

GOVERNMENT OF JAMMU AND KASHMIR
DIRECTORATE OF SCHOOL EDUCATION, JAMMU

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Subject: SWP No. 1757/2018 titled Sumaira Mir v/s State & ors.

ORDER No. 248/DSEJ

DATED: 19/09/2020

Whereas, Ms. Sumaira Mir was appointed as Teacher in School Education Department in the year 2012 in district Kishtwar and accordingly posted at HSS, Shirodh, Kishtwar vide CEO, Kishtwar's order no. CEO/K/12/9991-93 dated 29.11.2012 and the official joined at HSS, Shirodh on 06.12.2012; and

Whereas, while serving at HSS, Shirodh, on 23.03.2013, she was deployed by the then CEO, Kishtwar to UPS, Mini Bus Stand, Kishtwar, Zone Kishtwar and further she was directed by the then Chief Education Officer, Kishtwar to work at UPS, Seman Kadal, Kishtwar; and

Whereas, inbetween, the then Chief Education Officer, Kishtwar under the directions of the then District Development Commissioner, Kishtwar directed all the ZEO's, Principals and similar others to detach all such Masters/Teachers/ReTs, who have been working on attachment/deployment basis and directed them to report to their original place of postings; and

Whereas, petitioner namely Sumaira Mir instead of joining at her original place of posting approached the Hon'ble High Court, Jammu through a medium of writ petition bearing SWP No. 2251/2013 titled Sumaira Mir v/s State & ors; and

Whereas, the Hon'ble High Court, Jammu on 29.10.2013 issued the following directions:-

"In the meantime, as ad interim, subject to objections and till next date order dated 08.10.2013 vis-à-vis the petitioner shall stay"

Whereas, thereafter, on 09.08.2016, Hon'ble High Court, Jammu disposed of the above referred writ petition with the following directions:-

".....consequent upon quashing of the impugned order, it shall be open for the competent Authority to pass any fresh order in regard to the next posting of the petitioner. Given that the deployment of the petitioner had been made on the medical ground, it shall be open for the petitioner to represent her case before the Competent Authority"

Whereas, after that Ms. Sumaira Mir, Teacher, HSS, Shirodh, District Kishtwar was deputed by the then Chief Education Officer, Kishtwar vide no. CEO/K/17/11914-20 dated 14.07.2017 to the office of Mr. Amit Chopra, the then Government Advocate dealing with court cases of School Education Department; and

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Whereas, in the meantime, the Administrative Department cancelled all the attachments and in pursuance to that order of the Administrative Department, the then Chief Education Officer withdrew the order dated 14.07.2017 vide order no. CEOK/K/18/42960-66 dated 18.08.2018 and accordingly, directed Ms. Sumaira Mir, Teacher, HSS, Shirodh to report to her original place of posting; and

Whereas, the Petitioner namely Ms. Sumaira Mir, Teacher, HSS, Shirodh, District Kishtwar instead of joining at HSS, Shirodh, Kishtwar approached the Hon'ble High Court at Jammu through a medium of writ petition bearing SWP No. 1757/2018 titled Sumaira Mir v/s State & ors; and

Whereas, the Hon'ble High Court, Jammu on 31.08.2018 issued the following directions:-

".....Meanwhile, subject to objections and till next date before the Bench, operation of the order impugned bearing No. CEO/K/18/42960-66 dated 18.08.2018 shall stay. The petitioner shall continue to work in the office where she was deputed vide order dated 14.07.2017"

Whereas, after issuance of above direction of the Hon'ble High Court, Jammu, Sh. Ravinder Gupta, the then Additional Advocate General, J&K High Court, Jammu vide communication no. RG/AAG/18/A/4567-4569 dated 12.11.2018 had also expressed his inability to contest the aforementioned writ due to personal reasons; and

Whereas, this office vide communication no. DSEJ/Legal/151 dated 02.01.2019 apprised the Administrative Department about the same and at the same time also requested the Administrative Department to refer/hand over the aforementioned case to Smt. Seema Shekhar Khajuria, Sr. AAG, J&K High Court, Jammu and accordingly, the instant case was referred/handed over to Smt. Seema Shekhar Khajuria, Sr. AAG, J&K High Court, Jammu; and

Whereas, the post of Teacher is a District Cadre post and the Chief Education Officer of a district is not competent to transfer or depute a person holding the post of Teacher outside the District. Therefore, the deputation order dated 14.07.2017 of the then Chief Education Officer, Kishtwar is nonest in the eyes of law and thus, illegal, unjustified and further, reflected the case of abuse of official position by the then CEO, Kishtwar in this regard; and

Whereas, vide order no. DSEJ/Legal/21056-72 dated 26.06.2019, the Petitioner namely Sumaira Mir was directed to report to this Directorate as there was every apprehension of the petitioner influencing her case while remaining in the office of the then Additional Advocate General; and

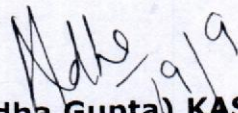
Whereas, the objections got filed by this office in the instant case through Smt. Seema Shekhar Khajuria, Sr. AAG, J&K High Court, Jammu and accordingly, she contested the case before Hon'ble High Court, Jammu. Finally, the Hon'ble High Court, Jammu on 14.08.2020 dismissed the aforementioned writ petition with the following directions:-

".....the competent authority shall be entitled to utilize the services of the petitioner as per requirement in terms of the transfer policy in vogue. Till such time fresh orders are passed, the petitioner shall be allowed to continue at her present place of posting"

In view of the aforementioned facts and circumstances, the Petitioner namely Ms. Sumaira Mir being teacher appointed as General Line Teacher in district cadre Kishtwar is hereby relieved off from this Directorate today on 19.09.2020 (A.N.) in terms of transfer policy in vogue and accordingly, directed to report to her original place of posting i.e. HSS, Shirodh, District Kishtwar for further duties.

No. DSEJ/ 29374-87

Date: 19-09-2020


(Anuradha Gupta) KAS
Director School Education,
Jammu

Copy for information to:

01. Principal Secretary to Government, School Education Department, Civil Secretariat, Srinagar.
02. Sh. Rajesh Thappa, Dy. Advocate General, J&K High Court, Jammu.
03. Chief Education Officers (All). They are advised not to issue any order beyond their competence.
04. Ms. Sumaira Mir, Teacher for compliance.
05. Incharge official website for n.a.