

Government Medical College & Its Associated Hospitals Srinagar.

Subject:- SWP No. 1793/2014 and Transfer Application No. 2431/2021 titled Mrs. Afroza Jan and Others Vs Union territory of J&K & Others.

O R D E R NO:- 290 AH of 2022.

D A T E D 7th of July 2022.

Whereas, the below mentioned incumbents/petitioners by virtue of various orders were appointed as Junior Grade Nurses on migrant substitutes in Govt. SMHS Hospital Srinagar.

01. Mst. Afroza Jan D/o Ab. Aziz Bhat R/o Laram Ganjipora, Anantnag,
02. Mst. Hassina Bano D/o Gh. Nabi Ganie R/o Nowpora, Pulwama,
03. Mst. Jameela Akhter D/o Ab. Majid Reshi R/o Dialgam, Anantnag,
04. Mst. Shaheena Akhter D/o Sonuallah Dar R/o Hamambal Khanyar, Srinagar,
05. Mst. Hafiza Akhter D/o Gh. Qadir Mir R/o Payer, Pulwama.

Whereas, among others the above petitioners were also regularised as Junior Grade Nurses on migrant substitute in Govt. Medical College in terms of Govt. order No. 574 of 2013 dated 24-10-2013 issued under endorsement No. HD/46/NG/2004 dated 24-10-2013 with effect from 16-05-2006, however it was exclusively mentioned in the Government order that only those officials may be allowed to join the department who are working regularly in the department; and

Whereas, the Medical Superintendent Govt. SMHS Hospital Srinagar vide letter No. Est-II/NP/7824 dated 26-12-2013 had intimated that the petitioners remained unauthorisedly absent with effect from the dates shown against each.

S No.	Name of the petitioner	Date of Joining as Migrant Substitute	Period for which they have remained absent
01.	Afroza Jan	13-12-2000	01-02-2011 to 13-10-2016
02.	Hassina Bano	10-12-2001	01-02-2012 to 13-10-2016
03.	Jameela Akhter	21-11-2001	01-10-2012 to 13-10-2016
04.	Shaheena Akhter	06-12-2001	30-04-2007 to 13-10-2016
05.	Hafiza Akhter	17-07-2001	31-12-2012 to 13-10-2016

Whereas, the said petitioners were not allowed to join by the department on the provisions laid in the regularization order and the petitioners have moved to the Administrative department who intern have sought reasons for not allowing them to join and desired to furnish the factual report of the case with further dircetion to sort out the matter under their close intimation; and

Whereas, the Administrative Department was accordingly intimated with the full commentary/factual report of the case with a series of the communications; and and

Whereas, the petitioners have approached the Hon'ble High Court through a medium of writ petition titled SWP No. 1793/2014, Msr. Afroza Jan and Others Vs State of J&K & Others, where under directions were finally passed on dated 13-10-2016, the operative portion of which is reproduced as under:-

“in the above background the respondent No. 02 is directed to allow the petitioners to join their posts from tomorrow viz. 14-10-2016 onwards. Their joining and continuation is subject to outcome of the writ petition and notwithstanding the regularization order.”

Government Medical College & Its Associated Hospitals Srinagar.

Whereas, on the above directions of the Hon'ble High Court and the opinion furnished by the Legal Section of the Department, the petitioners were allowed to join in the department in terms of this office order No. 707 of 2016 dated 12-11-2016 issued under endorsement No. AH/Est-II/456/Part file /10027-31 dated 12-11-2016 with effect from 14-10-2016 on the same terms and conditions as laid in the Hon'ble Court Order dated 13-10-2016; and

Whereas, this office has received Hon'ble Central Administrative Tribunal order under Transfer Application No. 2431/2021 dated 13-04-2022, the operative portion of which is reproduced as under:-

"... However, the period from the date of regularization till the date of joining of the applicants in the department is yet to be decided. Learned counsel for the applicants prays that the intervening period of applicants may be decided as leave not due and adjust the same when Leave in future accrued in the account of the applicants..."

" in view of the above, the respondents are directed to decide the intervening period of absence of the applicants as leave not due and adjust the same from the leave accrued of the applicants in future..."

Whereas, as per legal opinion sought in the matter from the concerned Legal Section and on the directions of Hon'ble Central Administrative Tribunal order under Transfer Application No. 2431/2021 dated 13-04-2022, regarding settlement of the unauthorised period of the petitioners, it was opined to treat the unauthorised period of these petitioners as "Dies Non" in terms of Article 163 of J&KCSR 1956, however, a period of 5 months 27 days be treated as "Maternity Leave", if sanctioned by the competent authority in respect of serial No. 02 namely Hassina Bano.

Now, therefore, the department while taking the considerate view in the matter as per Hon'ble High Court and Central Administrative Tribunal order dated 13-04-2022, sanction is hereby accorded to the treatment of unauthorised period of absence the following petitioners as "Dies Non" from the dates / period shown against each in terms of Article 163 of J&KCSR 1956:-

S No.	Name of the petitioner	Dies Non		Total Period of Dies Non
		Date From which the incumbents remained absent	Date they joined back the department	
01.	Afroza Jan	01-02-2011	13-10-2016	05 Years 08 Months 13 Days
02.	Hassina Bano	29-07-2012, after treating 05 months 27 days as maternity Leave.	13-10-2016	04 Years 02 Months 16 Days
03.	Jameela Akhter	01-10-2012	13-10-2016	06 Years 13 Days
04.	Shaheena Akhter	30-04-2007	13-10-2016	09 Years 05 Months 14 Days
05.	Hafiza Akhter	31-12-2012	13-10-2016	03 Years 09 Months 13 Days

The above order is subject to the condition that the said petitioners were not involved in any subversive activities as well as they were not employed in any Government/ Semi Government / Private Sector and no departmental enquiry is pending against them for which they shall furnish an undertaking in the shape of affidavit duly attested by Ist Class Judicial Mageistrate before the Principal/ Dean Govt. Medical College Srinagar.

Besides, the concerned petitioners are warned not to leave their place of posting for any occasion in future unauthorisedly for which disciplinary action shall be initiated against them without any further notice.

Lashid
Prof. (Dr.) Samia Rashid
Principal/ Dean
Govt. Medical College Srinagar

NO:- AH-9/Est-II/MC/2022/2177-85

Dated:- 07-07-2022.

Copy for information and necessary action to the:-

1. Principal Secretary to Government, Health and Medical Education Department.
2. Medical Superintendent Govt. SMHS Hospital Srinagar for information and necessary action.
3. Personnel Officer, Associated Hospitals Srinagar.
4. Mr. Bhat Fayaz Ahmad, Advocate Central Administrative Tribunal, J&K.
5. Mr. Bikram Deep Singh, Advocate Central Administrative Tribunal, J&K.
6. Assistant Law Officer, Govt. Medical College Srinagar.
7. PA to Administrator, Associated Hospitals Srinagar.
8. Incharge IT Section for uploading on the official website.
9. All concerned for information.
10. Concerned order file for record and reference.