



Government of Jammu and Kashmir

**DIRECTORATE OF SCHOOL EDUCATION KASHMIR**

**Samanderbagh- S.P College Road Srinagar-190001**

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**Subject:** File and conduct SLP against the judgement /Order dated 28-08-2020 passed by Divisional Bench of the Hon'ble High Court at Srinagar in LPA No. 104 /2020 titled Union Territory of J&K and Ors Vs Mohan Lal and Anr (Diary No. 4226/2021)- issuance of Appointment Order thereof

**References:** (i) Administrative Department's letter No. Edu/21/2021-01(29061) dated: 23.04.2024 and letter dated 30.04.2024  
(ii) Form No. 101293 Dated 18-04-2024 received from the Criminal Investigation Department, J&K.

**Order No:** 135 **DSEK of 2024**  
**Dated:** 30 **04 - 2024**

**Whereas,** the Jammu & Kashmir Service Selection Board vide Advertisement Notification No. 02 of 2011, Item No. (536) invited applications for two posts of Lab-Assistants one each for SC and ALC Category for District Cadre Pulwama; *and*

**Whereas,** the Administrative Department vide communication No. Edu-I/459/2016 dated 20-03-2017 forwarded the communication of the J&K Service Selection Board, bearing No. SSB/ Secy/ Sel/2016/19670-75 dated 31-08-2016 and No. SSB/Sel /Secy/ 17/ 1954 dated 14-02-2017, where under the Board after conclusion of selection process had recommended one candidate for the post of Lab-Assistant under SC category in the District Cadre Pulwama for issuance of appointment Order in favour of the selected candidate after completion of codal formalities and other conditions; *and*

**Whereas,** the Directorate of School Education, Kashmir while examining the selection list and documents provided by the selectee (petitioner) namely Shri Mohan Lal S/o Jallu Ram R/o Pathwal Hiranagar, Kathua, figuring at merit serial number 01 under SC Category, having regard to the relevant provisions of the J&K Civil Service (Decentralization and Recruitment) Act, 2010 and rules made thereto, observed that the qualification (viz., Matric) mentioned in the advertisement notification for the said post by the Jammu and Kashmir Service Selection Board, has been issued in contravention to the J&K School Education Subordinate Recruitment Rules, 2008 notified vide SRO 308 of 2008 Dated 16-10-2008, wherein the minimum qualification for direct recruitment for the post of Laboratory Assistant has been prescribed as under:-

**"10+2 with Science or equivalent from any recognized Board or University."**

**And Whereas,** the above issue was taken up with Administrative Department (School Education Department) vide this office communication No. DSEK/NT/SSB/538/2017/Bud,Pul/1127-28 dated 27-07-2017, for further necessary instructions / Orders in the matter; *and*

**Whereas**, after considering the above communication, the Administrative Department vide communication No. Edu-I/459/2016 dated 11/11/2019 conveyed that the matter has been taken up with the J&K Service Selection Board, Jammu/Srinagar vide its communication bearing No. Edu-I/459/2016 dated 30-07-2019, considering the following opinion received from the General Administration Department received vide U.O. No. GDC-13-CM/2019 dated 07-05-2019:

***"Returned: In terms of Recruitment Rules of the School Education Department, Minimum Qualification prescribed for the post of Lab. Assistant under direct recruitment is 10+2 or equivalent from any recognized University/Board. The Instant advertisement notification for the post of Lab. Assistant has been issued de hors the rules, by the J&K Service Selection Board, as such, the entire selection process is ab-initio wrong".***

***"The Department is advised to inform J&K, Service Selection Board to cancel the selection of the two candidates, selected vide communication dated 31-08-2016 for the post of Lab. Assistant and re-advertise these posts afresh, as the candidates cannot be selected on the basis of advertisement Notice, which is not in consonance with the recruitment rules of the Department";***

**And Whereas**, the selectee namely Shri Mohan Lal S/o Jallu Ram R/o Pathwal Hiranagar, Kathua challenged the aforesaid communication of the Administrative Department dated 30-07-2019 before the Hon'ble High Court of J&K and Ladakh at Srinagar through WP(C) No. 1673/2019 CM No. 3087/2019 c/w SWP No 2419/ 2018 which was disposed of by the Hon'ble Court on 11.02.2020 with following directions:

***"...Be that as it may, the impugned communication No. GDC - 13 /CM/ 2019, dated 07.05.2019 is quashed. The official respondents are directed to take the selection process initiated pursuant to the notification no. 02 of 2011 dated 28.12.2011 to its logical conclusion and pass appropriate orders in this regard within a period of six weeks from the date copy of this order is served upon them. Any subsequent communication(s), as was highlighted by the counsel for the respondents including one dated 30.07.2014, therefore, is inconsequential and shall not be acted upon. Petition disposed of along-with connected petition...";***

**And Whereas**, the above Order dated 11.02.2020 passed by the Hon'ble Court of Jammu and Kashmir was assailed by the School Education Department by filing LPA No. 104/2020. The Hon'ble Court dismissed the appeal by its Judgment dated 28.08.2020 with the following directions:

***"...We are in agreement with the view taken by the learned Writ Court inasmuch as on mere technicality of advertisement notice, which has culminated in the selection of the Writ petitioner/respondent No. 1 herein cannot be quashed or cancelled. This course of action, if allowed, will cause serious prejudice to the rights and interests of the Writ petitioner/***

**respondent No. 1 herein, who has duly participated in the selection process so initiated by the appellants/ respondents before the learned Writ Court and, after such participation, found his place in the selection list on the basis of his merit. No fault can be attributed to the Writ petitioner/ respondent No. 1 herein in the matter as it was the prerogative of the appellants/ respondents in the Writ petition to prescribe the relevant qualification for the post in question in accordance with the rules governing the field. The apart, admittedly, the Writ petitioner/ respondent No. 1 herein possesses the qualification of 10+2 as prescribed by the rules in vogue, as such, he cannot be said to be not eligible for the aforesaid post and his selection cancelled/quashed, more so when no other candidate is aggrieved of the selection of the writ petitioner/respondent No. 1 herein in the case on hand....".**

**And Whereas,** the School Education Department decided to challenge the above Judgment passed by the Division Bench of the Hon'ble High Court of Jammu & Kashmir and SLP No. 4226/2021 was filed before the Hon'ble Supreme Court of India. However, the SLP ibid was dismissed by the Hon'ble Supreme Court on 03.01.2023 on technical grounds; and

**Whereas,** this Directorate vide communication No: DSEK/ Legal/ 23/ 19/ NT/ 1122-1123, dated: 15/11/2023 furnished the detailed report of the case to Ld. Counsel, Advocate on Record, Hon'ble Supreme Court of India with a copy to the Administrative Department by virtue of which the Ld. Counsel has been requested to take necessary steps for restoration of the SLP; and

**Whereas,** the petitioner filed an application dated: 11-07-2023 before the Administrative Department seeking therein his appointment as Lab Assistant as per the selection made the JKSSB; and

**Whereas,** as sequel to the Administrative Department's communication No. Edu/21/2021-01(29061) dated 03-04-2024, process for mandatory Character & Antecedent verification was initiated in respect of the petitioner namely Shri Mohan Lal S/oJallu Ram R/o Village Pathwal near Ganesh Mandir, Kathua and has been reported satisfactory vide No. 101293 Dated 18-04-2024 received from Criminal Investigation Department, J&K; and

**Whereas,** the Administrative Department vide communication bearing No. Edu/21/2021-01 (29061) dated 23/04/2024 conveyed:

- i. Approval of the Competent Authority for appointment of the petitioner against the post Laboratory Assistant, School Education Department, District cadre Pulwama in relaxation of Rule-14 of the J&K Civil Service (Decentralization and Recruitment) Rules, 2010, up-to 30-04-2024 after fulfilment of all codal formalities governing the appointment and
- ii. Clearance/No objection of Election Commission of India duly forwarded by the General Administration Department vide U.O No. ADM/OIII/68/2024-09-GAD dated 15-04-2024 regarding issuance of appointment order of the Petitioner;

**And Whereas,** vide letter No. DSEK/ 23/ 19/ NT/ 443 dated 27-04-2023, the matter was again taken up with the Administrative Department for instructions/orders, relating to restoration of SLP before the Hon'ble Supreme Court of India and the effect on the process initiated thereof; and

**Whereas,** vide communication No. Edu/21/2021-10(29061) dated 30.04.2024, the Administrative Department has conveyed 'to go ahead as per the approval already conveyed vide letter dated 23.04.2024'.

**Now therefore,** in compliance to Judgment passed on 11.02.2020 by the Hon'ble High Court of Jammu and Kashmir in the WP(C) No. 1673/2019 CM No. 3087/2019 c/w SWP No 2419/ 2018 titled Mohan Lal Vs State of J&K & Ors and Order passed on 28.08.2020 in the LPA No. 104/2020 and approval of the competent authority conveyed by the School Education Department vide communication No. Edu/21/2021-01 (29061) dated 23/04/2024, sanction is hereby accorded to the temporary appointment of the petitioner with following particulars, as **Laboratory Assistant** under SC category, District Cadre Pulwama in the pay level 2 (19900-63200):

Merit S.No	Int. Sl Num	Roll No	Candidates Name	Fathers Name	Address	D.O.B	Category	Marks Obtained (out of 500) on Matriculation	Name of the institute with year of passing
1	4	25140017838	Mohan Lal	Jallu Ram	Pathwal Hiranagar, Kathua	26-11-1987	SC	226	JK BoSE, 2003

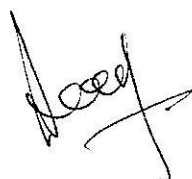
The appointee shall report to the Chief Education Officer, Pulwama within a period of 21 days from the date of issuance of this Order, failing which he shall forfeit his right to appointment and the same shall be deemed to have been cancelled ab-initio, without any further notice.

The appointee shall be allowed to join only on the production of the following certificates (in original) to be verified subsequently:

- Academic/ Qualification Certificate(s).
- Matriculation/ Date of Birth Certificate.
- Health certificate from the Chief Medical Officer of the concerned District.
- Domicile Certificate issued by the Competent Authority.
- Valid relevant Category Certificate.

The appointment of the above candidate shall further be subject to the following conditions:

- The appointee shall furnish an undertaking in the form of an affidavit dully attested by the Judicial Magistrate 1<sup>st</sup> Class, to the effect that he will not apply for his transfer in any case, from the place where he has been adjusted /posted and also if on verification his qualification/ D.o.B Certificate/ reserved category certificate/ domicile certificate from the concerned issuing authorities is found fake/ forged, his appointments shall be deemed to have been cancelled ab-initio, without any notice.



- ii. That if the candidate has taken loan for self employment from DIC/ Employment Department, to be ascertained from the District Industries Centre and the District Employment & Counselling Centre of the domicile district, he shall relinquish the proprietorship of the unit/ enterprise and also stakes, if any, in such a self employment unit/ enterprise before joining the Government service. He shall be required to repay the entire loan liability in suitable EMIs to be worked out by the DDO concerned from his salary. The DDO concerned shall obtain an affidavit from the appointee regarding both relinquishment of proprietorship and stakes, if any, in such a self employment unit/ enterprise and recovery to be made and also personally monitor its recovery.
- iii. In case, at any stage, it emerges that the certificates/any-relevant document furnished/produced by the petitioner is/are fake/fictitious, the appointment order shall be deemed to have been cancelled ab-initio and criminal proceedings shall be initiated against the candidate.
- iv. The salary of the petitioner shall not be drawn and disbursed to him unless authorization to this effect is sought from the CEO concerned after receipt of genuineness of all the documents mentioned above.
- v. The concerned CEO/DDO shall before releasing the salary verify the recognition of the Institute, equivalence/ validity of the degrees/course pursued by the candidate.
- vi. The appointee shall be on probation for a period of 02 (two) years and shall be governed under New Pension Scheme as per SRO 400 of 2009 Dated 24-12-2009.
- vii. The appointment shall be subject to the outcome of the SLP / writ petition, if any pending before competent court of Law

**Sd/-  
Director**


School Education Kashmir

Dated: 30-04-2024

No: DSEK/NT/25-172/ABMH/1262-67

Copy to:

1. Commissioner Secretary to Government, General Administration Department, Civil Secretariat J&K for information.
2. Administrative Secretary, School Education Department, Civil Secretariat J&K for information. This has reference to your letter No: No. Edu/21/2021-01 (29061) dated: 23/04/2024.
3. Mr Parth Awasti, Learned Counsel, Hon'ble Supreme Court of India for information.
4. Chief Education Officer Pulwama for information and with the request to issue the Posting Order in respect of the petitioner against the available post of Laboratory Assistant in the District after completion of all requisite formalities/conditions.
5. Shri Mohan Lal S/o Jallu Ram R/o Village Pathwal Near Ganesh Mandir, Kathua (Petitioner) for information.
6. In-charge IT Section for uploading the Order on the official website of Directorate for information of all concerned.
7. Order file /Stock file.

  
**Personnel Officer** 2024  
Directorate of School Education  
Kashmir