



Government of Jammu and Kashmir
Higher Education Department
Civil Secretariat, J&K

Subject:- Grant of retrospective/monitory benefits and fixation of seniority.

Government Order No. 221- JK(HE) of 2022
Dated - 06 -10- 2022

Whereas, Ms. Syed Mehreen Andrabi, Assistant Professor (Kashmiri) has submitted a representation wherein she has stated that Jammu and Kashmir Public Service Commission vide Notification No.03-PSC(DE-S) of 2016 dated 02-03-2016 had issued selection list of Assistant Professors (Kashmiri) and she was figuring at S.No.6;

Whereas, her vacant post was kept reserved by JKPSK in view of the interim directions of the Division Bench of Hon'ble High Court dated 27-10-2015 read with Order dated 27-10-2015 in the LPA titled State V/s Kamal Kishore Verma and Others and LPA titled State V/s Neha Sambiyal and Others;

Whereas, the matter was finally disposed off vide Order dated 28-02-2017 passed by the Hon'ble High Court of J&K and her selection was released by the JK Public Service Commission and vide Govt. Order No.185-HE of 2017 dated 23-03-2017 she has joined the Higher Education Department on 29-03-2017;

Whereas, Syed Mehreen Andrabi has claimed that her counterparts have now become far senior to her, possess the same merit list prepared by the JK Public Service Commission and her selection had been kept reserved.

Whereas, she has requested to consider her request on the following grounds:

- I. She may be given service benefits w.e.f the date the Public Service Commission has released merit list of the candidates.
- II. She may be given service benefits notionally w.e.f 19.05.2016, the date when Higher Education Department issued orders in respect of (5) candidates in pursuance to Notification No.03- PSC(DR-S) of 2016 dated 02 03.2016 and
- III. The inter-se seniority shall be fixed as per the merit list prepared by the Public Service Commission.

Kansh Whereas, Syed Mehreen Andrabi presently working as Assistant Professor (Kashmiri) through medium of representation that she may be given retrospective/monitory benefits and fixation of seniority;

Whereas, the matter was referred to Department of Law, Justice & Parliamentary Affairs, who opined as under :-

" The appointment of a Civil Servant takes effect from the date of issuance of order or from such prospective date as the order might indicate. Appointment cannot given

retrospective effect because such action may adversely effect seniority of persons appointed earlier. As such this department conveys its agreement to the departmental proposal for rejection of representation of the applicant on the strength of Rule 24 of J&K Civil Services (Classification, Control and Appeal) Rules, 1956 and the orders passed by the Hon'ble Supreme Court in the two cases mentioned in the department note-para(s) on the issue. Further, similar law point has also been laid down by the Hon'ble Supreme Court in Javed Iqbal Balwan case."

Now, therefore, keeping in view, the above circumstances and upon the opinion of the Department of Law, Justice and Parliamentary Affairs and the order of the Hon'ble Supreme Court in case titled Suraj Prakash Gupta V/s State of J&K 2000 AR SC 2386 and A. Janardhana V/s Union of India (1983) 2 SCR 936 (AIR 1983 SC 769:1983 Lab 1C 849), the claim of the petitioner for retrospective / monitory benefits and fixation of seniority found not covered under rules, as such, the claim of the applicant is devoid of merits, hence rejected.

By Order of the Government of Jammu & Kashmir.

Sd/-

(Rohit Kansal)IAS

Principal Secretary to the Government

Dated: 06 - 10-2022

No.HED-LEG/22/2021-04

Copy to the:-

1. Principal Secretary to Hon'ble Lt. Governor, J&K.
2. Director Colleges, J&K, Jammu
3. Director Archives, Archaeology & Museum, J&K.
4. OSD to Hon'ble Advisor (B) Higher Education Department.
5. Pvt . Secretary to Principal Secretary to Government, Higher Education Department.
6. Pvt. Secretary to Secretary to Government, General Administration Department
7. Ms. Syed Mehreen Andrabi, Assistant Professor (Kashmiri).
8. I/C Web Site Higher Education Department to Government.
9. Government Order file (w.2.s.c).



(Dr. Ashwani Hansa)JKAS

Under Secretary to Government