

GOVERNMENT MEDICAL COLLEGE, SRINAGAR

Subject:- Hon'ble Central Administrative Tribunal, Jammu's order dated 25-11-2020 under O.A/62/1101/2020 in the case of Tsering Dolma V/S, Secretary to Govt; Health and Medical Education Department & Ors.

ORDER NO: 608 -AH of 2022.

D A T E D : 21-10-2022

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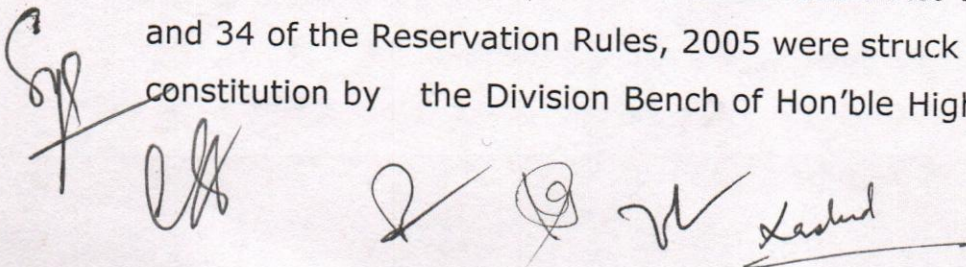
Whereas, among others the official namely Tsering Dolma belonging to ST category was appointed as Junior Grade Nurse vide order No. 257 of 1991 dated 30-03-1991; and

Whereas, the said official was promoted as Senior Grade Nurse on 30-03-2011 against an available vacancy at Govt. Super Specialty Hospital Srinagar as per her seniority position fixed in accordance with Rule 24 of the J&K (Classification, Control & Appeal) Rules 1956 and the relevant Recruitment Rules; and

Whereas, being member of the reserved category, the official represented for accelerated promotion to the next higher level in terms of the provisions of the Jammu and Kashmir Reservation Act, 2004 and the rules framed thereunder; and

Whereas, the Hon'ble Central Administrative Tribunal Jammu Bench while disposing of O.A/62/1101/2020 directed the respondents to take a decision on the representation preferred by the applicant for considering her case for promotion under ST category by passing a reasoned and speaking order and communicate the decision so taken, in writing to the applicant ; and

Whereas, the relevant provisions of the Reservation Act and the Rules, i.e., Section 6 of the Reservation Act 2004 and Rules 9, 10, and 34 of the Reservation Rules, 2005 were struck down as ultra vires the constitution by the Division Bench of Hon'ble High Court of J&K vide its

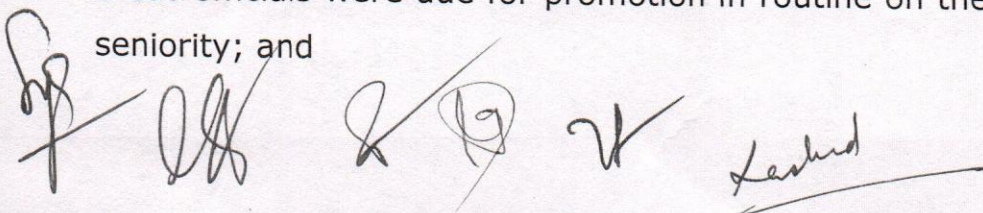
The bottom of the page features several handwritten signatures and initials. On the left, there is a large, stylized signature. To its right are several smaller, more legible signatures and initials, including one that appears to be 'Kashid'.

judgment dated 09.10.2015 passed in SWP No. 1290/2014 titled Ashok Kumar and others v. State of J&K and others and other clubbed matters ; and

Whereas in view of the interim orders passed by the Hon'ble Supreme Court in SLP(s) titled Mohd Hanief Lone and others v. Ashok Kumar Sharma, Gagan Jyoti and another v. State of J&K and others, Vinod Kumar Bhagat and others vs. State of J&K and others an Nasib Singh and Ors. vs. State of J&K and others, relating to the reservation in promotions, the General Administration Department issued instructions vide O.M No. GAD/MTG/RB-IV/04/2016, dated: 21.06.2016, whereby it has been directed to keep the vacancies/roster points allocable to the employees belonging to the reserved categories, vacant/un-filled, till disposal of the cases by the Hon'ble Supreme Court;

Whereas, pursuant to the aforesaid government instructions and in accordance with the roster prescribed promotions under Jammu and Kashmir Reservation Rules 2005 read with SRO-144 of 2008 dated 28th May 2008, five (05) vacancies/slots were kept un-filled/reserved for ST category candidates namely: Tsering Yangchan, Tsering Yangzom, Tsering Dolma, Deachan Angmoo and Khair-ul-Nisa at roster points 05, 16 and 25, 38 and 49 respectively by the Departmental Promotion Committee in 2018 and 2021; and

Whereas, the first two officials senior to the applicant namely Tsering Yangchan and Tsering Yangzom figuring at serial No. 02 and 08 in the seniority list issued vide No. AH-9/Est-II/2022/Seniority/7315-30 dated 04.02.2022 have been accorded the promotion as Nursing Supervisors on the posts which were already kept reserved for them in the previous DPC's at Roster points 05 and 16 respectively in accordance with the instructions/clarification issued by the General Administration Department vide Circular No. 10-JK(GAD) of 2021, dated: 05.03.2021, as these officials were due for promotion in routine on the basis of their own seniority; and



Whereas, in the last DPC meeting Sr. Grade Nurses upto S.No 25 were promoted as Nursing Supervisor, whileas the applicant figuring at serial No. 40 in the seniority list obviously could not be promoted to the next higher level;

Now, therefore, in view of above stated fact and circumstances, Smt. Tsering Dolma, Senior Grade is hereby informed through the medium of this order that in compliance with the instructions issued by the General Administration Department vide O.M No. GAD/MTG/RB-IV/04/2016, dated: 21.06.2016 & Circular No. 10-JK(GAD) of 2021, dated: 05.03.2021, one slot has been kept unfilled/vacant w.e.f 01.08.2018 for her promotion as Nursing Supervisor which will be filled up as and when her turn for promotion comes in normal course, or when reservation in promotions is restored by the competent authority whichever happens earlier.

Kashid
Principal,
Govt. Medical College, Srinagar.

NO:- AH-9/Est-II/MC/2022/ 3852 - 55
copy for information to the:

Dated:

21-10-22

1. Secretary to Govt; Health and Medical Education Department, J&K.
2. Member Secretary (DPC), GMC Srinagar for information.
3. Mr. Ateeb Kanth, Advocate CAT, Jammu Bench.
4. Assistant Law Officer, Govt. Medical College Srinagar
5. Officer in-charge IT, GMC Srinagar with the directions to upload the order on the official website.
6. Smt. Tsering Dolma, Senior Grade , L.D Hospital, Srinagar for information.