



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

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Subject: - T.A./7113/2021 titled Rakesh Singh Vs State of J&K & Ors.

ORDER

Whereas, the Hon'ble Central Administrative Tribunal, Jammu Bench has disposed of the above titled case, on 15-04-2024, with the judgment/order whose operative paras-7 to 9 reads as under:-

"7. In view of the above, the Transferred Application is disposed of with a direction to respondents to treat this T.A. as representation of the applicant and consider the case of the applicant in light of aforesaid judgement and provide similar benefits to the applicants and decide the same by passing a reasoned and speaking order.

8. Respondents are further directed to communicate the order so passed to the applicant. The whole exercise shall be completed within a period of four weeks from the date of receipt of a certified copy of this order.

9. With these directions, the T.A. No. 7113 of 2021 is disposed of."

And whereas, the petitioner/applicant in the writ petition has sought directions, inter-alia, to command the respondents to pay same grade/salary to the petitioner as paid to other similarly placed contractual drivers from the same date as paid to them with further relief to direct the respondents to pay arrears of salary on this account and further restraining the respondents from terminating the services/disengaging the petitioner from present employment.

And whereas, the case of the applicant has been examined in light of record and found that in order to ply the Ambulance of PHC Tikri (Udhampur) which is located on national High way and an accident prone area the respondent No. 3 (Chief Medical Officer, Udhampur) by virtue of a communication bearing No:-Est-1/9139-42, dated 31-03-


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2003, addressed to respondent No.4 (Block Medical Officer, Tikri) has directed to engage the applicant on a remuneration of Rs.2500/- PM only, by clearly specifying that this arrangement is only for a period of sixty days. However, subsequently, on the recommendations of respondent No. 4, the respondent No.3 gave extension in contractual appointment of the applicant for a further period of sixty days vide Order dated. 27-02-2004 and thereafter no further extension was granted.

And whereas, in the year 2009 the Government vide Government Order No:-1661-GAD of 2009, dated 26-11-2009 ordered that the contractual employees appointed under J&K Contractual Appointment Rules, 2003, sanctioned vide SRO 255 of 2003, dated 05-08-2003 and continuing in service on or after 1-1-2006 shall be paid a consolidated salary equivalent to the minimum of the pay band plus applicable grade pay of the post to which they have been appointed.

And whereas, the applicant is seeking the benefit of Government Order No:-1661-GAD of 2009, dated 26-11-2009 and after carefully examining the case of the applicant in light of stipulations contained in this Government order it has come to the fore that the applicant is not entitled to the extension of benefit of enhancement of his remunerations on the following grounds:-

- i. *That the appointment of the applicant is not made under J&K Contractual Appointment Rules, 2003, sanctioned vide SRO 255 of 2003, dated 05-08-2003 which otherwise stood repealed by J&K Civil Services (Special Provision) Act, 2010 and this Act of 2010 has also now been repealed as a whole in terms of the Jammu and Kashmir Reorganization (Adaption of State Laws) Order, 2020 issued by the Ministry of Home Affairs vide S.O. 1229(E) dated 31st March 2020.*
- ii. *That when the J&K Contractual Appointment Rules, 2003, sanctioned vide SRO 255 of 2003, dated 05-08-2003, were in vogue, there was a proper procedure for making appointments through a Selection Committee after inviting applications and after assessing the merit of the candidates in a fair and transparent manner and thereafter after following all the requirements the engagement orders were used to be issued. However, the appointment of the applicant is not made under contractual appointment rules-2003 and there is no valid order of engagement of the applicant.*
- iii. *That the applicant was engaged/appointed initially for a period of sixty days on the instructions conveyed by the respondent No. 3*



(Chief Medical Officer, Udhampur) and this arrangement was further extended for another period of sixty days and thereafter no extension has been granted. As such, the continuation of the applicant otherwise is illegal de hors the rules.

And whereas, the Hon'ble High Court at Jammu disposed of the case SWP No. 2381/2013 titled Pritam Kumar Vs State of J&K and Others, on 07-11-2013, with the directions to the respondents/department to consider the claim of the petitioner for release of enhanced salary on the touch stone of rules and policy governing the field. The department considered the case of the petitioner/Sh. Pritam Kumar in compliance to Court orders and found devoid of merit and rejected the same vide Order No:- DHSJ/Legal/2479-83, dated 02-07-2014.

Now, therefore, the case of the applicant has been accorded consideration, in compliance to the orders of Hon'ble Tribunal, passed in the subject captioned case, and in light of judgment passed in SWP No. 2381/2013 and has been found devoid of merit in view of above stated factual and legal position, hence rejected.

Sd/-
(Dr. Rakesh Magotra)
Director Health Services,
Jammu

No;-DHSJ/Legal/1697-1702

Dated: - 29/05/2024

Copy to the: -

1. Chief Medical Officer, Udhampur for information.
2. Block Medical Officer, Tikri for information.
3. Private Secretary, to Secretary to Govt., Health and Medical Education Department, Civil Secretariat, Jammu for information of worthy Secretary. This is in reference to Administrative Department's letter No:-HD-Lgal/319/2023-02 (CC-7300659), dated. 22-05-2024.
4. Health Education Bureau, Directorate of Health Services, Jammu to upload the order on official website.
5. Establishment Section Es-1.
6. Rakesh Singh S/O Sh. Parshotam Singh R/O Tikri, Tehsil and District Udhampur for information.

(Dr. Sanjay Sharma)
Dy. Director (Dentistry)
Health Services, Jammu