

Government of Jammu and Kashmir
Health and Medical Education Department,
Civil Secretariat, Srinagar/Jammu.

Subject:- Implementation of order dated 18-11-2020 passed by the Hon'ble Central Administrative Tribunal, Jammu Bench in TA No 61/324/2020 titled Sohan lal Vs UT of J&K and others.

Government Order No. 358 -JK(HME) of 2023
Dated: 28.04.2023

WHEREAS, Sh. Sohan Lal S/o Shida R/o Haripur Patil, Tehsil Hiranagar, District; Kathua was appointed as Safaiwala by the Chief Medical Officer, Kathua vide No CMO-K/E-2/4251-53 dated 14-09-2005, with the condition that expenditure to meet the salary shall be incurred by debit to the Hospital Development Fund (HDF) after observing necessary codal formalities;

AND WHEREAS, the applicant was continuously performing his duties and was paid an amount of Rs. 750/- PM initially w.e.f 14-09-2005 to 13-08-2015 and thereafter his dues were enhanced to Rs. 1500/- PM w.e.f 15-8-2015 to 31-01-2019;

AND WHEREAS, the petitioner approached the CMO Kathua for payment of his dues in terms of SRO-460 dated 26-10-2017 and the Directorate of Health Services, Jammu vide communication dated 31-01-2019 informed him that all Safaiwalas working under Hospital Development Funds Scheme are covered under SRO-460 of 2017 dated 26.10.2017.

AND WHEREAS, the applicant approached the Hon'ble CAT by virtue of TA No. 64/324/2020 for regularization of his services and to pay his due unpaid wages/salary. The Hon'ble CAT while disposing the said TA on 18.11.2020 observed as under:

"We therefore, dispose of the TA directing the respondents to consider the case of the petitioner, in terms of the existing policy regarding regularization. However, respondents are directed to release the unpaid wages, if due and permissible under rules, within a period of three weeks from the date of receipt of a certified copy of this order. It is made clear that we have not



**expressed any opinion on the merits of the case.
There shall be no order as to costs."**

AND WHEREAS, the case was examined in the Department and it was found that the provisions of Jammu & Kashmir Casual and Other Workers- Regular Engagement Rules, 2017 notified vide SRO-520 dated 21.12.2017 relates to the regularization of Casual, Seasonal and other workers who have been engaged through an appointment order or, otherwise, on daily rated basis for rendering Casual/Seasonal service in the department;

AND WHEREAS, SRO-520 of 2017 dated 21.12.2017 was repealed following the enactment of Re-Organization Act, 2019 and accordingly, the matter was taken up with the General Administration Department which vide U.O No. GAD-ADMOIV/23/2023-09-GAD dated 02.03.2023 opined:-

"The Department of Law, Justice and Parliamentary Affairs was earlier consulted in relation to regularization and the said Department has opined that the policy of regularization in terms of executive orders, statutory rules and legislative enactments are violative of Article 14, 15, and 16 of the Constitution of India in view of the law laid down by the Hon'ble Supreme Court of India in a Constitutional Bench judgment rendered in Secretary, State of Karnataka Vs Umadevi AIR-2006-SC-1806.

NOW, therefore, in view of opinion tendered by the General Administration Department, the case was considered in light of the directions of the Hon'ble CAT and the case/application of the applicant is found devoid of merit for regularization, and hence rejected.

By Order of the Government of Jammu and Kashmir.

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

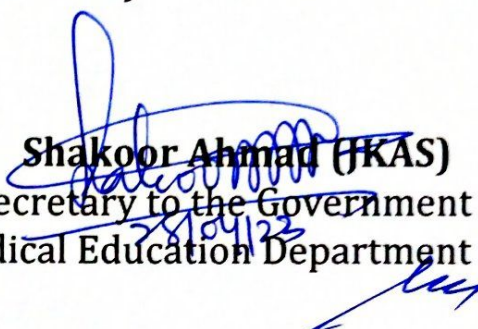
Dated: 28 .04.2023

No. HD-Lgal/98/2021-02

Copy to the:

1. Learned Advocate General, J&K, High Court, Jammu.
2. Director Health Services, Jammu.
3. Director Achieves, Archaeology & Museums, J&K Jammu.
4. OSD with Advisor (B) to Hon'ble Lt. Governor.

5. Additional Secretary (Law) Health and Medical Education Department for information.
6. Private Secretary to Secretary to the Government, Health & Medical Education Department.
7. Concerned Official.
8. I/c Website, Health & Medical Education Department.
9. Government Order file/Stock file. **(File No. HD-Lgal/98/2021-02)**


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