



**Government of Jammu & Kashmir
Health & Medical Education Department
Civil Secretariat, Jammu.**

Subject: SWP No. 731/2012-titled Mohd. Rashid Malik Vs State and others.
Reference: Letter No. AHJ/legal/2015/517 dated: 11.12.2015 received from Principal, GMC Jammu.

**Government Order No. 807 -HME of 2015
DATED : 18 -12-2015**

Whereas, Mohd. Rashid Malik is working as Cashier in the Department of Radio Diagnosis, Government Medical College, Jammu; and

Whereas, the Head of Department Radio Diagnosis vide his letter No. Rad/97 dated: 26.05.2010 advised the Medical Superintendent to release 2 ½ days pay in favour of the said Cashier; and

Whereas, during the Audit inspections, the Assistant Audit Officer, vide No. OAD/C-4/2011-12/HM-12 dated: 10.01.2012 has observed that the said Cashier is not entitled for 2 ½ days pay and allowances. The Audit Officer advised the Department to recover the amount of Rs. 29611/- which was paid to the said Cashier w.e.f 02/2010 to 07/2011 and accordingly the recovery was made by the Accounts Officer, Associated Hospitals, Jammu; and

Whereas, aggrieved by the above decision, Mohd. Rashid Malik, Cashier filed a writ petition bearing No. SWP No. 731/2012, CMA No. 2441/12 and 1118/12 titled-Abdul Rashid Malik Vs State and others in the Hon'ble High Court; and

Whereas, the Hon'ble High Court disposed of the writ petition on 01.10.2013. The Operative part of the Judgement is reproduced as under:-

"...this petition along with connected CMA(s) is accordingly, disposed of with a direction to respondent No. 1 to consider the case of the petitioner for release of two and half days pay and allowances with effect from May, 2005 to January, 2012 within a period of two months from the date a copy of this order is served upon them. Till such time any decision is taken, the recovery proceeding initiated against the petitioner in pursuance to letter dated: 10.01.2012 shall remain stayed."

Whereas, as per SRO-91 of 1982, dated 23.03.1982, among other categories, following posts have been declared as ministerial staff:

*" orderlies, peons, Chowkidars, Safaiwallas, Cleaners, linemen, Cameraman, Gate keeper, Drivers, Jamadars, plumbers, Store Attendants, laboratory Assistants, laboratory Technician, Telephone operators, Barbers, Tailors, Dhobies, Gardners, Cooks, **Cashiers**, Store keepers, Clerks, Stenographers, Section officers, librarians, library Assistants etc."*

Whereas, vide Govt. Order No. 274-HME of 1991, dated: 04.03.1991, monthly allowance equivalent to 2 ½ days pay and allowances was allowed in favour of all those Non-Gazetted employees of the Health & Medical Education Department, who are on roster duties in the various Health/ Medical institutions in the State and do not avail any off day in performance of their official duties; and

Whereas, the Finance Department vide O.M No A/78(99)-825 dated: 22.10.1999 has clarified that the drawal of 2 ½ days pay and allowances in favour of ministerial staff is totally irregular and against the spirit of the Govt. order No. 274 of HME of 1991 dated: 04.03.1991 read with corrigendum issued under endorsement No. ME-NG-112/88 dated: 07.03.1991; and

Whereas, the case of the Petitioner has again been examined in light of the orders of the Hon'ble High Court, clarifications of Finance Department, Audit objection and relevant Government orders relating to the subject in question and rule position in this regard and it has been found that the Petitioner is not entitled to 2 ½ days pay and allowances.

Now, therefore, the case of the Petitioner having been duly examined in light of the above discussion, is found to be devoid of merit and is, therefore, rejected.

By order of the Government of Jammu & Kashmir

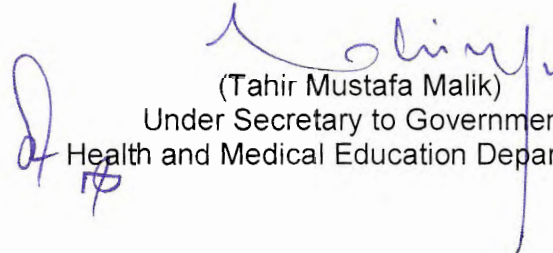
Sd/-
Secretary to Government
Health & Medical Education Department.

No. ME/NG/Legal/25/2014-M

Dated: 18-12-2015

Copy to the:

1. Registrar, J&K High Court, Jammu
2. Deputy Advocate General, J&K Jammu.
3. Principal, Govt. Medical College, Jammu
4. OSD with Hon'ble Minister for Health & Medical Education Department.
5. Pvt. Secretary to Secretary to Govt. Health & Medical Education Department.
6. In-charge office Website.
7. Govt. order file/ Stock file.


(Tahir Mustafa Malik)
Under Secretary to Government
Health and Medical Education Department