



Reserved on: 12.05.2026

Pronounced on 22.05.2026

Uploaded on: 22.05.2026

Whether the operative part or full judgment is pronounced:

Full

BISMA BASHIR **...PETITIONER(S)/APPELLANT**

Through: - Mr. S. R. Hussain, Advocate.

Vs.

UT OF J&K AND OTHERS ...RESPONDENT(S)

Through: - Mr. Faheem Nisar Shah, GA.

CORAM: HON'BLE MR. JUSTICE SANJAY DHAR, JUDGE

1) The petitioner, through the medium of present petition, has sought a direction upon the respondents to issue formal order of engagement in her favour in respect of the post of Messieurs (female) in the Associated Hospital of Government Unani Medical College, Ganderbal.

2) The brief facts, emanating from the pleadings of the parties, are that vide Notification No. 01 of 2021 dated 21.10.2021, *inter alia*, two posts of Messieurs, one male and one female, were advertised. Pursuant to the aforesaid advertisement notification, thirteen application forms were



received and the written test of the candidates was conducted on 28.08.2021 at Government Medical College, Srinagar. Thereafter, vide communication No. GUMC/PS/1504-08 dated 11.09.2021, the selection list was published by the respondents. As per the merit secured in the written examination, one Humaira Jan, who had secured 14 marks out of 60, was selected for the post of Messieurs (Female), whereas the petitioner, who had secured 12 marks out of 60, figured at Serial No.1 in the waiting list.

3) After issuance of appointment order in favour of Ms. Humaira Jan, she joined the college, whereafter verification about the genuineness of her testimonials was processed by the respondents. It has been submitted that the verification report in respect of the selected candidate regarding ISM Pharmacist Diploma issued by the J&K Paramedical Council, as well as the matriculation certificate reflecting her date of birth, was received well in time. However, the verification report pertaining to her 12th pass qualification certificate, that was sent to the Secretary, Education Department, Government of UT of Delhi, for confirmation of the authenticity of the said certificate, was received on 28.09.2022, and it was reported that the Delhi State Open School (DSOS) is not recognized/affiliated with the



Directorate of Education, Government of National Capital Territory of Delhi. Upon receipt of the said verification report, the engagement order issued in favour of Humaira Jan as Messieurs (Female) in terms of order No.05-NG of 2022 dated 12.02.2022 has been cancelled by the respondents *ab initio* on 25.12.2022. She was not paid any salary or financial benefit during the intervening period.

4) It appears that, consequent upon the disengagement of Humaira Jan, the petitioner, who was falling in the waiting list, made a representation before the respondents seeking operation of the waiting list, which was not done by the respondents. This prompted the petitioner to file the instant writ petition.

5) It has been contended by the petitioner that once the engagement of Ms. Humaira Jan was cancelled *ab initio* by the respondents on account of the fact that her 12th pass qualification certificate was found to have been issued by an unrecognized institution, it was incumbent upon the respondents to operate the waiting list and offer engagement to the petitioner in place of Ms. Humaira Jan. It has further been submitted that the respondents cannot take advantage of their own negligence and delay in verifying the testimonials



of Ms. Humaira Jan so as to contend that the validity of the waiting list has expired.

6) The respondents, in their reply, have submitted that the select list was issued on 11.09.2021, whereas the engagement of Ms. Humaira Jan was cancelled on 25.10.2022, by which time the validity/life of the waiting list had already expired, therefore, the same could not have been operated upon thereafter.

7) I have heard learned counsel for the parties and perused record of the case.

8) As already stated hereinbefore, the factual aspects of the case are not in dispute. The petitioner has, admittedly participated in the selection process for the post of Messieurs and her name figured in the waiting list (Female). One of the testimonials of the Humaira Jan, the selected candidate, was found to have been issued by an unrecognized institute. Therefore, her engagement was cancelled *ab-initio* in terms of order dated 25.10.2022. It is to be noted that the select list was issued on 11.09.2021. It is also an admitted fact that validity of the waiting list was only for one year and, thus, the same had lost its validity when engagement of Humaira Jan was cancelled. The contention of the petitioner is that because the engagement of Humaira Jan was cancelled *ab*



initio, it is deemed that the post had fallen vacant on the date of issuance of her engagement order and on the said date, the waiting list was still alive and thus it could have been operated by the respondents.

9) A somewhat similar contention came up for determination before the Supreme Court in the case of **Union of India and Ors. vs. G. Ramesh** (2021) 14 SCC 404. In the said case, after holding a departmental examination to the cadre of postman, one candidate was declared selected and was posted as a Postman. However, a complaint was received by the Department that the selected candidate had obtained selection by adopting fraudulent means. After a departmental enquiry, the selected candidate was dismissed from service and the candidate who was second in the merit list approached the Central Administrative Tribunal seeking a direction for his appointment. The Tribunal came to the conclusion that the candidate second in order of merit had a right to be appointed upon dismissal of the candidate who had been earlier appointed. The order of the Tribunal was affirmed by the High Court. The said order came to be challenged before the Supreme Court. The contention of the candidate, who had been appointed after the dismissal of the candidate who was first in order of merit, was that because



the appointed candidate had secured his appointment through fraudulent means, hence his appointment is *void ab initio*. It was urged that the candidate who was second in order of merit should have been appointed. The Supreme Court, while dealing with the aforesaid argument, observed as under:

"6. The facts, as they have emerged on record indicate that the selection process which was initiated in pursuance of the notification dated 4 November 2013 culminated in the order of appointment of G Vijender. Subsequently, his services came to be terminated following the order of dismissal upon the conclusion of the disciplinary enquiry. Once a candidate had been selected upon the conclusion of the selection process and was appointed to the post, the Select List stood exhausted. There was one vacancy. The subsequent dismissal from service of the appointed candidate in 2016 would not either revive the Select List or result in the appointment of the respondent.

*7. This principle emerges from the judgment of this Court in **Thrissur District Co-operative Bank Ltd** where it was held:*

*"3.....When once the selection process is complete and appointment had been made, that process comes to an end and if any vacancy arises on the appointee having joined the post leaves the same, it must be treated as a fresh vacancy and fresh steps in accordance with the appropriate rules should be taken. This view is fortified by the judgment of this Court in **State of Punjab v. Raghubir Chand Sharma**"*

8. Adopting the above view, we have come to the conclusion that the impugned orders of the Tribunal and the High Court cannot be sustained. We accordingly allow the appeal and set aside the impugned judgment and order of the High Court dated 8 February 2018. In consequence, the



Original Application filed by the respondent seeking appointment to the post of postman shall stand dismissed. There shall be no order as to costs.

10) From the foregoing position of law, as has been discussed by the Supreme Court, it is clear that once a candidate has been selected upon conclusion of the selection process and is appointed to the post, the select list stands exhausted. The subsequent dismissal of the appointed candidate from the service for whatsoever reason would not revive either the select list or the waiting list.

11) Applying the aforesaid ratio the present case, once Humaira Jan had joined after her selection, the select list stood exhausted. She may have secured appointment on the basis of a fraudulent certificate, as a consequence whereof her services were disengaged but that would not make any difference to the validity of the select list/waiting list. Therefore, the petitioner is not entitled to seek a direction for operation of the waiting list.

12) Apart from the above, the post, for which the advertisement notice was issued, was filled up on academic arrangement basis. It is clearly mentioned in the order of engagement of Humaira Jan that her engagement is valid only for one year or till the post is filled up on regular basis, whichever is earlier. Thus, otherwise also, the select



list/waiting list could not have been carried forward beyond the period of one year. On this ground also, the petitioner does not have a case.

13) For what has been discussed hereinbefore, I do not find any merit in this petition. The same is dismissed accordingly. Interim direction, if any, shall stand vacated.

(Sanjay Dhar)
Judge

SRINAGAR

22.05.2026

"Bhat Altaf-Secretary"

Whether the **judgment** is reportable: **YES**

