

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

Subject: R.P. (C) No. 591/2015 in SLP(C) No. 20226/2014 titled State of J&K Vs. Koushal Kumar Khajuria and others.  
SLP (c) No.6018/2014 titled Dr. Vikas Mahajan Vs Dr. Koushal Kumar Khajuria & Others.  
LPASW No. 157/2011, CMA No.185/2011 titled Dr. Koushal Kumar Khajuria Vs. State & Others.

**Government Order No: 825 -HME of 2015**  
**D a t e d: 30 -12-2015**

Whereas, vide Government Order No. 123-HME of 2006 dated 03-03-2006, the seniority of the members of the J&K Medical Education (Gazetted) Service, was bifurcated and was regulated/maintained separately in respect of Government Medical College, Srinagar and Government Medical College, Jammu; and

Whereas, from the issuance of the above mentioned order, the vacant posts were/are being referred to the J&K Public Service Commission (PSC), college wise and a separate roster register has been maintained for both the Medical Colleges; and

Whereas, from the year 2006 up-to 2009 in Government Medical College, Jammu, 04 vacancies were referred to the PSC, two in open merit category and one each under RBA and SC category utilizing roster points up to

No. 04. In 2010, vide letter No. ME-GM-150/2010 dated 26-08-2010, the Department had referred 04 more vacancies of Lecturer in the discipline of Paediatrics of GMC, Jammu; two under Open merit category and one each under ST and RBA category utilizing roster points up-to No. 08 and one vacancy was referred in 2012 under open merit category utilizing roster point No. 09; and

Whereas, J&K PSC advertised these posts vide Notification No. 09/PSC of 2010, dated 26-08-2010. In the meantime, Dr. Koushal Kumar Khajuria filed SWP No.2313/2010, CMP No.3268/2010 Vs State before the Hon'ble High Court, Jammu wherein he challenged the advertisement Notification of PSC on the grounds that not a single post of lecturer (Paediatrics) had been filled up from the reserved category of ALC. The petitioner also challenged the Govt. Order No.123-HME of 2006 dated 3-3-2006 whereby the seniority of the members of J&K Medical Education (Gazetted) Service has been maintained separately in respect of GMC, Jammu/GMC, Srinagar ; and.

Whereas, the Hon'ble High Court passed an interim direction on 5-10-2010, which reads as under:

*"It is contended that vide advertisement notification No. 09-PC of 2010 dated 26<sup>th</sup> of Aug,10 the official respondents have advertised the posts of Lecturer in Paediatrics without reserving any post for the category of ALC. It is stated that in terms of Rule 5 of the Jammu and Kashmir Reservation Rules, 2005, 10<sup>th</sup> post as per roster point is to go to the aforementioned category.*

*Issue notice to the respondent in the main petition as also in the CMP, waived by Mr. Jamwal, learned Dy. AG. He shall file objections within two weeks.*

*In the meanwhile, subject to the objections by the other side and till further orders, one post of lecturer Paediatrics shall not be filled up"*

Whereas, in the meanwhile, the Public Service Commission, vide its letter No.PSC/DR/Lect-Paediatrics/2010 dated 18-01-2011 recommended selection of candidates for the post of Lecturer in the discipline of Paediatrics in GMC, Jammu: one each under Open merit, RBA & ST Category; and

Whereas, on the recommendations of J&K PSC, appointment orders were issued vide Govt. Order No.80-HME of 2011 dated 28-01-2011; and

Whereas, the department filed objections in the SWP No.2313/2010 titled Dr. Koushal Kumar Khajuria Vs State and others wherein it was clearly mentioned that roster up to No. 09 has been utilized and the reservation for ALC stands at roster point No. 10 as maintained for GMC, Jammu; and

Whereas, the Hon'ble High Court passed order on 29-07-2011 which read as under:-

*"In the backdrop of the aforesaid position of the case, the intent of the legislature in giving due representation to the reserved categories is to be advanced. Since, the category A.L.C has not been given representation was was due to it at roster point ten, the post has not been advertised for A.L.C when it became due to it, but now it would be appropriate to direct the respondent to give effect to the selection of respondent no. 3. However, the next vacancy which will arise shall be advertised for the A.L.C category wherein both the petitioner & other candidates from same category shall be free to participate & compete.*

*Petition accordingly, disposed of."*

Whereas, aggrieved by this, Dr. Koushal Kumar Khajuria filed LPA against the order of Hon'ble High Court dated 29-7-2011. The Hon'ble Division Bench passed an interim order dated 03-08-2011 which read as under:-

*"Meanwhile, one post of Lecturer in Paediatrics shall not be filled up".*

*List immediately after two weeks.*

Whereas, pursuant to the judgement dated 29-07-2011, the Public Service Commission vide letter No.PSC/DR/lect-Paediatrics/2010 dated 2-8-2011 recommended selection of Dr. Vikas Mahajan as lecturer in the discipline of Paediatrics in GMC, Jammu; and

Whereas, the matter was examined in the Department in light of Hon'ble High Court Order dated 03-08-2011 wherein, official respondents were directed that one post of lecturer in Paediatrics in GMC, Jammu be kept reserved and accordingly one post was kept reserved; and

Whereas, on the recommendations of J&KPSC, Dr. Vikas Mahajan was appointed as Lecturer Paediatrics, GMC, Jammu vide Govt. Order No 420-HME of 2012 dated 27-06-2012, against the available vacancy; and

Whereas, Dr. Koushal Kumar Khajuria filed a contempt petition COA (LPA) No.24/2012 in LPA No.157/2011 Vs State, aggrieved by the appointment of Dr. Vikas Mahajan ; and.

Whereas, the Division Bench of the Hon'ble High Court, passed order dated 17-02-2014 in LPA 157/2011. The operative part of which reads as under:-

*[Handwritten signature]*

*"The appeal is, accordingly, allowed. Selection of respondent no 3 in Open Merit category against a vacancy required under Rules to be advertised for ALC Category is set aside. The respondents are directed to advertise the second vacancy advertised under Advertisement Notification No. 09/PSC of 2010 dated 26-08-2010 for Open Merit Category, for ALC Category and finalize the selection process as far as possible by or before 31-03-2014".*

Whereas, the matter was referred to the Department of Law, Justice and Parliamentary Affairs for filing of SLP in the matter who in turn advised the Department as under:

*"The Department is advised to file SLP against the judgment dated 17-02-2014 passed in LPA SW No. 157/2011 CMA NO 185/2011 titled Dr. Koushal Kumar Khajuria and Ors Vs. State and others..."*

Whereas, the Hon'ble Supreme Court vide its order dated 12-01-2015 has observed as under:

*"Both the special leave petitions are dismissed"*

Whereas, a review petition was filed before the Hon'ble Apex Court in the matter as was advised by the Department of Law, Justice and Parliamentary Affairs. The Hon'ble Supreme Court order dismissed the review petition. The Hon'ble Supreme Court order dated 12-03-2015 reads as under:

*"We have gone through the review petition and the relevant documents. In our opinion no case for review is made out.*

*The review petition is accordingly dismissed"*

Now therefore, in compliance of the orders of Division Bench of the Hon'ble High court dated 17-02-2014 passed in LPA SW No.

157/2011, CMA No. 185/2011 titled Dr. Koushal Kumar Khajuria vs State and Ors, the appointment of Dr. Vikas Mahajan as Lecturer Paediatrics, GMC, Jammu, issued vide Government Order No.42-HME of 2012 dated 27-06-2012 under endorsement No. ME/GAZ/12/2011, shall and shall always be deemed to have been cancelled ab-initio.

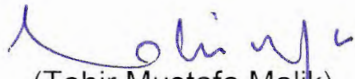
By order of the Government of Jammu & Kashmir.

Sd/-  
(Dr. M.K Bhandari) IAS  
Secretary to Government  
Health & Medical Education Department  
Dated: 30-12-2015

No. ME/Legal/Gaz/24/2010

Copy to the :-

1. Principal Govt. Medical College, Jammu.
2. Secretary, J&K Public Service Commission, Jammu
3. OSD to Hon'ble Minister for Health & Medical Education.
4. Private Secretary to the Hon'ble Minister of State for Health.
5. Private Secretary to Secretary to Government, Health & Medical Education Department.
6. Concerned doctor
7. Government Order File/Stock File/ In-charge Website.

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