP No. 2156/2006 and was stayed by Hon'ble High Court vide interim direction dated 26.12.2006 and;.

Whereas, writ petition filed by Zakir Hussain bearing SWP No. 1165/2005 came to be disposed of on 08.12.2006 with the following directions:-



"In view of the submissions made this writ petition is disposed of with a direction to the respondents to consider the case of a petitioner under the scheme, subject to his eligibility for appointment, along with other eligible candidates for filling up the vacancy in Primary School, Ward No. 13, Check Post, Desa Road, Doda. Connected CMP's including CMP No. 2592/2006 shall also stand disposed of".

Whereas, another writ petition filed by the Imtiaz Hussain bearing SWP No. 2156/2006 was disposed of on 19.04.2010 with the following orders:

"There is thus no merit in the Writ Petition, which is, accordingly, dismissed, leaving the respondents free to fill up the vacancy which had been occupied by the petitioner under rules.

However, before parting, it needs to be observed that the petitioner cannot be deprived of the wages for the period he has worked as Rehbar-e-Taleem.

The respondents may, accordingly, take steps to pay the petitioner his wages, in case he was found to have worked as Rehbar-e-Taleem".

Whereas, CEO Doda after disposed of the writ petition vide reference No. CEO/D/Legal/9006-07 dated 16.07.2010 has recommended for engagement of Zakir Hussain figuring at S.No. 6 of the panel framed at that relevant point of time as being the next meritorious and eligible candidate for engagement as RET in NPS Check Post Desa Road Ward No.13 in place of the vacancy accrued due to termination of Mr. Imtaz Hussain and;

Whereas, vide No. DSEJ/W/803-06 dated 27.07.2010 in compliance to the directions of the Hon'ble High Court passed in the above titled cases, approval was accorded for the engagement of Mr. Zakir Hussain S/o Sh. Abdul Kabir R/o Ward No. 13 as RET in NPS Check Post Desa Road and;

Whereas, Imtiaz Hussain aggrieved with the above order filed LPA bearing No. 74/2010 titled Imtiaz Hussain V/s State and others before Division Bench of Hon'ble High Court of J&K at Jammu and;

Whereas, the Division Bench of Hon'ble High Court of J&K pronounced the judgment in the instant case on 12.05.2011 with the following observation

"Having glance of the above discussion this appeal merits to be dismissed and the judgment of learned single judge needs no interference. Accordingly the appeal is dismissed along with all CMPs".

Whereas, the LPA filed by the applicant Mr. Imtiaz Hussain has been dismissed upholding the order of writ Court passed in SWP No. 2156/2006 the order of termination issued by ZEO Doda vide No. ZEO/D/SSA/369-72 dated 12.12.2006 was implemented resultantly the services of Mr. Imtiaz Hussain S/o Mohd Sabir as RET in NPS Check Post Doda was terminated with immediate effect and;

Whereas, writ petition filed by Zakir Hussain bearing SWP No. 1165/2005 came to be disposed of on 08.12.2006 with the following directions:-

"In view of the submissions made this writ petition is disposed of with a direction to the respondents to consider the case of a petitioner

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under the scheme, subject to his eligibility for appointment, along with other eligible candidates for filling up the vacancy in Primary School, Ward No. 13, Check Post, Desa Road, Doda. Connected CMP's including CMP No. 2592/2006 shall also stand disposed of".

Whereas, in compliance with the directions of the Hon'ble High Court and the instructions issued by DSE Jammu vide DSEJ/Legal/6363 dated 07.07.2011 read with the communication received from CEO Doda vide No. CEO/D/legal/9483-86 dated 12.07.2011 Mr. Zakir Hussain S/o Sh. Abdul Kabir was engaged as RET in Govt. PS Check Post Dossa Road Ward No. 13 with immediate effect on the vacancy which had been occupied by the petitioner Mr. Imtiaz Hussain prior to termination of his engagement and;

Whereas, the case file of Zakir Hussain for regularization was duly forwarded and recommended by CEO Doda vide No. CEO/D/20645 dated 26.10.2019 & CEO/D/legal/10322 dated 03.07.2019 in the concluding para of the letter submitted that "the process of regularization was put on hold for some administrative reasons and as such the judgment of the case bearing SWP No. 411/2018, MP No. 01/2018 titled Zakir Hussain v/s State & others dated 12.03.2018 of the court could not be implemented within the stipulated period of time fixed by the Hon'ble Court and;

Whereas, a complaint vide No. Nil Dated 12.08.2016 was received by this office on 18.08.2016, wherein the complainant questioned the appointment of Sh. Zakir Hussain S/o Abdul Kabir Sheikh RET and requested to investigate the fraud and take appropriate action under rules and vide this office letter No. DSEJ/Legal/30567-68 dated 26.08.2016 CEO Doda was directed to furnish a detailed report regarding the complaint and;

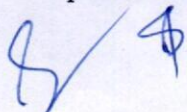
Whereas, vide letter No. CEO/D/legal/MC/24289-92 dated 28.10.2016 CEO Doda constituted a committee comprising of three officers namely Sh. Abdul Latief Bhat DEPO Doda, Principal HSS Khilani and ZEO Doda to enquire the matter and furnish a detailed report within a week's time positively and;

Whereas, vide No. nil Dated 21.08.2019 a complaint was received by this office on 26.08.2019 from Sumeer Katoch, Coordinator Unemployment Youth Association, District Doda against 11 other RETs of District Doda including Zakir Hussain regarding submission of fake RET Regularisation Files of District Doda and;

Whereas, vide No. Nil Dated Nil a similar nature of complaint mentioned above was received by this office on 24.02.2020 from Puran Chand and Ikhlak Chakrabati R/o Bhaderwah and;

Whereas, vide No. Nil Dated 03.06.2021 a complaint was received by this office on 14.06.2021 from Firdous Hussain C/o Ahadoo's Tailors Bharath Road, Doda against Sh. Zakir Hussain S/o Abdul Kabir Sheikh RET regarding non filing of objections before court in Contempt Petition CPSW No. 549/2018 of SWP No. 411/2018 titled Zakir Hussain V/s Farooq Ahmed Shah and Others and;

Whereas, in response to AIG (policy) Director ACB, J&K Jammu vide No. ACB-Edu-G-99/19-15712-13 dated 27.11.2019 and DSEJ/MW/V-375/38073-76 dated 20.12.2019 Principal, DIET Doda vide No. DIET/D/31380-81 dated 04.11.2020 submitted the detailed report to Joint Director School Education Jammu regarding complaint against Firdous Hussain Rather I/C Headmaster Govt. HS Koti Doda and ors, wherein after examining the facts reflected in the complaint observed that the case of Mr. Zakir Hussain S/o Abdul Kabir R/o



Ward No. 13, RET PS Check Post Dessa Road is genuine and may kindly be considered for regularization under rules. Subsequently, the report of the DIET Principal Doda as referred above was forwarded to the Assistant Inspector General (Policy), For Director ACB J&K Jammu by this office vide No. DSEJ/MW/V-375/2020/787-88 dated 08.01.2021 and;

Whereas, while going through all the complaints it is observed that the complainants are time and again questioning the validity/veracity of appointment of Sh. Zakir Hussin S/o Abdul Kabir Sheikh RET, PS Check Post Dessa Road even though it has successfully passed legal scrutiny and;

Whereas, another writ petition filed by Zakir Hussain bearing SWP No. 411/2018 praying for his regularization was disposed of on 12.03.2018 with the following directions

"To consider the claim of the petitioner on the basis of averments made in the writ petition annexure attached thereto in light of the above referred judgment (supra) provided the same is applicable to the case of petitioner. Let the respondents pass consideration order, under rules, within a period of six weeks from the date certified copy of this order, copy of judgment referred herein above along with complete set of writ petition is made available to the respondents".

Whereas, the contempt petition bearing CPSW No. 549/2018 titled Zakir Hussain V/s Farook Shah & others filed by the petitioner was listed on 17.12.2021 and Hon'ble High Court issued directions to file compliance report and;

Whereas, the Hon'ble High Court vide order dated 04.03.2022 granted last and final opportunity to file the compliance report failing which Director School Education Jammu was asked to remain present in person on the next date of hearing and;

Whereas, the contempt petition bearing CPSW No. 549/2018 was again listed on 30.08.2022 and the Hon'ble High Court issued the following order:-

"In terms of order dated 04.03.2022, four weeks time as last and final opportunity was granted, at the request of the counsel for the respondents for filing compliance report failing which respondent Director School Education, Jammu had to remain present in person on the next date of hearing.

Neither compliance report has been filed nor respondent/contemnor Director School Education is present.

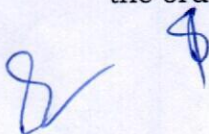
Mr. Suneel Malhotra,, Advocate states that respondent/contemnor Director School Education, Jammu had been conveyed the order passed by this Court on 04.03.2022.

In view of the aforesaid position, let the presence of Director School Education, Jammu be secured through the issuance of Bailable warrants to the sum of Rs 5000/- to be executed through the Senior Superintendent of Police, Jammu".

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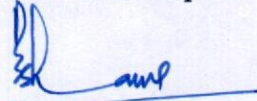
Now, therefore, in view of the above after consideration of the case in light of the extant rules and in compliance to the Hon'ble court directions, sanction is hereby accorded to the regularization of Sh. Zakir Hussain S/o Abdul Kabir Sheikh, RET PS Check Post Dessa Road, Zone Doda, District Doda for regularization w.e.f. 14.07.2016 subject to the fulfillment of the following conditions:

- i) That the Rehbar-e-Taleem has completed five years of continuous / un-interrupted service and was/were engaged genuinely.
- ii) That the work and conduct of the Rehbar-e-Taleem teacher has remained satisfactory for the last five years which shall be certified by the Village Education Committee concerned in association with respective ZEO/Head of institution/CEO as the case may be.
- iii) That the Rehbar-e-Taleem posses the minimum prescribed qualification for engagement at the time of initial appointment as Rehbar-e-Taleem through JK Board of School Education/University or any other recognized Board/University and has not obtained any qualification/degree(s) through study centre.
- iv) That none of RET have remained on the rolls of any college/institution during the five years of honorarium service.
- v) That the CEO/DDO concerned shall ensure that the maternity leave, if any, availed by the female RETs during five years honorarium service, which has not been reported/reflected earlier, is entered in the service book of the such RETs whose regularization has been considered
- vi) That the CEO/DDO concerned shall remain personally responsible to verify following original testimonials and ensure that the ReTs fulfills all the conditions as laid down in the above cited Government Orders before giving effect to their regularization:-
 - a) Educational-qualification certificates.
 - b) Age and Health certificate.
 - c) Permanent Residence Certificate.
 - d) No Loan certificate from District Industries Centre/Self Employment Scheme.
 - e) Character/Antecedents verification certificates from IGP, CID.
 - f) Category certificate in case of ST/SC/ALC/RBA candidates, if appointed under reserved category.
 - g) Original advertisement notice.
 - h) Enrollment of the school at the time of regularization is within the desired limits as per the norms of SSA.
 - i) No case pertaining to his regularization is pending in Crime Branch or Anti Corruption Bureau.
- vii) That in case, at any stage, it is found that the certificates/documents furnished by the RET are fake/fictitious the order of regularization shall be cancelled ab initio.



- viii) As a matter of policy and consistent with the imperatives of smooth working of respective schools, the Rehbar-e-Taleem so regularized shall not be transferred.
- ix) This order is issued without prejudice to the outcome of any writ petition/suit/case, pending adjudication in the court of law.

Further, concerned Chief Education Officer is directed to issue the regularization order to the concerned RET only after satisfying himself that all the conditions as laid down supra have been observed in letter and spirit.


(Dr. Ravi Shankar Sharma) JKAS
Director School Education
Jammu

No: DSEJ/RET/15521-24

Dated: 17-09-2022

Copy to the:-

1. Principal Secretary to Govt, School Education Department Civil Secretariat Jammu/Srinagar for information.
2. Chief Education Officer Doda for information and n/a.
3. Office Record File.
4. I/C Computer Section for upload on official website.