



2026:JKLHC-SGR:88-I

**EHIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR**

LPA No. 36/2025

Reserved on: 21.04.2026
Pronounced on: 06.05.2026
Uploaded on: 06 .05.2026

Whether the operative part or full
judgment is pronounced: Full

Chairman J&K Board of School Education

Appellants

Through: - Mr. M.I.Dar Advocate with
Ms. Laila Khan Advocate.

vs

Syed Abdul Rouf and another

...Respondent(s)

Through: - Mr. Arshad Andrabi Advocate.

CORAM: **HON'BLE MR. JUSTICE SANJEEV KUMAR, JUDGE**
HON'BLE MR. JUSTICE SANJAY PARIHAR JUDGE

JUDGMENT

Sanjeev Kumar, J

1 Impugned in this intra-Court appeal filed by the Jammu and Kashmir Board of School Education ["Board"] is an order and judgment dated 26th of July, 2024 passed by a learned Single Judge of this Court ["the Writ Court"] in SWP No. 238/2017 titled *Syed Abdul Rouf vs State and others*, whereby the Writ Court has allowed the writ petition filed by the private respondent and quashed order No. 83-B of 2017 dated 07.02.2017 issued by the appellant and restrained it from



effecting any recoveries from the private respondent on account of payment of charge allowance.

2 Briefly stated, the facts leading to the filing of this appeal are that the respondent, who was working as In-charge Chief Education Officer in the School Education Department of Jammu and Kashmir, was deputed to the appellant-Board to work as In-charge Joint Secretary in his own pay and grade with charge allowance as admissible under rules for a period of six months. This was done by the Government vide Government Order No. 300-Edu of 2012 dated 22.03.2012. The appellant-Board issued order No. 301-B of 2012 dated 18.05.2012 and accorded sanction to the drawal of pay of the private respondent w.e.f. 24.03.2012 at the rate of Rs. 25,780/- with grade pay of Rs. 5,600, totaling Rs. 31,380 per month plus admissible charge allowance under rules in the pay band of Rs. 15,600–39,100 with grade pay of Rs. 5,600. Vide order dated 06.10.2012, the appellant-Board accorded sanction for grant of charge allowance in favour of the respondent in the pay band of Rs. 15,600–39,100 with grade pay of Rs. 5,600, i.e., at the rate of Rs. 3,680/- w.e.f. 24.03.2012 to 31.03.2012, at the rate of Rs. 14,260 per month w.e.f. 01.04.2012 to 30.06.2012, and Rs. 14,680 per month w.e.f. 01.07.2012 to 30.06.2013.

3 It seems that the respondent was repatriated to his parent department after completion of the assignment, but later on, once again, vide Government Order dated 19.03.2015, the private respondent was deputed to the appellant-Board to work as In-charge Joint Secretary for a period of two years expiring on 18.03.2017. Vide order dated 15.05.2015, the appellant-Board accorded sanction to the fixation of



pay in favour of the private respondent in the pay band of Rs. 15,600–39,100 plus grade pay of Rs. 5,600. The charge allowance was also sanctioned in favour of the respondent at the rate of Rs. 11,280 per month from 19.03.2015 to 30.06.2015, at the rate of Rs. 11,620 from 01.07.2015 to 30.06.2016, and at the rate of Rs. 11,960 per month from 01.07.2016 to 30.06.2017. The respondent performed his duties as In-charge Joint Secretary in the appellant Board and was paid the due charge allowance from time to time. It was only in 2017 that the appellant Board issued order dated 07.02.2017 directing recovery of the entire amount of the charge allowance paid from 19.03.2015 to 31.01.2017. Feeling aggrieved, the respondent challenged order dated 07.02.2017 on the ground that since he was asked to perform the duties of a higher post, he was entitled, in terms of Regulation 87 of J&K CSR Volume-I, to the grant of charge allowance to be computed on the basis of the difference of pay that was being drawn by him in the substantive post held by him in the parent department and the minimum scale of pay of the higher post he was asked to officiate on.

4 The claim of the respondent was resisted by the appellant by contending that the respondent was asked to hold the post of Joint Secretary in his own pay and grade and without the benefit of any charge allowance. It was submitted that the pay scale of the post of Joint Secretary in the appellant Board is two steps higher than the pay scale the respondent was holding in his parent department, i.e., School Education, and, therefore, the charge allowance on the basis of difference between two pay scales was not permissible.



5 The Writ Court, having considered the rival contentions in the light of the rule position, came to the conclusion that the respondent, having performed the duties of a higher office, was entitled to charge allowance in view of the provisions of Regulation 87 of J&K CSR, and, therefore, the amount received by the respondent was not recoverable. Vide the judgment impugned, the Writ Court allowed the petition filed by the respondent and quashed the impugned recovery order dated 07.02.2017.

6 The impugned judgment passed by the Writ Court is challenged by the appellant Board primarily on the ground that, in terms of Government Order dated 19.03.2015, the respondent, who was working as In-charge Chief Education Officer Baramulla, was deputed as In-charge Joint Secretary of the appellant Board and his deputation was as per the standard terms and conditions of deputation, and therefore he was not entitled to any charge allowance. It is argued that when it was detected by the competent authority that the private respondent had been erroneously paid the charge allowance to which he was not entitled, the impugned order dated 07.02.2017 was issued and sanction for recovery of the entire amount of the charge allowance paid to the respondent w.e.f. 19.03.2015 to 31.01.2017 was accorded. The impugned order, it is argued, was necessitated to correct the error and to make good the loss caused to the public exchequer by wrongful withdrawal of the charge allowance.

7 Having heard learned counsel for the parties and perused the material on record, we find that initially the respondent, who was working as In-charge Field Advisor SIE Srinagar, was transferred by



the Government and adjusted as In-charge Joint Secretary, Board of School Education, in his own pay and grade without the benefit of any charge allowance for performing the duties of In-charge Joint Secretary. This is so because the very placement of the respondent as Chief Education Officer and equivalent was in his own pay and grade with charge allowance as admissible under rules, and, therefore, he could not have been granted another charge allowance for performing the duties of In-charge Joint Secretary, Board of School Education, and it is for this reason that the adjustment of the respondent as In-charge Joint Secretary was in his own pay and grade.

8 Be that as it may, the aforesaid order was misconstrued by the appellant Board and the respondent was released the due charge allowance purportedly in terms of Regulation 87 of J&K CSR Vol-I. The appellant Board does not dispute this charge allowance paid to him while he remained posted in the Board as In-charge Joint Secretary in terms of Government Order dated 22.03.2012. The dispute pertains to the period w.e.f. 19.03.2015 till 31.01.2017 when he once again worked as In-charge Joint Secretary on deputation in terms of Government order dated 19.03.2015. The said Government order clearly prescribed that the deputation of the respondent would be for a period of two years and would be governed by the standard terms and conditions of deputation. It was not a case of asking the respondent to perform the duties of a higher office in the line of his promotion, but it was a call for performing the duties as In-charge Joint Secretary in a different statutory organization, i.e., the Board of School Education. This order was within the knowledge of the respondent and was accepted by him



by submitting his joining in the office of the appellant Board and performing duties there as Joint Secretary. The payment of the charge allowance, whether under Regulation 87 of CSR or some other provision, was not admissible. The respondent was, however, entitled to be governed as per the standard terms and conditions of deputation clearly enumerated in Part II of the J&K CSR. Article 22-D of J&K CSR deals with deputation and deputation allowance and reads thus:

“22-D. Deputation Allowance:

(a) Deputation: The term “Deputations” will cover appointments made by transfer of “In-service” Government Servants in public interests outside their parent organization on a temporary basis. The deputation may be from one Government Department to another of the State Government or from a Government Department of the State to any Corporation, Company, Autonomous Body, public Sector Undertaking wholly owned and controlled either by the State Government or by the Central Government, or any other State Government in the country. It shall include transfers made in public interests to Municipalities, Local Bodies, Statutory Bodies, and all other Non-Government Organisations Bodies and Institutions within or outside the State;

(b) Government servants in-service who are appointed to posts outside their parent cadre on direct recruitment having competed for such appointments with other candidates whether on permanent or a temporary basis will not be regarded as on “Deputation”. Permanent transfers from one cadre/Department to another will also not be treated as deputations. Similarly Government servants who seek appointments in public sector undertakings, corporations, Companies etc of their own accord, or while on deputation are absorbed permanently in such Organizations and Institutions will not be treated on deputation.

(c) Interim arrangements of posting of members of a Service in the event of conversion of a Government office/Organizations or a portion thereof into a PSU/Autonomous Body/Company/Corporations will also not be treated as deputation”.



9 From a reading of Regulation 22-D (supra), it clearly transpires that the term “deputation” covers appointments made by transfer of “in-service” Government servants in public interest outside their parent organization on a temporary basis. The deputation may be from one Government department to another of the State Government, or from one Government department of the State to any Corporation, Company, Autonomous Body, or PSU wholly owned and controlled either by the State Government, the Central Government, or any other State Government in the country. It would also include transfers made in public interest to Municipalities, Local Bodies, Statutory Bodies like the Board of School Education, and other non-Government organizations, bodies, and institutions within or outside the State.

10 Regulation 52-C of the J&K CSR prescribes the conditions and terms of deputation and also needs to be reproduced for facility of reference. It reads thus:

“52-C. Conditions and terms of deputation:

All deputation cases involving deputation of Government servants to non-Government Organizations, including Corporations, Companies, Autonomous Bodies etc. within or outside , the State or to Central Government or other State Governments shall be decided by the concerned Administrative Department on the standard terms and conditions of deputation contained in Schedule XVIII. Any relaxation of the said terms will require prior consultation of the General Department and the Finance Department.

In addition to the standard terms the following conditions shall be observed by the competent authorities in regulating cases of deputation:



(i) The period of deputation in any case should not exceed three years. It may, however, be extended further by one year on the request of the borrowing agency but in any case the total period of deputation shall not exceed a period of 4 years at a time.

(ii) [***]

(iii) An employee placed on deputation may elect to draw either the pay in the scale of pay of deputation position or the basic pay and the pay scale of the parent cadre plus personal pay if any;

The borrowing agency should obtain the option of the employee within one month from the date of joining the deputation post unless the employee has himself/herself furnished the said option. The option once exercised shall be final; however, the employee may reverse his/her option under the following circumstances which shall be effective from the date of occurrence of the same.

- (a) When he/she receives a proforma promotion or is appointed to any non functional selection grade/any insitu promotion in his parent cadre
- (b) When he/she is reverted to a lower grade/post/scale in his parent cadre
- (c) When the scale of pay of the parent post on the basis of which his/her emoluments are regulated during deputation (or of the ex cadre post) held by the employee on the deputation is either revised prospectively or form a retrospective date
- (d) If the pay scale of the employee in his cadre post undergoes a downward revision, the pay in the deputation post is automatically liable to be refixed on the basis of the revised pay and in accordance with the revised option.

11 It is, thus, clear from a bare reading of Regulation 52-C (supra) that deputation cases involving deputation of a Government servant to a non-Government organization, including corporations, companies,



statutory and autonomous bodies within and outside the State, would be governed by the standard terms of deputation contained in Schedule XVIII. In addition to the standard terms of deputation provided in Schedule XVIII, the period of deputation in any case cannot exceed three years, though it may be extended further by one year on the request of the borrowing agency. However, in no case can it exceed four years at a time. An employee appointed on deputation is entitled to elect to draw either the pay in the scale of the deputation post or the basic pay in the pay scale of the parent cadre plus personal pay, if any. The borrowing agency is enjoined to obtain such option from the employee within one year from the date of joining the deputation post. Regarding the standard terms and conditions laid down in Schedule XVIII, it may be stated that the deputationist shall have the option either to get the pay fixed in the deputation post under the operation of normal rules or to draw the pay of the post held by him in the parent department. However, where the transfer on deputation is not in public interest, the deputationist will continue to draw the pay of the post held by him in his parent department, etc.

12 In the instant case, we find a few irregularities in the deputation of the respondent. Admittedly, the post held by him in his parent department is much lower in rank than the post of Joint Secretary in the Board. The deputation, as its definition suggests, cannot be against a higher post or a different post, though such post may carry a higher pay scale in the statutory/autonomous organization to which a person is deputed. The in-charge promotion in terms of Regulation 87 of CSR Vol. I is not permissible. A person becomes entitled to charge



allowance only if he is asked to perform the plenary duties of a higher office that is in the line of his promotion and under the same employer. Strictly speaking, the transfer and posting of the respondent, who was not holding the post of Chief Education Officer on a substantive basis in the School Education Department of the Government of Jammu and Kashmir, to the appellant Board for performing the duties of Joint Secretary was not permissible in law. The respondent was neither entitled to the charge allowance nor to the deputation allowance. The Government, without understanding the import of Regulation 87 of CSR and Regulations 22 and 52-C of the CSR, in the first instance transferred the respondent and posted him as In-charge Joint Secretary in the Board, and on the second occasion deputed him to perform the same duties. Without there being any order from the Government, the Board of its own granted the charge allowance to the respondent on both occasions.

13 As we have stated above, the case of the respondent, strictly speaking, is neither governed by Regulation 87 of the CSR entitling him to charge allowance nor is it covered by deputation entitling him to claim deputation allowance or the pay of the post held by way of deputation. Be that as it may, the fact remains that the respondent was called upon by the Government to perform the plenary duties of a higher office carrying higher responsibilities and, therefore, he was entitled to be compensated. Whether it is termed as charge allowance or deputation allowance, it is, in essence, compensation to the respondent for working outside his cadre and performing duties of a higher office



carrying much responsibility than the office he was holding in his parent department.

14 In view of the aforesaid, we are not inclined to interfere with the judgment impugned passed by the Writ Court, though for the reasons we have elaborately given hereinabove. Accordingly, the appeal at hand is dismissed. Interim directions, if any, shall stand vacated.

(SANJAY PARIHAR)
JUDGE

(SANJEEV KUMAR)
JUDGE

Whether the order is speaking: Yes
Whether the order is reportable: Yes

Srinagar
Sanjeev
06.05.2026

