



UNION TERRITORY OF JAMMU & KASHMIR
DIRECTORATE OF HEALTH SERVICES, JAMMU

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Subject:- O.A No. 61/1599/2021, M.A No. 61/1611/2021, M.A No. 61/1675/2021 titled Dawarka Singh Katoch & Ors Vs U.T of J&K & Ors.

ORDER

Whereas, the Hon'ble Central Administrative Tribunal Jammu Bench has disposed of the subject captioned Original Application with the judgment whose operative portion reads as under:-

"Looking to the limited prayer made by the learned counsel for the applicants, we dispose of the O.A with directions to the respondents to treat the O.A as representation of the applicants and take a decision on the claim of the applicants by passing a reasoned and speaking order within a period of four weeks from the date of receipt of a certified copy of this order.

While considering the applicants' case, the respondents should also examine as to whether their claim being articulated now has become stale or dead due to inordinate delay and laches as per the view taken in Supreme Court decisions such as Chairman, UP Jal Nigam & Anr. V. Jawant Singh & Anr., JT 2006(10) SC 500 and Govt. of West Bengal vs Tarun K. Roy & Ors (2004)1 SCC 347. However, it is to be noted that we have neither expressed any opinion on merits of the applicant's case nor examined applicability of the case laws relied upon by them. No costs."

Whereas, the applicants have contended in the original application that advertisement for the post of Class IV was issued in District Doda in the year 1994 and applicants being eligible submitted their application for the post. However, the applicants were not selected as such applicants along with others filed the writ petition before the Hon'ble High Court of J&K Jammu which was finally disposed of on 13-02-1998 with the directions to the respondents to issue appointment orders in favour of the applicants. However, the State Government aggrieved of the said judgment filed LPA before the Hon'ble High Court J&K at Jammu which was finally disposed of on dated 07-12-1999 whereby the judgment dated 13-02-1998 was upheld. In compliance to court order, appointment order dated 16-09-2000 was

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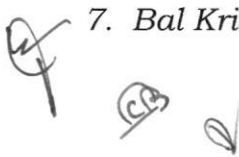
issued in favour of the applicants. Subsequently, applicants made representation before the department claiming that the seniority of the applicants may be treated from the date the others have been appointed or allowed to join but they have not been accorded seniority rather two persons namely Sh. Iqhlaq Ahmed and Upkar Singh have been accorded seniority w.e.f 1994 while they are taken into regular services in the month of August 2000 on the direction of the Hon'ble High Court of J&K, and;

Whereas, the applicants by filing the instant original application have sought directions to the respondents to give seniority to the applicants from the date others similar persons namely Iqhlaq Ahmed and Upkar Singh has been given seniority and further applicants may be promoted to the post of Junior Pharmacists with all consequential benefits.

Whereas, it is a settled position of law that in the matter of seniority and promotion, the settled position cannot be unsettled and the claim for seniority cannot be entertained after a lapse of considerable period of time. In catena of decisions, the Hon'ble Supreme Court, High Court and the Hon'ble Tribunal are repeating the ratio that the seniority once settled shall not be unsettled, and;

Whereas, the General Administration Department has issued a Circular No:-41-JK (GAD) of 2021, dated 06-10-2021 wherein it has been observed that in service matters, applications/claims are being presented by a Government Servant to competent authorities for consideration after delay of a considerable period of time and such stale claims are not legally tenable and are not required to be entertained by the concerned department as per the law laid down by the Hon'ble Supreme Court of India in following judgments. Accordingly, it has been enjoined upon all the Administrative Departments not to entertain any such claims which are time barred.

1. *State of Uttranchal and another Vs Shri Shiv Charan Singh Bandari and others, 2013(6) SLR 629.*
2. *C.Jacob v. Director Geology and mining and another, (2008) 10 SCC 115.*
3. *Union of India and others v. M.K. Sarkar (2010) 2 SCC 59.*
4. *Karnatak Power Corpn. Ltd through its Chairman & Managing Director V.K. Thangappan and another, (2006) 4 SCC 322*
5. *State of Orissa V. Pyarimohan Samantaray, (1977) 3 SCC 396 and State of Orissa v. Arun Kumar Patnaik (1976) 3 SCC 579.*
6. *State of T.N. vs Seshachalam, (2007) 10 SCC 137.*
7. *Bal Krishan vs State of Punjab and others, 2013(2) RSJ 18 (P&H).*



8. *Vijay Kumar Kaul and others vs. Union of India and others, 2012(7) SCC 610.*
9. *State of Jammu & Kashmir vs. R.K. Zalpuri and others 2015(15) SCC 602.*

Now, the case of the applicants has been accorded consideration and observed that in view of the above stated law position and as per view taken in Hon'ble Supreme Court decision in Chairman, UP Jal Nigam & anr Vs Jawant Singh & anr., JT 2006(10) SC 500 the claim of the applicants have become stale due to inordinate delay and laches and is devoid of any merit, hence rejected.




Sd/-
(Dr. Saleem-Ur-Rehman)
Director Health Services,
Jammu

No;-DHSJ/Legal/556-60

Dated: - 12/04/2022

Copy to the:-

1. Chief Medical Officer, Doda for information.
2. Private Secretary to Additional Chief Secretary to Govt., Health and Medical Education Department, Civil Secretariat, Jammu for information of worthy Additional Chief Secretary.
3. Health Education Bureau, Directorate of Health Services, Jammu to upload the order on official website.
4. Establishment Section Es-5.
5. Dawarka Singh Katoch S/O Sh. Zorawar Singh R/O Kahnal Tehsil & District Doda-182202 for information.

  
Dy. Director Health Services (Sch)
Jammu