

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

**WP (C) No. 2708/2025
CAV No. 2243/2025**

Reserved on: 30.09.2025

Pronounced on: 09.10.2025

Uploaded on: 09.10.2025

**Whether the operative part or full
judgment is pronounced: Full**

- 1) UT of J & K through Applicant(s)/Petitioner(s)
Commissioner/Secretary to Government,
Health & Medical Education Department,
Civil Secretariat, Jammu/Srinagar-180001.
- 2) Principal, Government Medical College,
Jammu-180001.

Through :- Mr. Raman Sharma, AAG with
Ms. Saleeqa Sheikh, Advocate

v/s

- 1) Dr. Tehseen Hassan, ...Respondent(s)
W/o Mohammad Wajid Khandey,
R/o Cooperative Colony Peerbagh, Srinagar at
Sidhra Enclave, Jammu.
- 2) Dr. Ashima Badyal, ...Pro-forma Respondent(s)
Department of Bio-Chemistry,
Government Medical College, Jammu-180001.
- 3) Dr. Anil Kumar,
Department of Bio-Chemistry,
Government Medical College, Jammu-180001.
- 4) Dr. Lakhbir Singh,
Department of Bio-Chemistry,
Government Medical College, Jammu-180001.

Through :- Mr. Aseem Kumar Sawhney, Sr. Advocate with
Mr. Mohd. Shabab Malik & Mr. Mohd. Kashif Malik,
Advocates **for respondent**
Mr. Pranav Kohli, Sr. Advocate with
Mr. Arun Dev Singh & Mr. Farhan Mirza,
Advocates **for caveator**

**CORAM: HON'BLE MR. JUSTICE SANJEEV KUMAR, JUDGE
HON'BLE MR. JUSTICE SANJAY PARIHAR, JUDGE**

ORDER

(Sanjeev Kumar J)

CAV No. 2243/2025

1. Heard learned Senior counsel for the caveator.
2. ***Caveat stands discharged.***

- 1) The Union Territory of J & K along with Principal, Government Medical College, Jammu invoke extraordinary writ jurisdiction vested in this Court under Article 226 of the Constitution of India to throw challenge to an order and judgment dated 02.04.2025 passed by the Central Administrative Tribunal, Jammu Bench, Jammu [**“the Tribunal”**] in OA No. 459/2023 titled “*Dr. Tehseen Hassan Vs. UT of J & K & Ors.*”, whereby the Tribunal has, while allowing the OA of the Respondent No. 1, directed the petitioners to examine the validity of Ph.D. Degree of Respondent No. 1 in terms of UGC Regulations, 2009 and then take a decision with regard to the entitlement of Respondent No. 1 to hold the post of Assistant Professor in the Department of Bio-Chemistry, Government Medical College, Jammu.
- 2) Before we advert to the grounds of challenge urged by Mr. Raman Sharma, learned AAG appearing on behalf of the petitioners, it would be appropriate to take note of few facts as are germane to the disposal of this writ petition.
- 3) The Respondent No. 1 was appointed as Lecturer in the Department of Bio-Chemistry in Government Medical College, Jammu vide Government Order No. 233-HME of 2014 dated 23.04.2014. It is claimed by Respondent No. 1 that prior to her appointment as Lecturer, she had already completed her coursework of Ph.D. Degree from Bhagwant University, Sikar Road, Ajmer, Rajasthan. She also claims that she had submitted her requisite thesis to the University which was acknowledged by the later vide letter dated 08.04.2014. It is also the case of Respondent No. 1 that because of

her ailing health, she could not complete her Ph.D. course by participating in the viva-voce which she later cleared on 03.02.2017. After acquiring the required experience of three years as Lecturer for Non-Medical stream and being awarded the Ph.D. Degree by the Bhagwant University, Rajasthan on 11.09.2017, Respondent No. 1 was placed as In-charge Assistant Professor vide Government Order No. 673-HME of 2017 dated 18.12.2017. However, vide Government Order No. 259-HME of 2018 dated 10.04.2018 issued in compliance with a Division Bench judgment of this Court, she was reverted to the post of Lecturer so as to enable the petitioners to place one Dr. Kapila Raina as Assistant Professor in the Department of Bio-Chemistry in Government Medical College, Jammu.

- 4) In the year 2023, the Petitioner No. 1 vide Government Order No. 304-JK(HME) of 2023 dated 11.04.2023 issued final seniority list of faculty members of various disciplines including the discipline of Bio-Chemistry in the Government Medical College, Jammu. The Respondent No. 1 felt aggrieved of the final seniority list on the ground that the pro-forma respondents herein i.e. Dr. Ashima Badyal, Dr. Anil Kumar & Dr. Lakhbir Singh had been placed senior to her ignoring her seniority, eligibility and Ph.D. Degree. This brought the Respondent No. 1 before the Tribunal by way of OA No. 459/2023, whereunder the Respondent No. 1 called in question the Government Order dated 11.04.2023 (supra).
- 5) The OA (supra) was contested by the petitioners in which a stand was taken that the Respondent No. 1 was appointed as Lecturer on 23.04.2014 in the discipline of Bio-Chemistry and at that time, she

had not acquired the Ph.D. Degree in the relevant discipline. It was pleaded that Respondent No. 1 acquired Ph.D. Degree only on 03.02.2017 from Bhagwant University, Rajasthan. It was found that Ph.D. course in the discipline of Bio-Chemistry was a full-fledged course and, therefore, could not have been pursued while Respondent No. 1 was serving as Lecturer in the Government Medical College, Jammu. It was also pleaded that in the absence of any study leave or permission granted by the competent authority, Respondent No. 1 could not have pursued her Ph.D. course. It was thus submitted that the case of Respondent No. 1 for promotion to the post of Assistant Professor in the Department of Bio-Chemistry could not be considered because she had not obtained the requisite qualification of Ph.D. Degree in the relevant discipline through legitimate means.

- 6) The matter was considered at length by the Tribunal and it came to the conclusion that the dispute between Respondent No. 1 and the pro-forma respondents was with regard to appointment to the post of Assistant Professor, Bio-Chemistry and consequent fixation of seniority and that appointment to the post of Assistant Professor for Non-Clinical stream would require a valid Ph.D. Degree. The Tribunal was thus of the opinion that to determine the issue raised in the OA, the validity and verification of Ph.D. Degree acquired by Respondent No. 1 was *sine qua non*. It is in these circumstances, the Tribunal allowed the OA and directed the petitioners herein to determine the validity and verification of the Degree of Ph.D. acquired by Respondent No. 1 in terms of UGC Regulations, 2009. The Tribunal further provided that if the Degree is found to be valid

and legitimate and other eligible service conditions are satisfied, the Respondent No. 1 shall be given the post in question along with due seniority, as per the rules. It is this judgment of the Tribunal which is impugned before us.

- 7) **Heard learned counsel for parties and perused the material available on record including the judgment impugned,** it needs to be taken note of at the outset that the Respondent No. 1 is not aggrieved of the judgment impugned passed by the Tribunal and, therefore, has not taken any remedies there against. The pro-forma respondents are obviously satisfied and, therefore, cannot be said to be aggrieved. It is only the Union Territory of J & K and the Principal, Government Medical College, Jammu who feel aggrieved of the judgment impugned and are before us in this petition.
- 8) Mr. Raman Sharma, learned AAG appearing on behalf of the petitioners does not find much fault with the directions issued by the Tribunal calling upon the petitioners to verify the validity and legitimacy of the Ph.D. Degree acquired by Respondent No. 1 in accordance with rules, but submits that the determination of validity and legitimacy of the Ph.D. Degree acquired by Respondent No. 1 is restricted by the Tribunal only to the UGC Regulations of 2009.
- 9) Mr. Raman Sharma would argue that pursuing Ph.D. Degree which is a full-fledged regular course while serving as Lecturer in the Government Medical College, Jammu, that too, without the permission of the employer is not permissible and, therefore, the Ph.D. Degree acquired by Respondent No. 1 cannot be said to be legitimately acquired. He places reliance upon Sub-Rule (1) and (4)

of Rule 67 and Sub-Rule (2) of Rule 73 of the Jammu & Kashmir Civil Services (Leave) Rules, 1979.

10) We have given our thoughtful consideration to the limited challenge thrown by the petitioners to the judgment impugned and are of view that the Tribunal has very correctly concretized the controversy in the judgment impugned and directed the petitioners to determine the validity and legitimacy of the Ph.D. Degree acquired by Respondent No. 1 from Bhagwant University, Rajasthan in terms of UGC Regulations, 2009. The Tribunal has also categorically held that the determination of validity and legitimacy of the degree in question acquired by Respondent No. 1 would not only be in terms of UGC Regulations, 2009 but also in terms of other service conditions governing the Respondent No. 1. It seems that petitioners have misconstrued the judgment impugned and have ventured to file this petition when they were obviously not aggrieved.

11) The direction of the Tribunal to the petitioners is quite clear and categoric and calls upon them to determine the validity and legitimacy of the Ph.D. Degree acquired by Respondent No. 1 which includes the mode and manner in which she has obtained such degree. The exercise directed to be conducted by the petitioners is to determine the legal validity of the Ph.D. Degree obtained by Respondent No. 1 in light of the UGC Regulations of 2009 and other service conditions governing the Respondent No. 1. The other service conditions governing the Respondent No. 1 would necessarily include the Jammu & Kashmir Civil Services (Leave) Rules, 1979 or any other rules applicable requiring prior permission

of the employer to undergo a higher course of study simultaneously with rendering services to the employer. This would also require the determination of question whether post-facto permission for acquiring such qualification would be warranted in the given facts and circumstances of the case. The enquiry would necessarily entail the determination of a question as to whether the Ph.D. course was pursued by the Respondent No. 1 at the cost of and to the detriment of her services during the period she was required to render her service as Lecturer in Government Medical College, Jammu. The petitioners would also be required to take note of the fact that the petitioners had accepted her Ph.D. Degree without finding any fault with her performance as Lecturer at the time of her placement as In-charge Assistant Professor. All these issues will enter the enquiry directed to be conducted by the Tribunal.

- 12) For the foregoing reasons, we do not find any illegality or infirmity in the impugned judgment which would warrant interference by us in these proceedings. ***The writ petition is devoid of any merit and the same, is accordingly, dismissed.***

(Sanjay Parihar)
Judge

(Sanjeev Kumar)
Judge

JAMMU
09.10.2025
Manan

Whether the order is speaking : Yes/No
Whether the order is reportable : Yes/No