

Government of Jammu & Kashmir
Health & Medical Education Department

Civil Secretariat, J&K.

Subject:-SWP No. 282/2016 & MP No 01/2016 titled
Umreena Akhter Vs Atul Dulloo and anr.

Government Order No. 198 -JK(HME) of 2023
Dated : 08.03.2023

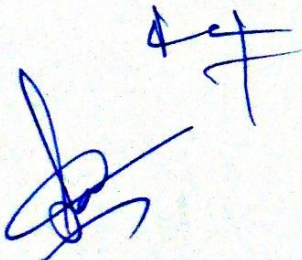
WHEREAS, J&K, Services Selection Board vide communication No. SSB/Sel/25-28/13 dated 02.01.2013 forwarded the selection list of candidates for the post of FMPHW, District Cadre Ramban under item No. 855, to Health and Medical Education Department wherein Miss Umreena Akhter Lone figures in the waiting list under RBA Category;

AND WHEREAS, the Administrative Department vide letter No. HD/NG/J/137/2009 dated 21.02.2013 forwarded the said selection list of candidates, for the post of FMPHW, District Cadre Ramban to Director, Health Services, Jammu with the request to issue formal appointment in favour of selectees;

AND WHEREAS, the Director, Health Services, Jammu vide communication No. DHSJ/Es-4/Sel-FMPHW/Rbn/228/6882 dated 09.11.2013, after a gap of 09 months, intimated about the dropout vacancies and sought approval of cancellation of appointment of candidates who failed to join and operation of waiting list;

AND WHEREAS, the issue was examined in the department and it was observed that the appointment orders in favour of dropout candidates have not been issued by the Director, Health Services, Jammu. Accordingly, vide letter dated 24.12.2013, the Director Health Services, Jammu was requested to issue formal appointment order in favour of candidates who did not report in response to various notifications issued by Director, Health Services, Jammu, giving them at least 05 days to join and mention in the order

①



itself that in case they fail to join within the stipulated time, their appointment shall be deemed to have been cancelled ab-intio. He was further advised to request for approval for operation of waiting list afterwards;

AND WHEREAS, Director, Health Services, Jammu vide letter No. DHSJ/Es-4/8488 dated 02.01.2014, intimated that appointment orders have been issued in favour of dropout selectees whereby opportunity was given to them to join within five days, otherwise their appointment stand cancelled ab-intio. The Director, Health Services, Jammu further stated that none of the candidates have joined in his office and requested to convey the approval for operating waiting list;

AND WHEREAS, the administrative Department requested the Director, Health Services, Jammu to clearly indicate as to why and how the delay has taken place in operating the waiting list;

AND WHEREAS, the case was thread-barely discussed in the department and was subsequently referred to General Administration Department for revalidation of waiting list. The General Administration Department vide U.O No. GAD/Mtg/H&ME/Wait-list/06/2014 dated 03.05.2014 returned the proposal with the following observation:-

"The department is advised to submit a note to the Hon'ble Minister in coordination for seeking extension in the validity of the select list with full justification as to why and how the delay has taken place and also indicating, if any other select list has been received after January 2014 and the date of expiry of the select list."

AND WHEREAS, acting upon the directions of General Administration Department, a coordination note was subsequently prepared and submitted to General

dy

dy

Administration Department for seeking extension in the validity of the waiting list;

AND WHEREAS, the General Administration Department, in response the vide their U.O. No. GDC-74/CM/2015 dated 17.08.2015 returned the file with the following remarks:-

"The issue was examined and it has been observed that no case is made out by the department which warrants extending the validity of the waiting list."

AND WHEREAS, vide letter No. HD/NG/J/137/2009 dated 16.10.2015, Director Health Services, Jammu was apprised with the remarks of General Administration Department;

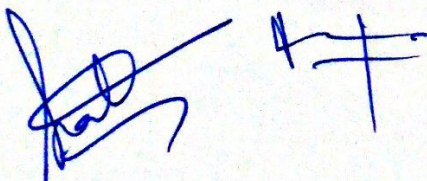
AND WHEREAS, aggrieved by the decision of General Administration Department, Smt. Umreena Akhter approached the Hon'ble Court through the medium of SWP.No. 282/2016 titled Umrean Akhter Vs State & anr. The Hon'ble Court vide interm order dated 19.02.2016 ordered as follows:-

Meanwhile, operation of the order dated 16.10.2015 as ins impugned shall remain in abeyance.

AND WHEREAS, later on, the Hon'ble Court on 17.05.2018 dispose of the SWP.No. 282/2016 titled Umrean Akhter Vs State & anr with the following direction:-

"Having considered the entire matter, in my opinion, the petition requires to be allowed impugned communication dated 16.10.2015 is set aside and the respondents shall consider the case of the petitioner for appointment against the vacancies, which remained unfilled, keeping in view the fact that her name figured at Sr. No. 1 in the waiting list under the RBA Category. Let an appropriate orders be passed within a period of four weeks from today."

04



AND WHEREAS, the matter was subsequently further examined in the department and vide U.O. No. HD/Legal/NG/MR-46/2016-U dated 09.11.2019, the file was submitted to Department of Law, Justice & Parliamentary Affairs for seeking the opinion. In response the department of Law, Justice & Parliamentary Affairs vide their U.O. No. LD(LIT) 2016/398-HME dated 20.12.2019 returned the file with the opinion that merely figuring in wait list does not confer any right for appointment.

NOW Therefore, the case of the petitioner based on the court directions and opinion /advice of the General Administration Department as well as Department of Law, Justice & Parliamentary Affairs, has been examined in the Department and found devoid of any merit, hence rejected.

By order of the Government of Jammu and Kashmir.

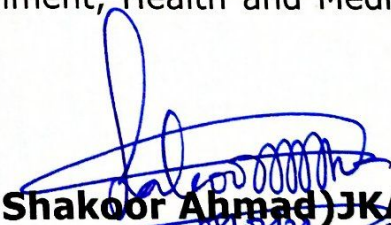
Sd/-
(Bhupinder Kumar) IAS,
Secretary to the Government,
Health & Medical Education Department.

No. HD-Lgal/494/2022-02

Dated: 08.03.2023

Copy to the:

1. Joint Secretary (J&K), Ministry of Home Affairs, Govt. of India.
2. Director, Health Services, Jammu.
3. Director Litigation, J&K, Jammu
4. Additional Secretary (Law), Health and Medical Education Department.
5. Private Secretary to Secretary to the Government, Health and Medical Education Department.
6. In charge Website, H&ME.
7. Government Order/Stock file.


(Shakoor Ahmad) JKAS
Deputy Secretary to the Government,
Health and Medical Education Department


08/03

