

Government of Jammu and Kashmir
Office of the Principal/Dean
Government Medical College, Srinagar
(Legal Section)

Subject: - Original Application (O.A) No.: 518 of 2021, Ghulam Mohammad Dar Vs
UT of J&K and others.

ORDER NO.: - 13 of 2022
DATED: - 24-08-2022

Whereas, the petitioner filed Original Application (O.A) No. 518 of 2021 titled Ghulam Mohammad Dar Vs UT of J&K and others, wherein he had prayed for below relief:- And,

“An order or direction, directing the respondents to give retrospective benefit of promotion that has accrued to the applicant from the date the applicant was due for same by applying the roaster provided under Reservation Rules and fix the seniority in the cadre of Senior Assistant accordingly.

An order or direction, directing the respondents to consider the representation filed by the applicant seeking the promotion with retrospective effect pending before the respondent No.3

Any other order or direction which the Hon'ble Court may deem fit and proper in the given facts and circumstances of this case may also be issued in favour of the applicant and against the respondents, the same would be in consonance with law and justice.”

Whereas, the Central Administrative Tribunal Bench at Srinagar has been pleased to pass the following order in the Original Application (O.A) No. 518 of 2021 titled Ghulam Mohammad Dar Vs UT of J&K and others on 24-03-2021:- And,

1. **“At the outset, learned counsel for the applicant submits that the applicant would be satisfied if a direction is given to the respondents to OA No. 518 of 2021 G.M. Dar Vs UT of J&K and others decide the representation dated:-18-02-2021 (Annexure A-5) of the applicant within a stipulated period of time.**
2. **Looking to the arguments of learned counsel for the applicant, the O.A. is disposed of with a direction to the respondents to consider and decide the representation of applicant dated:-18-02-2021 (Annexure A-5) within a period of two months from today, subject to the condition there is no legal impediment in deciding the same. While deciding the case of the applicant, the respondents will consider the O.A. as part of representation.**
3. **It is made clear that we have not expressed any opinion on merits of the case while disposing of the present OA.**
4. **No order as to costs.” And,**

Whereas, after receipt of the Hon'ble Central Administrative Tribunal Bench at Srinagar order dated:-24-03-2021, the official record related to the case and the claim projected in the Original Application (O.A) No. 518 of 2021 was scrutinized and following facts came to surface:-And,

Whereas, the petitioner was initially appointed as Nursing Orderly by the then Medical Superintendent vide order No. Est-II/925, dated:-18-07-1984, and afterwards in

his own pay grade (OPG) and the petitioner was promoted as Laundry Assistant vide GMC Order No. 226 of 2004 issued under endorsement No.AH-9/4350-532, dated:-30-01-2004, and his services were regularized/confirmed as Laundry Assistant by the Departmental Promotion Committee vide Order No. 49 of 2006 issued under endorsement No.AH-9/1628-31, dated:-18-07-2006.And,

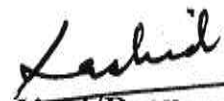
Whereas, the petitioner was again promoted on RBA category certificate basis vide this Institution order No. 352 of 2013, dated:-21-06-2013, however, subject to verification of his RBA certificate and confirmation by the DPC and charge allowance was also given to the applicant/petitioner and subsequently the applicant/petitioner was regularized as Senior Assistant vide DPC order No. 884 of 2014, dated:-04-01-2014 issued under endorsement No. AH/Est-II/DPC-2013, dated:-04-01-2014.And,

Whereas, by virtue of above referred order No. 352 of 2013 dated:-21-06-2013, applicant/petitioner came to be promoted under promotion quota (RBA) as mentioned in the said order itself and at that time and as per seniority position contained in order No. 715 of 2012, dated:-11-10-2012, petitioner/applicant was figuring at Serial No. 20 and as such claim put forth by the petitioner/applicant does not have any merit/reality due to the reason applicant/petitioner had already earned the promotional benefit under RBA category at the time leaving behind (10) ten other senior colleagues of this Institution who belongs to the open category in the seniority list i.e. Ajaz Ali Sofi, Sumita Aroj, Sharifa Akhtar, Tahir Ahmad Bhat, Shuagufta Shah, Saleema Shah, Shagufta Amin, Josheeda Nabi, Mudasir Rafiq, Shahzada Akhtar. And,

Whereas, the reservation roster stands already maintained by the official respondents and by way of promoting (3) three category candidates among others Mr. Ghulam Mohammad Dar as per this Institution order No. 884 of 2014 dated:- 04-01-2014 and maintaining reservation roster instructions conveyed by the General Administration Department earlier to every Head of the Institution in the Union Territory of Jammu and Kashmir and accordingly the said instructions were also followed by this Institution as well in letter and spirit in order to avoid any undue litigation. And,

Now, in compliance of the Central Administrative Tribunal Order dated:-24-03-2021, passed in the Original Application (O.A) No. 518 of 2021 titled Ghulam Mohammad Dar Vs UT of J&K and others and in light of rules/standing order governing the field and the claim of the petitioner especially the representation dated:- 18-02-2021 for the promotion of Head Assistant Grade under RBA Category has been examined/considered on its merits under rules and found devoid of any merit and as such is hereby rejected on the above mentioned specific grounds.

No:- legal/mc/sgn/268-273
Dated:-24-8-22


Principal/Dean,
Government Medical College, Srinagar.

Copy for the information to the:-

1. Principal Secretary, Health and Medical Education Department for kind information.
2. Administrator, Government Medical College Srinagar for kind information.
3. Mr. Bikram Deep Singh, Deputy Advocate General at the Hon'ble High Court/Central Administrative Tribunal Bench at Srinagar.
4. IT Section, Government Medical College Srinagar for uploading the same on website.
5. Ghulam Mohammad Dar, (Applicant/petitioner).
6. Office Copy.