

**IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR**

**Reserved on: 28.11.2025
Pronounced on: 02.12.2025
Uploaded on: 02.12.2025
Whether the operative or
Judgment is pronounced: Full**

LPA no. 105/2020 in WP(C) 3430/2019

Hamida Jan

...Petitioner(s)/Appellant(s).

Through: Mr. A. Dar, Sr. Adv. With
Ms. Monisa, Advocate

Vs.

**Sher-e-Kashmir University of
Agricultural Sciences &
Technology & ors.**

...Respondent(s).

Through: Mr. Hamza Prince, Adv. With
Mr. Sajid Ahmad, Advocate
Mr. Waseem Ramzan, Advocate

CORAM:

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

**JUDGMENT
02.12.2025**

Per Sanjeev Kumar, J

1. This intra court appeal by the appellant, Hamida Jan, is directed against an order and judgment dated 11.02.2020 passed by the learned Single Judge of this Court ("the writ court") in WP(C) no. 3430/2019 titled Hamida Jan v. Sher-e-Kashmir University of Agriculture Sciences and Technology and others, whereby the writ court has dismissed the writ petition filed by the appellant being devoid of any merit.

Before we advert to the grounds of challenge urged by Mr. A. M. Dar, learned counsel for the appellant, we deem it appropriate to give brief resume of the factual background.

2. Vide Advertisement Notification no. 04 of 2015 dated 13.05.2015, the SKUAST, Kashmir initiated the process for recruitment of a Female Nurse on regular temporary basis through direct recruitment. The eligibility prescribed for the post was 10+2 (Science Group) with Diploma in Nursing and 03 years experience in Nursing from a Government Hospital/recognized Nursing Home. Obviously, the appellant was not possessing any Diploma in Nursing but submitted her application form on the strength of a Certificate dated 16.01.2019 purportedly issued in her favour by the Principal, Government Medical College, Srinagar. The certificate which was issued in the name of Principal, Government Medical College, Srinagar certified that the FMPHW (Diploma) was equivalent to Diploma in Nursing. Prior to the initiation of selection process, in terms of Advertisement Notification dated 13.05.2015, the appellant had been engaged as a Female Nurse in the respondent-University on monthly remuneration of Rs. 7600/- for a period of one year.

3. A writ petition, SWP no. 1940/2015 came to be filed by the appellant before the learned Single Judge of this Court who, vide its order dated 04.09.2015 directed the respondents-University to maintain status quo with regard to

the appellant and consider her case for releasing her legitimately earned withheld salary. The aforesaid writ petition came to be disposed of finally on 09.04.2019 with a direction to the respondents-University to allow the petitioner to participate in the selection process initiated in terms of Advertisement Notice 13.05.2015 alongwith other eligible candidates and consider the scope of giving weightage to her services in terms of the law and the Rules on the subject. On the strength of the aforesaid order, the appellant was allowed to participate in the selection process. The appellant, once again, moved this Court by filing SWP no. 2253/2019 which was dismissed by this Court in *limine*. Un-relented, the appellant filed third writ petition, i.e. SWP no. 2425/2019 titled Hamida Jan v. State of J&K and others in which the learned Single Judge of this Court vide its order dated 15.07.2019 directed the respondents-University to maintain status quo with regard to the appellant's position provided she fulfilled the eligibility criteria in terms of the Advertisement Notification. In compliance with the aforesaid interim direction, the question with regard to the eligibility of the appellant was considered by the University and vide University Order No. 791(EST) of 2019 dated 29.10.2019, the same was decided. The appellant being not possessed of Diploma in Nursing was held ineligible to participate in the selection process initiated in terms of the Advertisement Notification dated 13.05.2015. It is this order of consideration

and rejection of claim of the appellant which was called in question by the appellant in WP(c) no. 3430/2019.

4. The Writ Court, having considered the entire litigation launched by the appellant to stick to her engagement as Female Nurse, came to the conclusion that the appellant did not possess the requisite qualification prescribed for the post and, accordingly, dismissed the writ petition. This is how the appellant is before us seeking to assail the judgment of the writ court on the ground that the writ court has not taken into consideration that respondent-University having allowed the appellant to participate in the selection process cannot be permitted to take the objection to her eligibility to hold the post. The judgment impugned is also called in question on the ground that the selection process which was conducted by the respondent-University was fraught with illegality and malafides and was directed only to ensure the selection of respondent no. 5 on the post advertised.

5. Having heard learned counsel for the parties and perused the entire record, we are of the considered opinion that the judgment passed by the writ court does not call for any interference by us in this appeal. There is no dispute with regard to the fact that the qualification prescribed for the post of Female Nurse in terms of Advertisement Notification no. 04 of 2015 dated 13.05.2015 is (10+2) with Diploma in Nursing and three years experience in Nursing from the Government

Hospital/recognized Nursing Home. Admittedly, the appellant does not possess any Diploma in Nursing. She had staked her candidature on the basis of a Certificate dated 16.01.2019 purportedly issued by the Principal, Government Medical College, Srinagar conveying therein that FMPHW Diploma was equivalent to Diploma in Nursing. When the matter was taken up by respondent-University with the Principal, Government Medical College, Srinagar for verification of the Certificate, it was reported by the Principal vide its communication dated 28.03.2019 that his office had not issued any such certificate. That apart, the plea of learned counsel for the appellant that in the light of certificate issued by the Expert Body, the FMPHW certificate should be considered equivalent to 'Diploma in Nursing' cannot be accepted for the simple reason that the qualification prescribed for the post of Female Nurse is Diploma in Nursing only and not any other qualification equivalent thereto. In absence of any such stipulation in the qualification, the reliance placed by the appellant on the so called equivalent qualification is totally uncalled for and not permissible under law. The prayer of the appellant that since there are so many posts of Female Nurses available with the respondent-University as such, she could be directed to be appointed against one such post, keeping in view her long working experience in the field also cannot be accepted. Accepting such prayer and issuing direction to the respondent-University to appoint the appellant as Female

Nurse against any available vacancy despite the fact that she does not possess the requisite qualification would tantamount to appointing ineligible candidate. Otherwise also such course would be in violation of Article 14 of the Constitution of India. The post or posts of Female Nurse, if any available with the respondents for direct recruitment, are required to be put to Advertisement so as to enable all eligible candidates to apply, participate and compete in the selection process. An ineligible candidate cannot, by holding a post on contractual basis for some time, claim waiver of eligibility qualification and dispensation of regular selection process to be conducted in consonance with Article 14 of the Constitution of India.

6. Viewed from any angle, we find no merit in this appeal and the same is accordingly, dismissed.

(SANJAY PARIHAR)
JUDGE

(SANJEEV KUMAR)
JUDGE

SRINAGAR
02.12.2025
Yasmeen, Secy.