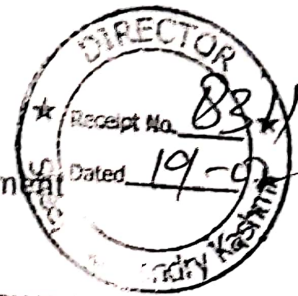




Government of Jammu and Kashmir
Animal/Sheep Husbandry & Fisheries Department
Civil Secretariat, Jammu



Sub:- Implementation of court judgements passed in SWP No.1302/2011 titled J&K Veterinary Doctors Association and others V/S State of J&K & Ors vide judgement dated 12.10.2017 & SWP No. 601/2014 titled Dr. P K. Abrol & Others V/S State & Ors vide judgement dated 19.02.2016 & LPA No. 160/2017 titled State of J&K & Ors V/S Dr P.K. Abrol & Ors. vide judgement dated 22.12.2017;

Ref State Administrative Council Decision No 27/3/2019 dated 25.01.2019

Government Order No. 27-ASH of 2019
D a t e d : 18-02-2019

1. Whereas, vide SRO 43 dated 17.02.2004, Time Bound Promotion Scheme was launched in Animal/Sheep Husbandry Department to grant 1st & 2nd Time Bound Promotion in favour of Veterinarians of Animal / Sheep Husbandry Department at par with Assistant Surgeons/ISM Doctors of the Health & Medical Education Department;
2. Whereas, Veterinary Assistant Surgeons, through various representations agitated for providing benefits of 3rd Time Bound Promotion to them at par with the Assistant Surgeons of Health & Medical Education Department;
3. Whereas, the matter was taken up with Finance for concurrence and State Finance Department conveyed agreement to grant of 3rd Time Bound Promotion for Veterinary Assistant Surgeons subject to approval of Competent Authority;
4. Whereas, vide Government Order No. 03-ASH of 2010 dated 01.01.2010, 3rd Time Bound Promotion was granted to eligible veterinarians who have rendered 20 years of cumulative service w.e.f. 1.1.2010;
5. Whereas aggrieved of the said order granting 3rd Time Bound Promotion prospectively, the Veterinary Assistant Surgeons agitated the matter through following writ petitions in Hon'ble High Court of J&K:-
 - i) SWP No. 885/2010 titled *Bhupinder Singh & Ors versus State & Ors.*
 - ii) SWP No. 1195/2010 titled *Manjit Singh & Ors versus State & Ors.*
 - iii) SWP No. 1298/2010 titled *Dr. P.K.Abrol & Ors versus State & Ors.*
 - iv) SWP No. 1046/2010 titled *Vidya Sagar Sharma Vs State of J&K and Ors.*
6. Whereas, Hon'ble Court disposed off the above SWPs with directions to respondents to accord consideration to the petitioners' claims;

HA (e/s)
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7. Whereas, vide Government Order No 228-ASH of 2013 dated 03.09.2013 and Government Order No 12-ASH of 2014 dated 31.01.2014, claims of petitioners for extending benefit of 3rd Time Bound Promotion retrospectively were rejected,
8. Whereas, J&K Veterinary Doctors Association also filed SWP No. 1302/2011 MP No.2162/2011 titled JKVDA V/S State & others in Hon'ble High Court at Srinagar challenging Government order No. 03-ASH of 2010 dated 01.01.2010 for grant of 3rd Time Bound Promotion from date of its issuance instead of completion of 20 years cumulative service prior to issuance of the said Government order;
9. Whereas, Hon'ble Court disposed off the said writ petition vide judgement dated:12.10.2017.and the operative part of the Court order is as below:-
- For all what has been stated and discussed above, members of petitioner association are entitled to Third Time Bound Promotion, who have completed 20 years of cumulative service before 1st January 2010 and any order or communication issued by respondents, denying Third Time bound promotion to members of petitioner Association, are declared unsustainable in law and accordingly set aside.*
- As a corollary, writ petition is allowed. Respondents are directed to accord benefit of Third Time Bound Promotion in favour of members of petitioner Association from the date they completed 20 years of cumulative service. Let needful be done within a period of three months from the date a copy of this judgment is served upon the respondents by the petitioners.*
10. Whereas, retired doctors filed another SWP No. 601/2014 MP No. 856/2014 titled Dr. P.K. Abrol & Ors. V/S State & Ors. in Hon'ble High Court at Jammu for quashing Govt. Order No. 228-ASH of 2013 dated 03.09.2013 and Government Order No. 12-ASH of 2014 dated 31.01.2014, as illegal action by respondents restricted application of Government Order No. 03-ASH of 2010 dated 01.01.2010 "prospectively", being discriminatory and violative of the Constitution;
11. Whereas, Hon'ble High court vide its order dated 19.02.2016 disposed of the said writ petition, operative part of which is as below:-
- "Viewed thus, this writ petition is allowed and orders impugned bearing No. 12-ASH of 2014 dated 31.01.2014 and 228-ASH of 2013 dated 03.09.2013 are declared unsustainable under law and are, thus set aside. The respondents are directed to accord benefit of 3rd Time Bound Promotion in favour of petitioners from the date they completed 20 years of cumulative service. Let needful be done within a period of three months from the date a copy of this judgment is served upon the respondents by the petitioners".*
12. Whereas the matter was referred to Finance for opinion whereupon Finance Department advised this Department to explore possibility of filing appeal against the judgment passed by Hon'ble High Court in SWP No. 601/2014 dated 19.02.2016 titled Dr. P.K. Abrol & Others as the benefit of 3rd Time Bound Promotion was given prospectively;

13. The matter was taken up with Department of Law, Justice & Parliamentary Affairs who has opined as below:-

"The Department is advised to file LPA against the judgment dated 19.02.2016 passed by the Hon'ble High Court at Jammu in SWP No. 601/2014 and MP No. 856/2014 titled Dr. P.K. Abrol V/S State & Others"

14. Whereas, LPA was filed in Hon'ble Court of J&K along with application for condonation of delay but delay was not condoned and applications dismissed by Hon'ble High Court on 16.02.2017;

15. Whereas, as per opinion of Department of Law, Justice & Parliament Affairs, SLP was filed against judgment dated 16.02.2017 passed by Division Bench of Hon'ble High Court at Jammu in CDLSW No. 86/2016 in Hon'ble Supreme Court of India and the Hon'ble Court vide order dated 31st July, 2017 passed following directions:-

"Leave granted.

Heard Learned Counsel for the parties.

We are of the view that the High Court ought to consider the matter on merits. Accordingly, we set aside the impugned order and remand the matter to the High Court for fresh consideration on merits in accordance with Law

Delay in filing the appeal before the High Court stands condoned.

The appeal is accordingly allowed.

Pending application(s), if any, shall also stand disposed of."

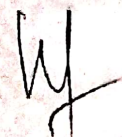
16. Accordingly, Hon'ble High Court of Jammu & Kashmir at Jammu dismissed the appeal in LPASW No. 160/2017 titled State and others V/S P.K. Abrol dismissed the appeal vide its order dated 22.12.2017 with following directions:-

"From the above, it is absolutely clear that the expressions "eligible Doctors" eligible ISM Doctors" or "eligible Veterinarians", had wider meaning than "serving Doctors", serving ISM Doctors" and "serving Veterinarians". The contemporaneous understanding of the Government order was that the expression "eligible" included not only serving Doctors, but also those who had retired on the date on which, the Government orders were issued. We may also point out that the Government order No. 3-ASH of 2010 dated 01.01.2010 fortified the stand taken by the writ petitioners by adding the expression "at par with the Assistant Surgeons of the Health Department" and, we may add that the Finance Department could not have taken any objection, because the said Government order was issued with the concurrence of the Finance Department, as recorded in the Government order itself.

For all these reasons, we see no reason to interfere with the impugned judgment. The appeal is dismissed. There shall be no order as to the costs.

17. Whereas, matter was taken up again with State Finance Department for concurrence and Finance Department conveyed concurrence as below:

"The Finance Department conveys concurrence to the implementation of the Court Judgement in the matter."



18. Whereas, matter was also taken up with Department of Law Justice and Parliamentary Affairs for advice/opinion as to whether the Department should file LPA/SLP in both Judgements passed by Hon'ble High Court vide its order dated 12.10.2017 titled J&K Veterinary Doctors Association in SWP No. 130/2011 and order dated 22.12.2017 in LPA, SWP No 160/2017 titled P.K.Abrul V/S State & Others or to consider claim of the petitioners who advised as under:-
- "Department is advised to comply the judgment in its letter and spirit as there appear to be no grounds for filing of SLP in the matter".*
19. Whereas, with prior approval of Competent Authority concerned (Advisor to Governor), this Department submitted a proposal to State Administrative Council (SAC) for implementation of aforementioned court judgement whereas and SAC conveyed approval to the Departmental proposal vide SAC Decision No. 27/3/2019 dated 25.01.2019
20. "Now, sanction is hereby accorded to implementation of the order dated 12.10.2017 passed by the Hon'ble High Court in SWP No. 1302/2011 titled "J&K Veterinary Doctors Association and others V/S State of J&K and others V/s Dr. P. K. ABrol and others v/s State of J&K and others' read with order dated 22.12.2017 passed in PLA SW No. 160/2017 titled "State of J&K and others v/s Dr. P. K. Abrol and others".
21. Consequent to above, sanction is also accorded to grant of 3rd Time Bound Promotion in favour of the petitioners having 5 years of active service after grant of 2nd time bound promotion by giving effect to Government Order No. 3-ASH of 2010 dated 01.01.2010 notionally w.e.f. 01.01.1996 and monetarily w.e.f. 17.02.2004 on the pattern of SRO-43 of 2004 dated 17.02.2004.
22. This order will be subject to the outcome of appeal (s)/SLP (s) before any Competent Court of Law.

By order of the Government of Jammu and Kashmir.

Sd/-

(Dr. Asgar Hassan Samoon)IAS
Principal Secretary to Government

No: ASH/Lit/AH/54/2016

Dated: 18.02.2019

Copy to the:-

1. Advocate General, J&K, Jammu.
2. Commissioner / Secretary to Government, General Administration Department.
3. Secretary to Government, Department of Law, Justice & Parliamentary Affairs.
4. Director, Animal / Sheep Husbandry Department, Jammu / Kashmir.
5. Director, Archives, Archaeology & Museums, J&K.
6. OSD with Advisor
7. (KS).
8. Pvt. Secretary to Principal Secretary to Government, Animal/Sheep Husbandry Department.
9. Private Secretary to Chief Secretary.
10. Private Secretary to Principal Secretary to Finance Department.
11. I/C Website, ASH Department.
12. Government Order file/Stock File.

(Latief Ahmad)

Under Secretary to Government

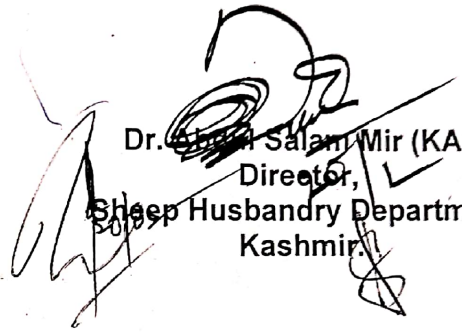
Government of Jammu and Kashmir
Directorate of Sheep Husbandry Kashmir

No: - DSHK /Estt-01/G/017/ 11452 - 80

Dated: - 20-02-2019.

Copy of the Government Order No. 27-ASH of 2019 Dated:18.02.2019 forwarded to:-

1. All Drawing and Disbursing Officers for information and necessary action.
2. ✓ I/C website SDH, Kashmir.



Dr. Ghazi Salam Mir (KAS)
Director,
Sheep Husbandry Department
Kashmir.