GOVERNMENT OF NCT OF DELHI
DIRECTORATE OF EDUCATION
(SECRETARIAT EDUCATION BRANCH)
ROOM No. 223, OLD SECRETARIAT,
DELHI – 110054.

No. F.31(107)/SB/Edn.2014/ 681-695

ORDER

Dated: 05-06-2014

Whereas the Cabinet of Delhi Government had taken a decision No. 2068 on 02.09.2013 conveying vide letter no.F.3/2/2011-GAD/CN/Pt.file-l/dsgad-III/4116-4127 dated 4.9.2013 (Annexure-A) stating that “The Cabinet considered the note of Pr. Secretary (Education) and approved the proposal contained in paras-VIII (a) to (f) of the Cabinet Note. The Cabinet decided that the approval of Government of India be obtained subsequently. The re-employment will not be automatic but subject to vigilance clearance, fitness, performance, work and conduct and on a year to year basis based on annual contract and linked with vacancies”.

And whereas before the aforesaid decision of the cabinet, the administrative views of the Services Department, Law Department and Finance Department of Govt. of N.C.T. of Delhi were taken by the Directorate of Education, Govt. of NCT of Delhi.

And whereas the Services Department of Govt. of NCT of Delhi vide their letter dated 28.08.2013 viewed that “Service conditions of employees of this Government are governed by the rules in vogue in the Central Government. Therefore, any change in these conditions, including that of re-employment, would require the approval of the Government of India. Further, Department of Personnel & Training, Govt. of India vide its O.M. dated 09.12.2002 lays down that “No proposal for employing a Government Servant beyond the age of superannuation of 60 years shall be considered. It is also clarified that no person can be appointed / re-appointed to Central Government service after the age of 60 years through contract.” Therefore, Services Department has a view that approval of the Govt. of India should be taken before the decision to offer re-employment to teachers on the terms and conditions mentioned in the cabinet note is given effect.

And whereas the Law Department of Govt. of NCT of Delhi vide their U.O. letter dated 29.08.2013 viewed that “The draft revised cabinet note has been examined. The policy with regard to the re-employment of
pensioners has been laid down by the Govt. of India, Ministry of Finance, O.M. dated 18.05.1977 and MHA (DP & AR) OM dated 01.12.1983. The said OMs provide the criteria for re-employment of the pensioners. **For the re-employment against the posts in Group A and Group B in a Union territory, the matter needs to be referred to the Establishment Division of the DoPT for their concurrence before such proposal are approved by the Minister-in-Charge of the administrative Ministry. The NCT of Delhi, being a Union Territory, the concurrence of DoPT would be required before re-employment of any pensioner.**

**And whereas,** the Law Department of Govt. of NCT of Delhi vide their above referred U.O. letter also viewed that as per Govt. of India, DoPT OM No. 25012/2/97-Estt(A) dated 13.05.1998, there is a complete ban on extension in service beyond the age of superannuation except in the case of medical and scientific specialists who can be granted extension in service on a case to case basis upto the age of 62 years. Therefore, the proposal of the administrative department is not in accordance with the said OM.

**And whereas** the Finance Department of Govt. of NCT of Delhi vide their note dated 29.08.2013 viewed that “As per existing instructions / orders of the Govt. of India, there is a total ban on the re-employment and it may also submitted that as per FR – 56(a), every Government Servant shall retire from service on the afternoon of the last day of the month in which he attains the age of sixty years. As per FR – 56 (d), no Government Servant shall be granted extension in the service beyond the age of retirement of sixty years. It may also be submitted that as per the provisions laid down in Govt. of India’s decisions No. 1 below Rule 2 of CCS (Pension) Rules, the employee of the Delhi Administration in the matter of pensionary matters are governed by the CCS (Pension) Rules, 1972. It may also be added that the employees of Government of NCT of Delhi are under the terms and reference of Central Pay Commission and accordingly, the recommendations made by the Central Pay Commission are duly accepted by the Govt. of India are automatically applicable to the employees of Govt. of NCT of Delhi.”

**And whereas,** accordingly, the matter was placed before the Hon’ble Lt. Governor, Delhi who approved the same with the observations that “The situation is piquant because despite the advice of the concerned departments the Cabinet has approved the proposal and the necessary announcement has been made. In view of this I would not wish to overrule the decision of the Cabinet. However, it remains necessary for the GNCT of Delhi to now get the post-facto approval
from the Government of India. Efforts may please be made to get this approval.

And whereas, accordingly, the Department issued the Notification dated 24.9.2013 (Annexure-B), in which it was clearly mentioned that “As per directions of the Hon’ble Lt. Governor, Delhi, the post-facto approval from the Govt. of India remains necessary”.

And whereas, accordingly, the Department vide a letter dated 28.11.2013 followed by a reminder dated 16.01.2014 has referred the matter to Ministry of Home Affairs, Govt. of India with the request that the approval of the Department of Personnel and Training (DoPT) on the subject matter may be obtained. The approval of Govt. of India is still awaited.

And whereas, in the meanwhile, the draft terms and conditions have been referred to Finance Department for vetting the same. The Finance Department returned the case file with the observations that “FD feels that the issue of Notification dated 24.9.2013 without the approval of the Govt. of India is not in accordance with the approval accorded by the Hon’ble Lt.Governor, Delhi. Since there is a total ban on re-employment, it would be appropriate to seek the post-facto approval of the Govt. of India in the instant case before issuing any terms and conditions”.

And whereas, on 16.12.2013, Sh. Surendra Kumar Arora alongwith five other retired teachers filed an O.A. No. 4443 of 2013 titled “Surendra Kumar Arora & Ors. Versus State of NCT of Delhi and Others” before the Hon’ble Central Administrative Tribunal, Principal Bench, New Delhi praying that Govt. of NCT of Delhi be directed to implement notification dated 24.09.2013 issued by the Lt. Governor of Delhi for re-employment of the Govt. teachers upto the age of 65 years and consider the case of applicants for re-employment with all consequential benefits.

And whereas, The Hon’ble Central Administrative Tribunal, Principal Bench, New Delhi vide oral order dated 15.04.2014 disposed off the said O.A. No. 4443 / 2013 without going into the merits of the case, directing this department to consider the representations of the applicants and to pass appropriate orders thereon within a period of eight weeks from the date of receipt of a copy of this order.
And whereas, accordingly, the undersigned is inclined to pass the order in compliance to the above said direction of the Hon'ble Central Administrative Tribunal, Principal Bench, New Delhi.

Therefore, in view of the above facts and circumstances, I am of the view that the said Cabinet Decision requires the approval of Govt. of India before the same is implemented in Govt. Schools/Aided Schools of Delhi Government. Since the decision of Govt. of India is still pending, all the parties are informed that, as and when the decision is communicated by the Govt. of India, appropriate action will accordingly be taken by this Department.

This issues with the prior approval of the Principal Secretary (Education).

(PADMINI SINGLA) DIRECTOR (EDUCATION)

No. F.31(107)/SB/Edn.2014/ 681-695 Dated: 05-06-2014

Copy to the following for information and necessary action to:-

1. OSD to the Lt. Governor of Delhi, Rajniwas, Delhi 110054.
2. OSD to Chief Secretary, Govt. of NCT of Delhi, 5th Floor, Delhi Secretariat, I.P. Estate, New Delhi - 110002.
3. PS to Principal Secretary (Finance / Law / Services), Govt. of NCT of Delhi, Delhi Secretariat, I.P. Estate, New Delhi - 110002.
4. PS to Secretary (Education)/DE/Addl. DE (Admin.), Dte. of Education, Old Secretariat, Delhi - 110054.
5. Asstt. Director of Education (Planning), Directorate of Education, Govt. of NCT of Delhi, Timarpur, Delhi - 110007.
6. All DDEs of Directorate of Education, Govt. of NCT of Delhi.
7. The Principal Registrar, Central Administrative Tribunal, Copernicus Marg, New Delhi-110001 with reference to the directions of Hon'ble Tribunal dated 14.04.2014 in O.A. No. 4443 / 2013 titled as Surendra Kumar Arora & Ors. Vs. Govt. of NCT of Delhi and Ors.
11. Sh. Sukhpal Singh s/o Late Sh. Kallan Singh r/o B–3 / 85, Nand Nagri
    Delhi –110093.
12. Sh. Chandra Datt s/o Sh. Hosiyar Singh r/o Q – 31/ 1, Block Q, Budh
    Vihar Phase I, Delhi – 110086.
13. Sh. Chandra Prakash s/o Sh. Neki Ram r/o D–81, West Jyoti Nagar,
    Delhi – 110094.
14. Incharge, Computer Cell, Directorate of Education, Govt. of NCT of
    Delhi, Old Secretariat, Delhi– 110054 with the request to upload the
    same on the website of department.
15. Guard File.

(A. K. GAMBHIR)
ASST.DIRECTOR (EDUCATION)
CABINET DECISION NO. 2068 DATED 02/09/2013

ITEM ON TABLE

Sub: Proposal for extension of the maximum age of Re-employment of Teachers and Principals.

Decision: The Cabinet considered the note of Pr. Secretary (Education) and approved the proposal contained in paras-VIII (a) to (f) of the Cabinet Note. The Cabinet decided that the approval of Government of India be obtained subsequently. The re-employment will not be automatic, but subject to vigilance clearance, fitness, performance, work & conduct and on a year to year basis based on annual contract and linked with vacancies.

Sd/-

(D.M. SPOilia)
SECRETARY TO THE CABINET

Copy forwarded to the following:

1. Pr. Secretary to Lt. Governor, Delhi.
2. Pr. Secretary to the Chief Minister, Delhi.
3. Secretary to Minister of Health, Govt. of NCT of Delhi.
4. Secretary to Minister of Urban Development, Govt. of NCT of Delhi.
5. Secretary to Minister of Power, Govt. of NCT of Delhi.
6. Secretary to Minister of PWD, Govt. of NCT of Delhi.
7. Secretary to Minister of Education, Govt. of NCT of Delhi.
8. Secretary to Minister of Transport, Govt. of NCT of Delhi.
9. Pr. Secretary (Education), Govt. of NCT of Delhi, with the request to upload ATR on CDV.
10. OSD to Chief Secretary, Govt. of NCT of Delhi, Delhi.
NOTIFICATION

In pursuance of Cabinet Decision No. 2068 dated 02.09.2013 stating that "The Cabinet considered the note of Pr. Secretary (Education) and approved the proposal contained in paras-VIII (a) to (f) of the Cabinet Note. The cabinet decided that the approval of Government of India be obtained subsequently. The re-employment will not be automatic, but subject to vigilance clearance, fitness, performance, work & conduct and on a year to year basis based on annual contract and linked with vacancies" conveyed vide letter No. F. 3/2/2011-GAD/CN/Pl.File-I/dsgad-III/4116-4127 dated 04.09.2013, the Hon'ble Lt. Governor of Govt. of NCT of Delhi is pleased to allow re-employment of teachers of all categories in Govt. and Govt. aided schools under the Directorate of Education, and shall further be governed as under as per decision of the Cabinet. As per directions of the Hon'ble L.G., Delhi, the post-facto approval from the Govt. of India remains necessary.

(a) Teachers of all categories in Govt. and Govt. Aided schools under the Directorate of Education will be eligible for re-employment up to a maximum age of 65 years.

(b) However, re-employment of teachers after the age of 62 years will be for one year at a time up to a maximum age of 65 years.

(c) Re-employment of teachers will not be automatic and will be subject to their being found to be suitable in all respects. Suitability will be determined on the basis of their performance reports/annual confidential report, work and conduct certificate and integrity certificate and on their being declared medically fit.

(d) Re-employment, either on the first occasion or on subsequent occasions will not be an automatic right conferred upon teachers.

(e) Re-employment of the teachers will be linked to the vacancy position and teachers may be re-employed only against vacant posts. Further, if the department is able to fill up the vacant posts of teachers on a regular basis, the tenure of a re-employed teacher would be curtailed on the principle of "first in first out".
The re-employed teachers will have to sign an annual contract with the Department wherein the terms and conditions of their employment will be clearly stipulated.

The terms and conditions of re-employment are being issued separately.

By order and in the name of,
The Lt. Governor of the
National Capital Territory of Delhi

(SHASI KAUSHAL)
SPL. DIRECTOR OF EDN.(S.B.)

No. F. 30-3(28)Co-ord./Edn./Vol.II/2006/
Dated: 24/9/2012

Copy to following for information and necessary action:
1. The Secretary to Lieutenant Governor of Delhi, Govt. of NCT of Delhi.
2. The Principal Secretary to the Chief Minister of Govt. of NCT of Delhi.
3. The Secretary to the Minister of Education, Govt. of NCT of Delhi.
4. The Secretary to the Minister of Health & Family Welfare / Revenue / Urban & Development / Food & Supplies / Transport, GNCT of Delhi.
5. The Pr. Secretary, Law, Justice & Legislative Affairs Department, Govt. of NCT of Delhi.
6. The Pr. Secretary, Land and Bldg., Deptt., B-Block, Vikas Bhawan, I.P. Estate, New Delhi.
7. The Pr. Secretary (Education), Govt. of NCT of Delhi.
8. The OSD to the Chief Secretary of Govt. of NCT of Delhi.
9. The Director of Education, Govt. of NCT of Delhi.
10. The Pr. Secretary (Services), Govt. of NCT of Delhi.
11. The Pr. Secretary (Finance), Govt. of NCT of Delhi.
12. The Director, Dte. of Information and Publicity, Govt. of NCT of Delhi.
13. General Administration Department (Co-ordination), Govt. of NCT of Delhi, in duplicate, for publication in the Delhi Gazette, Part – IV (Extraordinary). Five copies of the Gazette may please be supplied to this department separately for office record & use.
14. Language Department, Govt. of NCT of Delhi for their record.
15. All Addl. D.Es./RDEs/DDEs, Dte. of Education, Govt. of NCT of Delhi.
16. Hindi Officer, Language Department, GNCT of Delhi for translation.
17. ADE (IT) with direction to upload the order on the Web-site of the Department.
18. Guard File.