

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

Reserved on: 30.12.2025

Pronounced on: 19.02.2026

Uploaded on: 20.02.2026

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

WP(C) No.705/2021

BILAL ASHRAF WAZA

....PETITIONER(S)/APPELLANT(S)

Through: - Mr. Mohd. Israr, Advocate.

Vs.

UT OF J&K & OTHERS

...RESPONDENT(S)

*Through: - Mr. Raman Sharma, AAG, with
Ms. Saliqa Sheikh, Advocate-for official
respondents.
None for private respondents.*

CORAM: HON'BLE MR. JUSTICE JAVED IQBAL WANI, JUDGE

JUDGMENT

1) The petitioner, in the instant petition filed under Article 226 of the Constitution, has implored for the following reliefs:

- A. CERTIORARI; So as to quash Selection List impugned issued by respondent No. 2 vide Order No. 739/AHJ of 2021 dated 25.03.2021 to the extent it pertains to selection of private respondents to the post of X-Ray Assistant pursuant to Advertisement Notification No. 02 dated 07.12.2018 and also quash subsequent appointment

order if any issued in their favour pursuant to the said selection.

- B. MANDAMUS; So as to command and direct the official respondents to select and appoint the petitioner to the aforesaid post of X-Ray Assistant pursuant to Advertisement Notification No. 02 dated 07.12.2018 along with all the consequential benefits.

2) The facts, under the shade and cover of which the aforesaid reliefs have been prayed and as are stated in the petition, are that respondent 2 invited applications for engagement of X-Ray Assistants on academic arrangement basis under SRO 384 of 2009 dated 14.12.2009 read with SRO 409 of 2013, prescribing the eligibility qualification therein as 10+2 or above with diploma in the line from a recognized institute. 20 points were prescribed for basic qualification and 80 points for technical qualification in the said Advertisement Notice, and that the petitioner applied for the aforesaid post and in the provisional merit list prepared in December, 2019 by the official respondents, was shown to be figuring at serial No.4 having secured 76.2 points and the private respondents herein having secured 72.1, 71.0 and 71.0 points respectively placed in the said provisional merit list at serial Nos.14, 23 and 24 respectively. However, in the final selection list the petitioner was not shown as selected whereas the private

respondents were shown to be selected, aggrieved whereof, the petitioner has questioned the said selection on the grounds that the same is illegal and arbitrary besides being violative of Articles 14 and 16 of the Constitution for the petitioner having secured more merit/points than the private respondents, has not been selected.

3) **Objections** to the petition have been filed by the respondents wherein the petition is being opposed and the exclusion of the petitioner from the selection is justified on the ground that the diploma obtained by the petitioner was not found valid in view of Government Order No.828-HME of 2019 dated 18.09.2019, while stating further that upon receipt of applications from the aspiring candidates against the post in question, a letter came to be addressed to the Registrar, State Paramedical Council, Jammu (for short “the Council”) vide No.AHJ/2019/3970 dated 11.10.2019, whereafter it came to be resolved that only those candidates would be considered who had completed their diploma/ technical course from an institute which is recognized by the Council in terms of Government Order dated 18.09.2019 supra and till the year 2016, only three institutes, namely, Paramedical Technology, Pahari Chatterpuri, New Delhi, Sai Institute of Allied Sciences,

Channa Patana, Ramanagaram, Karnataka, and Institute of Public Health and Hygiene Mahipalpur, New Delhi, were recognized by the Council and, therefore, in terms of the aforesaid decision, the final selection list came to be issued on 25.03.2021 and the petitioner excluded therefrom being ineligible in terms of Government Order dated 18.09.2019 read with Government Order No.122-JK(HME) of 2020 dated 04.02.2020, and also on the ground that registration certificate was not enclosed with the application form by the petitioner.

Heard learned counsel for the parties and perused the record.

4) It is significant to mention here that during the course of proceedings, a supplementary affidavit had been filed by the petitioner stating therein that he, the petitioner, obtained the diploma from the Institute of Public Health and Hygiene, Mahipalpur, New Delhi, in Session 2015-17, whereafter he approached the Council for registration which came to be granted vide No.REJ/JMU/XR/0397, which is shown to be valid from 15.10.2022 to 14.10.2027, stating further therein the affidavit that once the Council granted registration to the petitioner on the basis of aforesaid diploma secured by him, it does not lie in the mouth of the respondents to say that the said Institute is

not recognized for the purposes of appointment, having stated further in the said affidavit that as per the information provided by the Council under Right to Information Act, 2005, the diploma courses conducted by the said Institute are recognized by the Council as per the No Objection Certificate issued by the Health and Medical Education Department, J&K Government from time to time. Besides Government Order No.129-JSMPC of 2016 dated 18.01.2016 has been placed on record by the petitioner signifying the grant of sanction to the Institute for a period of one year in terms of the provisional No Objection Certificate by the Council and in the said order, X-Ray and ECG Technology finds place at serial No.2. Government Order No.122-JK(HME) of 2020 dated 04.02.2020 has also been placed on record by the petitioner, by virtue of which, Government Order No.828-HME of 2019 dated 18.09.2019 supra has been modified providing therein in the last para of the said Government Order that the last para of the Government Order dated 18.09.2019 shall and shall always be deemed to have been recast as under:

“Now therefore the general public is hereby informed that no individual NOC/Affiliation has been granted by the Government of Jammu and Kashmir to any institution situated outside Jammu and Kashmir including the above mentioned three institutions beyond 2016 and also that the J&K Paramedical Council shall register, upon

completion of the course, the Diploma Certificates of the students admitted only during the affiliation periods by the above mentioned three institutions, after verification of individual cases. However, the J&K Paramedical/ Nursing Council shall register the Diploma/ Degree certificates of the candidates who have been training from the Institutions situated outside Jammu and Kashmir which are duly recognized by/affiliated with different Paramedical Councils/Nursing Councils/Recognized Universities /respective State Governments."

A plain reading of the Order dated 04.02.2020 supra tends to show that the diploma certificate of a student obtained from three institutes mentioned in Order dated 18.09.2019 supra, which includes the Institute wherefrom the petitioner has obtained the diploma, shall be registered by the Council only in case of students who had been admitted during the affiliation period. Admittedly, registration of the Institute in question was valid till the year 2016 and the petitioner had got registration in the Institute in the year 2015 and completed his diploma in the year 2017, therefore, manifestly suggesting that the petitioner was admitted in the Institute in question during the period when the affiliation of the Institute was in force and consequently the diploma obtained by the petitioner, which was registered by the Council after the issuance of Government Order dated 04.02.2020, was proper and valid and thereby the petitioner could not have been said to be ineligible for the post in question on the ground that the

diploma certificate obtained by him is issued post 2016 when the Institute was no longer affiliated.

5) Furthermore, perusal of the material available on record also clearly shows that the petitioner indisputably has been possessed of the educational qualification prescribed for the post and has also secured more merit than the selected private respondents and, therefore, once the petitioner is found to be eligible and possessed of higher merit than the private respondents, denial of selection and consequent appointment to him against the post in question cannot, but said to be unfair, unreasonable, arbitrary, inasmuch as violative of Articles 14 and 16 of the Constitution rendering the exclusion of the petitioner from the selection in question, despite his higher merit legally unsustainable.

6) Viewed thus, for what has been observed, considered and analyzed hereinabove, the instant petition deserves to be allowed and is, accordingly, allowed in the following terms:

(I) The selection list dated 25.03.2021, to the extent it relates to the selection of private respondents against the Open Merit quota for the post of X-Ray Assistant, is quashed in so far as it affects the claim of the petitioner.

- (II) The official respondents are directed to re-draw the selection list based upon the merit position of the candidates including that of the petitioner in accordance with the prescribed criteria and select and offer appointment to the petitioner against the post of X-Ray Assistant with all consequential benefits.
- (III) The aforesaid exercise shall be undertaken and completed by the official respondents within a period of eight weeks from the date a copy of this judgment and order is served upon them by the petitioner.

(Javed Iqbal Wani)
Judge

Srinagar

19.02.2026

“Bhat Altaf-Secretary”

Whether the **Judgment** is speaking:

Yes

Whether the **judgment** is reportable:

Yes/No

