

BANARAS HINDU UNIVERSITY
MEETING OF THE EXECUTIVE COUNCIL
TO BE HELD ON 07.12.2019 AT 10.00 A.M. AT IIC, NEW DELHI

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ITEM 15

TO CONSIDER the order of the Vice-Chancellor cancelling the appointment of Dr. R P Maurya as Assistant Professor in the Department of Ophthalmology forthwith in compliance to the order dated 17.2.2014 of Hon'ble High Court in the Civil Misc. Writ Petition No.66598 of 2013 (Abhishek Chandra and others Vs. Union of India & Others) and reverting back to his earlier post of Senior Medical Officer in the Health Centre, BHU.

NOTE

On 14.02.2013 an advertisement No.05/2012-2013 was published with the cut-off date as 21.03.2013 subsequently extended up to 30.03.2013 for filling-up of 117 posts of Professor, 195 posts of Associate Professor and 333 posts of Assistant Professor in different departments at Banaras Hindu University. Accordingly, the following posts were advertised in the Faculty of Medicine, IMS.

Department of Ophthalmology: (i) 01 post of Professor in Ophthalmology under General Category(Post Code-1496) (ii) 01 post of Associate Professor in Ophthalmology under General Category (Post Code-2655) (iii) 01 post of Assistant Professor under OBC Category (Post Code-3009)

Department of Orthopaedics & Trauma Orthopaedics:-

- (i) 01 post of Assistant Professor in Orthopaedics (Occupational Therapist) under General Category (Post Code-3010) (ii) 01 post of Assistant Professor in Orthopaedics (Physical Medicine & Rehabilitation) under OBC Category (Post Code-3011) (iii) 01 post of Associate Professor in Orthopaedics under SC category (Post Code-2656) (iv) 02 posts of Associate Professor in Trauma Orthopaedics under SC (one post) and General (one post) categories(Post Code-2657) (v) 01 post of Assistant Professor in Orthopaedics (Physiotherapy) under SC category (Post Code-3012)

Department of Anatomy, IMS, BHU:- (i) 01 post of Professor in Anatomy (Teratology) under General Category (Post Code-1490) (ii) 01 post of Professor in Anatomy under OBC Category (Post Code-1491) (iii) 02 posts of Associate Professor in Anatomy under SC (one post) and ST (one post)

categories (Post Code-2640) (iv) 02 posts of Assistant Professor in Anatomy under ST (one post) and OBC (one post) categories (Post Code-3992) (v) 01 post of Assistant Professor in Anatomy (Electron Microscopy) under General Category (Post Code-3993)

The qualification for the aforesaid posts was advertised as prescribed by the Medical Council of India in its Regulation as amended up to 2009.

Owing to the fact that when the Interview letter was not issued to Dr. Abhishek Chandra for the post of Associate Professor in Ophthalmology, IMS, BHU, Dr. O.P.S. Maurya for the post of Professor in Ophthalmology, Dr. Sandeep Kumar for the post of Associate Professor in Orthopaedics (reserved for SC) in the Department of Orthopaedics and for the post of Associate Professor in Trauma Orthopaedics (reserved for SC), IMS, BHU, Dr. Royana Singh for post of Professor of Anatomy (Teratology) in the Department of Anatomy, IMS, BHU, they filed a Civil Miscellaneous Writ Petition No.66598 of 2013 (Dr. Abhishek Chandra & Others Vs. Union of India & Others) in the Hon'ble High Court of Judicature at Allahabad praying therein to quash the Rolling Advertisement No.5/2012-13 issued by the BHU as the proper qualification as prescribed by MCI under Regulation 1998 as amended vide amendment Regulation 2010 had not been advertised. After hearing the case the Hon'ble Court passed an interim order dated 03.02.2014 which are given below:

"Arguments are in progress. Serious issues with regard to the interpretation of Statute 15.02, Statute 26 and powers of the Executive Committee to delegate all the powers to lay down academic qualification upon a Board is permissible or not, are involved.

Shri Ravi Kant, learned Senior Counsel appearing on behalf of Banaras Hindu University, seeks time to assist the Court.

On his request, the case is adjourned for 7.2.2014. It has been stated by the learned counsel appearing on behalf of the Banaras Hindu University that till 7.2.2014, the recommendations made for the posts which are the

subject matter of consideration, in the present writ petition, shall not be put up before the Executive Council.

List/ put up this case on 7.2.2014, as an unlisted case."

Subsequently, the above interim order was placed before the Executive Council of Banaras Hindu University at its meeting held on 05.02.2014. The Executive Council after considering the above order resolved vide ECR No.183 dated February 5, 2014 as under:

CONSIDERED the recommendations of Selection Committee for direct recruitment and promotion of faculty under Career Advancement Scheme in the various departments of the University and Group 'A' Officers. The Executive Council was informed that meetings of Selection Committee for direct recruitment and promotion of faculty under CAS as well as Group 'A' Officers in the various departments of the University were held during the months of December, 2013 till 2nd February, 2014, and the recommendations of the selection committees were placed in sealed covers for consideration of the Executive Council. The Executive Council was further informed that aggrieved by not receiving interview letters, some applicants have approached the High Court. In the case of Writ — A No.-66598 of 2013, the Court has passed an interim order that the recommendations made for the posts which are the subject matter of consideration, in the present writ petition, shall not be put up before the Executive Council. Accordingly, the recommendation made against the posts of Associate Professor in Ophthalmology, (Post Code:2655) and Associate Professor in Orthopaedics (Post Code:2657), were not placed before the Executive Council.

The Executive Council discussed the issue and decided to resolve as under:-

"RESOLVED that the recommendations of the Selection Committees for recruitment/promotion under CAS of faculty in different Institutes, Faculties and MMV, be approved as per ANNEXURE-II.

RESOLVED FURTHER that the Vice-Chancellor be authorized to open the envelope and approve the recommendation of selection committee in the case of posts of Associate Professor in Ophthalmology (Post Code-2655) and Associate Professor in Orthopaedics (Post Code-2657) as and when permitted by the Hon'ble Court."

After consideration of the aforementioned Interim Order of the Hon'ble High Court in the Writ Petition No.66598 of 2013 the Executive Council opened and approved the recommendation of Selection Committee for the post of Assistant Professor in Ophthalmology and accordingly appointment letter to the selected candidate Dr. R.P. Maurya was issued vide letter No.AANI-RAC/9529-9545 dated 6,2.2014 and he joined the post on 07.02.2014, Subsequently after hearing the case the Hon'ble High Court allowed the Civil Misc. Writ Petition No.66598 of 2013 and quashed the Rolling Advt. No.5/2012- 13 for the posts which were the subject matter of the Writ Petition. The operative portion of the judgement and order dated 17.02.2014 of the Hon'ble High Court in the Civil Miscellaneous Writ Petition No.66598 of 2013 is reproduced below:-

"For the reasons recorded above, the writ petition is allowed. The advertisement in so far as it pertains to the post of Associate Professor and Assistant Professor, Professors in the department of Orthopaedics, Ophthalmology and Anatomy are hereby quashed. The University is directed to publish an advertisement afresh in accordance with the qualification as lawfully prescribed. Parties are at liberty to apply as and when the fresh advertisement is made."

Further, aggrieved by the non-declaration of result of the selection for the post of Associate Professor in Trauma Orthopaedics in the Department of Orthopaedics, IMS, BHU, Dr. Saurabh Singh filed a Civil Miscellaneous Writ Petition No.17668 of 2014 in the Hon'ble High Court, Allahabad praying therein that the result of the post of Associate Professor in Trauma Orthopaedics under General category, IMS, BHU be declared.

After hearing of the case in the said writ petition of Dr. Saurabh Singh, the Hon'ble High Court passed the following judgment and order on 26.03.2014 in the Civil Miscellaneous Writ Petition No.17668 of 2014 (Dr, Saurabh Singh Vs, Union of India and three others). **"Hoard learned counsel for the petitioner, Sri Ajit Kumar Singh, learned counsel for the respondent-University and Sri H.N. Shukla, learned counsel for the Union of India.**

On behalf of the respondent —Banaras Hindu University it is stated that the result of the selections held shall be declared keeping in mind the

judgement of this Court in Civil Misc. Writ Petition No.66598 of 2013 (Dr. Abhishek Chandra & 4 others Vs. Union of India & 4 others) decided on 17th February, 2014 within two weeks from the date a certified copy of this order is filed before the Vice-Chancellor of the University. It is ordered accordingly.

The present writ petition is accordingly disposed of."

Following the decision of the Hon'ble High Court passed on 26.03.2014 in the Civil Miscellaneous Writ Petition No.17668 of 2014 (Dr. Saurabh Singh Vs. Union of India and three others), the then Vice-Chancellor, BHU examined the matter and passed a conscious order dated 30.03.2014 to open the envelope and approve the recommendation of the Selection Committee for the post of Associate Professor in Trauma Orthopaedics, IMS, BHU under General category keeping in view the judgment of the Hon'ble High Court in Civil Misc. Writ Petition No.66958 of 2013 (Dr. Abhishek Chandra and 4 Others Vs. Union of India & 4 Others) as this Hon'ble High Court in its order dated 17.02.2014 in Writ Petition No.66598 of 2013 had, inter alia, ordered for quashing of advertisement for the post of Associate Professor of the Department of Orthopaedics only and not for the post of Associate Professor of Trauma Orthopaedics in Trauma Centre. Accordingly on the order and approval of the then Vice-Chancellor appointment letter was issued to the selected candidate Dr. Saurabh Singh and he joined the post accordingly. The Executive Council vide ECR No.183 dated February 5, 2014 had approved the recommendation of selection committee for the post of Assistant Professor in Ophthalmology, Department of Ophthalmology and accordingly Dr. RP Maurya had been issued appointment letter dated 6.02.2014 and he joined the post on 7.02.2014. While the judgment and order of the Hon'ble High Court at Allahabad came on 17.02.2014 quashing the advertisement of post of

Assistant Professor in Ophthalmology, Department of Ophthalmology, IMS, BHU.

However, no needful action seems to have been taken by the then concerned officers (office) in terms of the order dated 17.02.2014 of the Hon'ble High court passed in the Civil Misc. Writ Petition No.66598 of 2013 in case of appointment of Dr. R P Maurya as Assistant Professor in Ophthalmology, Department of Ophthalmology, IMS, BHU. Further, the University had filed a Special Leave Petition (Civil) No.14386 of 2014 in the Hon'ble Supreme Court, New Delhi against the judgment and order dated 17.2.2014 passed by the Hon'ble High Court at Allahabad in the Civil Misc. Writ Petition No.66958 of 2013 (Dr. Abishek Chandra & others Vs. Union of India & others). After hearing the case, the Hon'ble Supreme Court stayed the operation of the Order of the Hon'ble High Court at Allahabad passed on 17.2.2014 in the aforesaid writ petition. In the meantime, Dr. Sandeep Kumar had filed a Contempt Petition No. 2828 of 2014 in the Hon'ble High Court at Allahabad which proceeding was deferred by the Hon'ble Court dated 10.7.2014 in terms of the interim order passed by the Hon'ble Supreme Court in SLP(Civil) No.14386 of 2014 and passed the following order:

"Shri V K Singh, learned Senior Counsel assisted by Sri Ajit Kumar Singh, learned counsel for opposite parties, has filed counter affidavit annexing therewith order of the Apex Court in S.L.P. (Civil) No.14386/2014, whereby order of this Court dated 17.2.2014 in Civil Misc. Writ Petition No.66598/2013, dated 17.02.2014 for which contempt has been filed, has been stayed.

Sri Shailendra has entered suo moto appearance on behalf of O.P.No.4 and has filed counter affidavit, which is taken on record.

Sri Khitij Shailendra has filed appearance on behalf of O.P.No.5, which is taken on record.

Pursuant to order dated 2.5.2014, Dr.G.S.Yadav, Registrar, Banaras Hindu University is present in the Court. He is discharged from further appearance, unless ordered otherwise.

Learned counsel for applicant, if he so desires, may file rejoinder affidavit to the counter affidavit filed today.

List the contempt application after the decision of the Apex Court, showing the names of Sri Kshitij Shailendra and Sri Shailendra, as counsels for opposite parties."

Subsequently, the Hon'ble Supreme Court dismissed as withdrawn the SLP(Civil) No.14386 of 2014 of the University. Hence, the University has filed a Review Petition in the Hon'ble High Court at Allahabad. The said Review Petition is still pending in the Hon'ble High Court at Allahabad. However, the ground regarding order of quashing of advertisement for appointment of Assistant Professor in Ophthalmology, Department of Ophthalmology, IMS, BHU was not taken in the Review Petition.

Now when there is no stay on the operation of the order passed by the Hon'ble High Court in the Civil Misc. Writ Petition No.66598 (Dr. Abhishek Chandra and others Vs. Union of India & Others) it becomes operative. Further, after the SLP No.14386 of 2014 was dismissed as withdrawn by the Hon'ble Supreme Court an Impleadment Application was filed in 2019 in the said Contempt Petition by the petitioners for adding the name of Professor Rakesh Bhatnagar, Vice-Chancellor, BHU, Dr. Neeraj Tripathi, Registrar, BHU and Dr. Sunita Chandra, Joint Registrar' (Recruitment & Assessment Cell), BHU as respondents 6, 7 and 8.

The Hon'ble High Court of Judicature at Allahabad passed an Interim Order in the Contempt Application (Civil Contempt Application No. 2828 of 2014) dated 17.05.2019 which is quoted below:-

"Learned Counsel for the applicants is permitted to implead new incumbents, who is holding the post of opposite parties. List this matter in first week of July, 2019. It is always open to the newly impleaded opposite party No.8 to comply with the Writ Court Order and to file his objection/affidavit of compliance, meanwhile".

The Counter Affidavit of Smt. Sunita Chandra, Joint Registrar (RAC), respondent no. 8 was filed in the Contempt Petition No.2828 of 2014 in the Hon'ble High Court at Allahabad in July, 2019.

After the case came up for hearing on 28.11.2019, the Senior Standing Counsel has sent his aforementioned advice vide his e-mail dated 28.11.2019:

"Shri V.K. Upadhyaya, Sr. Advocate at Hon'ble High Court at Allahabad, Legal Advisor of BHU and Sr. Standing Counsel of the University vide his e-mail dated November 28th 2019 at 10.10 P.M. has sent an opinion note to the Registrar, BHU regarding contempt Petition No.2828 of 2014 (Dr. Sandeep Kumar and another vs. Dr. Lalji Singh, Ex-Vice-Chancellor, BHU & Others). The content of the opinion note of Shri VK Upadhyaya is reproduced below:-

The above contempt matter was taken up yesterday by the High court and it was of the prima facie view that contempt of the writ court order dated 17.02.2014 was made out. The court was inclined to summon the present Vice-Chancellor, the Registrar and the Dy. Registrar (RAC), who have all been impleaded by name, for framing of charges. On my insistence that the matter be heard in detail it has been posted for 04.12.2019.

The contempt alleged is the appointment of Dr. Saurabh Singh and of Dr. R.P. Maurya despite the stay order and the subsequent quashment of the advertisement regarding the posts on which they were appointed. The justification given by the university regarding appointment of Dr. Saurabh Singh is based upon a detailed consideration and order passed by the Vice-Chancellor finding his claim to be justified holding that the said post was not the subject matter of the writ petition. The said justification appears to be plausible. However, the justification given by the university regarding appointment of Dr. R.P. Maurya on the post of Assistant Professor in Ophthalmology does not seem to be convincing when the university says that none of the petitioners was an applicant for the said post and it was not the subject matter of the writ petition. A careful reading of the writ petition shows that the said post was subject matter of the writ petition and the advertisement relating to the said post was specifically quashed.

In the circumstances aforesaid, it is urgently required that the appointment of Dr. R.P. Maurya as Assistant Professor Ophthalmology be directed to be kept in abeyance till the pending Review Application

filed by the university against the said judgment dated 17.02.2014 is not decided by the High Court. However, since the appointment of Dr. R.P.Maurya was made on approval of the Executive Council the Vice-Chancellor may pass appropriate orders and report the matter to the EC.

Please consider and discuss urgently.

Based on the facts on record and in the light of the opinion given by the Legal Advisor and Sr. Standing Counsel of the University at High Court of Judicature at Allahabad, The Vice-Chancellor vide order No. AB/14-L-1031/39591 dated November 30, 2019 (**Annexure-15**) ordered that the appointment of Dr. R P Maurya as Assistant Professor in the Department of Ophthalmology be cancelled forthwith in compliance to the order dated 17.2.2014 of Hon'ble High Court in the Civil Misc. Writ Petition No.66598 of 2013 (Abhishek Chandra and others Vs. Union of India & Others) and he be reverted back to his earlier post of Senior Medical Officer in the Health Centre, BHU. The post of Assistant Professor in Department of Ophthalmology be advertised afresh.

The Hon'ble High Court of Judicature at Allahabad be also informed of the compliance of the order."

The Executive Council may consider and ratify the orders of the Vice-Chancellor.



Ref.No.AB/14-L-1031/

Date: November 30, 2019

OFFICE ORDER

I am directed to quote herewith the order dated 30.11.2019 of the Vice-Chancellor, BHU in compliance of the judgment and order dated 17.2.2014 of the Hon'ble High Court of Judicature at Allahabad passed in the Civil Misc. Writ Petition No.66598 of 2013 (Dr. Abhisek Chandra and others-Vs-Union of India and others).

"Shri V.K.Upadhyya, Sr. Advocate at Hon'ble High Court at Allahabad, Legal Advisor of BHU and Sr. Standing Counsel of the University vide his e-mail dated November 28th 2019 at 10.10 P.M. has sent an opinion note to the Registrar, BHU regarding contempt Petition No.2828 of 2014 (Dr. Sandeep Kumar and another vs. Dr. Lalji Singh, Ex-Vice-Chancellor, BHU & Others). The content of the opinion note of Shri VK Upadhyya is reproduced below:-

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The contempt alleged is the appointment of Dr.Saurabh Singh and of Dr.R.P. Maurya despite the stay order and the subsequent quashment of the advertisement regarding the posts on which they were appointed. The justification given by the university regarding appointment of Dr.Saurabh Singh is based upon a detailed consideration and order passed by the Vice-Chancellor finding his claim to be justified holding that the said post was not the subject matter of the writ petition. The said justification appears to be plausible. However, the justification given by the university regarding appointment of Dr.R.P.Maurya on the post of Assistant Professor in Ophthalmology does not seem to be convincing when the university says that none of the petitioners was an applicant for the said post and it was not the subject matter of the writ petition. A careful reading of the writ petition shows

URGENT
Dr. Abhisek Chandra
AC-Maurya
before 22.11.19

that the said post was subject matter of the writ petition and the advertisement relating to the said post was specifically quashed.

In the circumstances aforesaid, it is urgently required that the appointment of Dr.R.P.Maurya as Assistant Professor Ophthalmology be directed to be kept in abeyance till the pending Review Application filed by the university against the said judgement dated 17.02.2014 is not decided by the High Court. However, since the appointment of Dr. R.P.Maurya was made on approval of the Executive Council the Vice-Chancellor may pass appropriate orders and report the matter to the EC.

Please consider and discuss urgently.

Accordingly all the records/files related to the cases were called from the Law Officer (Legal Cell), BHU and the Law Officer (Legal Cell), BHU has sent the same.

On detailed and careful perusal of the records of the case submitted by the (Legal Cell) BHU the following facts have emerged:-

On 14.02.2013 an advertisement No.05/2012-2013 was published with the cut-off date as 21.03.2013 subsequently extended up to 30.03.2013 for filling-up of 117 posts of Professor, 195 posts of Associate Professor and 333 posts of Assistant Professor in different departments at Banaras Hindu University.

Accordingly, the following posts were advertised in the Faculty of Medicine, IMS.

Department of Ophthalmology.

- (i) 01 post of Professor in Ophthalmology under General Category(Post Code-1496)
- (ii) 01 post of Associate Professor in Ophthalmology under General Category (Post Code-2655)
- (iii) 01 post of Assistant Professor under OBC Category (Post Code-3009)

Department of Orthopaedics& Trauma Orthopaedics:-

- (i) 01 post of Assistant Professor in Orthopaedics (Occupational Therapist) under General Category (Post Code-3010)
- (ii) 01 post of Assistant Professor in Orthopaedics (Physical Medicine & Rehabilitation) under OBC Category (Post Code-3011)
- (iii) 01 post of Associate Professor in Orthopaedics under SC category (Post Code-2656)
- (iv) 02 posts of Associate Professor in Trauma Orthopaedics under SC (one post) and General (one post)categories(Post Code-2657)
- (v) 01 post of Assistant Professor in Orthopaedics (Physiotherapy)

under SC category (Post Code-3012)

Department of Anatomy, IMS, BHU:-

- (i) 01 post of Professor in Anatomy (Teratology) under General Category (Post Code-1490)
- (ii) 01 post of Professor in Anatomy under OBC Category (Post Code-1491)
- (iii) 02 posts of Associate Professor in Anatomy under SC (one post) and ST (one post) categories (Post Code-2640)
- (iv) 02 posts of Assistant Professor in Anatomy under ST (one post) and OBC (one post) categories (Post Code-3992)
- (v) 01 post of Assistant Professor in Anatomy (Electron Microscopy) under General Category (Post Code-3993)

The qualification for the aforesaid posts was advertised as prescribed by the Medical Council of India in its Regulation as amended up to 2009.

Dr. Abhishek Chandra had applied for the post of Associate Professor in Ophthalmology under General category (Post Code-2655), Dr. O.P.S. Maurya had applied for the post of Professor in Ophthalmology under General category (Post Code-1496). Dr. Abhishek Chandra was not recommended for interview by the FAC-1 and FAC-2 for the post of Associate Professor in Ophthalmology (Post Code-2655) under General category as he did not fulfil the advertised qualification for the said post.

Dr. Prashant Bhushan had applied for the post of Associate Professor in Ophthalmology (Post Code-2655) under General category. He was recommended by the FAC-1 and FAC-2 to be called for interview for the post of Associate Professor of Ophthalmology as he was fulfilling all the advertised qualifications and was found eligible to be called for interview against the post of Associate Professor of Ophthalmology.

Dr. O.P.S. Maurya was not recommended for the post of Professor in Ophthalmology (Post Code-1496) under General category due to not fulfilling the recruitment qualification. In fact none of the applicants was found suitable to be called for interview for the post of Professor in Ophthalmology (Post Code-1496) under General category. Hence, no selection was made against the said post.

Dr. R.P. Maurya along with others had applied for the post of Assistant Professor in Ophthalmology (Post Code-3009) which was advertised under OBC category. He was found eligible to be called for interview by the FAC-1 and FAC-2 of the Department of Ophthalmology, IMS, BHU for the post of Assistant Professor in Ophthalmology (Post Code-3009) under OBC category along with others. He appeared before the Selection Committee along with others and was recommended by the Selection Committee for appointment to the said post of Assistant Professor of Ophthalmology.

Dr. Sandeep Kumar belonging to SC category had applied for the post of Associate Professor in Orthopaedics reserved for SC category (Post Code-2656) and Associate Professor in Trauma Orthopaedics (Post Code-2657) on the one post reserved for SC category.

Dr.Sandeep Kumar was not recommended by the FAC-1 and FAC-2 of the Department of Orthopaedics, IMS, BHU, for the posts of Associate Professor in Orthopaedics (reserved for SC) (Post Code-2656) and Associate Professor in Trauma Orthopaedics (reserved for SC category) (Post Code-2657). None of the candidates was found suitable to be called for interview for the said posts. Hence no selection against these posts were made.

Further, Dr. Saurabh Singh had applied for the post of Associate Professor in Trauma Orthopaedics (Post Code-2657) against one post advertised under General category.

Dr.Saurabh Singh was recommended by the FAC-1 and FAC-2 of the Department of Orthopaedics, IMS, BHU, for the post of Associate Professor in Trauma Orthopaedics (for the post advertised as unreserved) (Post Code-2657). Only Dr.Saurabh Singh was found eligible to be called for interview against the post of Associate Professor in Trauma Orthopaedics under General Category (Post Code-2657) by the FAC-1 and FAC-2 of the Department of Orthopaedics, IMS, BHU.

It is pertinent to mention here that the post at Post Code-2657 in Rolling Advt. No.5/2012-2013, belongs to Trauma Centre.

Since the Department of Trauma Centre was not yet formed, the respective posts of Trauma Centre were advertised under corresponding Departments for the sake of convenience so that the prospective candidates could easily find these positions in the online advertisement.

Dr.Saurabh Singh appeared before the Selection Committee and he was recommended by the Selection Committee for appointment against the said post of Assistant Professor of Trauma Orthopaedics.

The petitioner No.4, Dr.Royana Singh had applied for the post of Professor in Anatomy (Teratology) (Post Code-1490) under General category in the Department of Anatomy, IMS, BHU.

Dr. Royana Singh was not recommended by the FAC-1 and FAC-2 of the Department of Anatomy, IMS, BHU for the post of Professor in Anatomy (Teratology), (Post Code-1490) under General category owing to the fact that she was not eligible to be called for interview. There being no other applicant for the said post no selection was made against the said post.

Owing to the fact that when the Interview letter was not issued to Dr. Abhishek Chandra for the post of Associate Professor in Ophthalmology, IMS, BHU, Dr.O.P.S. Maurya for the post of Professor in Ophthalmology, Dr.Sandeep Kumar for the post of Associate Professor in Orthopaedics (reserved for SC) in the Department of Orthopaedics and for the post of Associate Professor in Trauma Orthopaedics (reserved for SC), IMS, BHU, Dr.Royana Singh for post of Professor of Anatomy (Teratology) in the Department of Anatomy, IMS, BHU, they filed a Civil Miscellaneous Writ Petition No.66598 of 2013 (Dr.Abhishek Chandra & Others Vs. Union of India & Others) in the Hon'ble High Court of Judicature at Allahabad praying therein to quash the Rolling Advertisement No.5/2012-13 issued by the BHU as the proper qualification as prescribed by MCI under Regulation 1998 as amended vide amendment Regulation 2010 had not been

advertised. After hearing the case this Hon'ble Court passed an interim order dated 03.02.2014 which are given below:

“Arguments are in progress.

Serious issues with regard to the interpretation of Statute 15.02, Statute 26 and powers of the Executive Committee to delegate all the powers to lay down academic qualification upon a Board is permissible or not, are involved.

Shri Ravi Kant, learned Senior Counsel appearing on behalf of Banaras Hindu University, seeks time to assist the Court.

On his request, the case is adjourned for 7.2.2014.

It has been stated by the learned counsel appearing on behalf of the Banaras Hindu University that till 7.2.2014, the recommendations made for the posts which are the subject matter of consideration, in the present writ petition, shall not be put up before the Executive Council.

List/ put up this case on 7.2.2014, as an unlisted case.”

Subsequently, the above interim order was placed before the Executive Council of Banaras Hindu University at its meeting held on 05.02.2014. The Executive Council after considering the above order resolved vide ECR No.183 dated February 5, 2014 quoted as under:

CONSIDERED the recommendations of Selection Committee for direct recruitment and promotion of faculty under Career Advancement Scheme in the various departments of the University and Group 'A' Officers.

The Executive Council was informed that meetings of Selection Committee for direct recruitment and promotion of faculty under CAS as well as Group 'A' Officers in the various departments of the University were held during the months of December, 2013 till 2nd February, 2014, and the recommendations of the selection committees were placed in sealed covers for consideration of the Executive Council.

The Executive Council was further informed that aggrieved by not receiving interview letters, some applicants have approached the High Court. In the case of Writ – A No.-66598 of 2013, the Court has passed an interim order that the recommendations made for the posts which are the subject matter of consideration, in the present writ petition, shall not be put up before the Executive Council. Accordingly, the recommendation made against the posts of Associate Professor in Ophthalmology, (Post Code:2655) and

Associate Professor in Orthopaedics (Post Code:2657), were not placed before the Executive Council.

The Executive Council discussed the issue and decided to resolve as under:-

“RESOLVED that the recommendations of the Selection Committees for recruitment/promotion under CAS of faculty in different Institutes, Faculties and MMV, be approved as per ANNEXURE-II.

RESOLVED FURTHER that the Vice-Chancellor be authorized to open the envelope and approve the recommendation of selection committee in the case of posts of Associate Professor in Ophthalmology (Post Code-2655) and Associate Professor in Orthopaedics (Post Code-2657) as and when permitted by the Hon'ble Court.”

After consideration of the aforementioned Interim Order of the Hon'ble High Court in the Writ Petition No.66598 of 2013 the Executive Council opened and approved the recommendation of Selection Committee for the post of Assistant Professor in Ophthalmology and accordingly appointment letter to the selected candidate Dr. R.P. Maurya was issued vide letter No.AA/VI-RAC/9529-9545 dated 6.2.2014 and he joined the post on 07.02.2014.

Subsequently after hearing the case the Hon'ble High Court allowed the Civil Misc. Writ Petition No.66598 of 2013 and quashed the Rolling Advt. No.5/2012-13 for the posts which were the subject matter of the Writ Petition. The operative portion of the judgement and order dated 17.02.2014 of the Hon'ble High Court in the Civil Miscellaneous Writ Petition No.66598 of 2013 is reproduced below:-

“For the reasons recorded above, the writ petition is allowed. The advertisement in so far as it pertains to the post of Associate Professor and Assistant Professor, Professors in the department of Orthopaedics, Ophthalmology and Anatomy are hereby quashed. The University is directed to publish an advertisement afresh in accordance with the qualification as lawfully prescribed. Parties are at liberty to apply as and when the fresh advertisement is made.”

Further, aggrieved by the non-declaration of result of the selection for the post of Associate Professor in Trauma Orthopaedics in the Department of Orthopaedics, IMS, BHU, Dr. Saurabh Singh filed a Civil Miscellaneous Writ Petition No.17668 of 2014 in this Hon'ble High Court praying therein that the result of the post of Associate Professor in Trauma Orthopaedics under General category, IMS, BHU be declared.

After hearing of the case in the said writ petition of Dr. Saurabh Singh, the Hon'ble High Court passed the following judgement and order on 26.03.2014 in

the Civil Miscellaneous Writ Petition No.17668 of 2014 (Dr. Saurabh Singh Vs. Union of India and three others).

“Heard learned counsel for the petitioner, Sri Ajit Kumar Singh, learned counsel for the respondent-University and Sri H.N. Shukla, learned counsel for the Union of India.

On behalf of the respondent –Banaras Hindu University it is stated that the result of the selections held shall be declared keeping in mind the judgement of this Court in Civil Misc. Writ Petition No.66598 of 2013 (Dr.Abhishek Chandra & 4 others Vs. Union of India & 4 others) decided on 17th February, 2014 within two weeks from the date a certified copy of this order is filed before the Vice-Chancellor of the University. It is ordered accordingly.

The present writ petition is accordingly disposed of.”

Following the decision of the Hon'ble High Court passed on 26.03.2014 in the Civil Miscellaneous Writ Petition No.17668 of 2014 (Dr.Saurabh Singh Vs. Union of India and three others), the then Vice-Chancellor, BHU examined the matter and passed a conscious order dated 30.03.2014 to open the envelope and approve the recommendation of the Selection Committee for the post of Associate Professor in Trauma Orthopaedics, IMS, BHU under General category keeping in view the judgement of the Hon'ble High Court in Civil Misc. Writ Petition No.66958 of 2013 (Dr. Abhishek Chandra and 4 Others Vs. Union of India & 4 Others) as this Hon'ble High Court in its order dated 17.02.2014 in Writ Petition No.66598 of 2013 had, *inter alia*, ordered for quashing of advertisement for the post of Associate Professor of the Department of Orthopaedics only and not for the post of Associate Professor of Trauma Orthopaedics in Trauma Centre. Accordingly on the order and approval of the then Vice-Chancellor appointment letter was issued to the selected candidate Dr. Saurabh Singh and he joined the post accordingly.

The Executive Council vide ECR No.183 dated February 5, 2014 had approved the recommendation of selection committee for the post of Assistant Professor in Ophthalmology, Department of Ophthalmology and accordingly Dr. RP Maurya had been issued appointment letter dated 6.02.2014 and he joined the post on 7.02.2014. While the judgement and order of the Hon'ble High Court at Allahabad came on 17.02.2014 quashing the advertisement of post of Assistant Professor in Ophthalmology, Department of Ophthalmology, IMS, BHU.

However, no needful action seems to have been taken by the then concerned officers (office) in terms of the order dated 17.02.2014 of the Hon'ble High court passed in the Civil Misc. Writ Petition No.66598 of 2013 in case of appointment of

Dr. R P Maurya as Assistant Professor in Ophthalmology, Department of Ophthalmology, IMS, BHU.

Further, the University had filed a Special Leave Petition (Civil) No.14386 of 2014 in the Hon'ble Supreme Court, New Delhi against the judgement and order dated 17.2.2014 passed by the Hon'ble High Court at Allahabad in the Civil Misc. Writ Petition No.66958 of 2013 (Dr.Abishek Chandra & others Vs. Union of India & others). After hearing the case, the Hon'ble Supreme Court stayed the operation of the Order of the Hon'ble High Court at Allahabad passed on 17.2.2014 in the aforesaid writ petition.

In the meantime, Dr. Sandeep Kumar had filed a Contempt Petition No.2828 of 2014 in the Hon'ble High Court at Allahabad which proceeding was deferred by the Hon'ble Court dated 10.7.2014 in terms of the interim order passed by the Hon'ble Supreme Court in SLP(Civil) No.14386 of 2014 and passed the following order:

"Shri V K Singh, learned Senior Counsel assisted by Sri Ajit Kumar Singh, learned counsel for opposite parties, has filed counter affidavit annexing therewith order of the Apex Court in S.L.P. (Civil) No.14386/2014, whereby order of this Court dated 17.2.2014 in Civil Misc. Writ Petition No.66598/2013, dated 17.02.2014 for which contempt has been filed, has been stayed.

Sri Shailendra has entered suo moto appearance on behalf of O.P.No.4 and has filed counter affidavit, which is taken on record.

Sri Kshitij Shailendra has filed appearance on behalf of O.P.No.5, which is taken on record.

Pursuant to order dated 2.5.2014, Dr.G.S.Yadav, Registrar, Banaras Hindu University is present in the Court. He is discharged from further appearance, unless ordered otherwise.

Learned counsel for applicant, if he so desires, may file rejoinder affidavit to the counter affidavit filed today.

List the contempt application after the decision of the Apex Court, showing the names of Sri Kshitij Shailendra and Sri Shailendra, as counsels for opposite parties."

Subsequently, the Hon'ble Supreme Court dismissed as withdrawn the SLP(Civil) No.14386 of 2014 of the University. Hence, the University has filed a Review Petition in the Hon'ble High Court at Allahabad. The said Review Petition is still pending in the Hon'ble High Court at Allahabad. However, the ground regarding order of quashing of advertisement for appointment of Assistant Professor in

Ophthalmology, Department of Ophthalmology, IMS, BHU was not taken in the Review Petition.

Now when there is no stay on the operation of the order passed by the Hon'ble High Court in the Civil Misc. Writ Petition No.66598 (Abhishek Chandra and others Vs. Union of India & Others) it becomes operative.

Further, after the SLP No.14386 of 2014 was dismissed as withdrawn by the Hon'ble Supreme Court an Impleadment Application was filed in 2019 in the said Contempt Petition by the petitioners for adding the name of Professor Rakesh Bhatnagar, Vice-Chancellor, BHU, Dr. Neeraj Tripathi, Registrar, BHU and Dr. Sunita Chandra, Joint Registrar (Recruitment & Assessment Cell), BHU as respondents 6, 7 and 8.

The Hon'ble High Court of Judicature at Allahabad passed an Interim Order in the Contempt Application (Civil Contempt Application No. 2828 of 2014) dated 17.05.2019 which is quoted below:-

“Learned Counsel for the applicants is permitted to implead new incumbents, who is holding the post of opposite parties.

List this matter in first week of July, 2019. It is always open to the newly impleaded opposite party No.8 to comply with the Writ Court Order and to file his objection/affidavit of compliance, meanwhile”.

The Counter Affidavit of Smt. Sunita Chandra, Joint Registrar (RAC), respondent no. 8 was filed in the Contempt Petition No.2828 of 2014 in the Hon'ble High Court at Allahabad in July, 2019.

After the case came up for hearing on 28.11.2019, the Senior Standing Counsel has sent his aforementioned advice vide his e-mail dated 28.11.2019. On receipt of his e-mail all the files have been called from the office and the matter was meticulously examined and the aforementioned facts of the matter came to the fore.

The options open for the University under these circumstances were either to implement the directions of the Hon'ble High Court passed in the Civil Misc. Writ Petition No.66598 (Abhishek Chandra and others Vs. Union of India & Others) or to file review petition against the judgement and if the review bench had stayed the judgement then status quo should have been maintained. But since no stay was granted in the review petition filed by the University the judgement of the writ bench was operative.

The then Vice-Chancellor under the direction of the Hon'ble High Court in the Writ Petition No.17668 of 2014 (Saurabh Singh Vs. Union of India and three others) considered the matter of declaration of result of Selection Committee so far as it pertained to the appointment of Associate Professor of Trauma

Orthopaedics in the light of the judgement of the Hon'ble High Court in Writ Petition No.66598 of 2013 (Abhishek Chandra and Other Vs. Union of India & Others) He took a conscious decision that the Hon'ble High Court in its order dated 17.2.2014 quashed the advertisement of the Associate Professor and Assistant Professor and Professor for the department of Orthopaedics, Ophthalmology and Anatomy only and not for the Associate Professor of Trauma Orthopaedics which was not for the department of Orthopaedics but for Trauma Centre, he opened the envelope and declared the result of Selection appointing Dr.Saurabh Singh on the said post.

But no action with regard to cancellation of appointment of Dr.R P Maurya as Assistant Professor of Ophthalmology seems to have been taken when the High Court had quashed the advertisement of the post of Assistant Professor of department of Ophthalmology also. Nor there is any order of the Vice-Chancellor or Executive Council in the files which shows that any conscious decision was taken mentioning the ground for not taking such an action.

On careful consideration of the entire matter it is seen that the University had no legal ground for not implementing the decision of the Hon'ble High Court in the judgement dated 17.02.2014 in the Civil Misc. Writ Petition No.66598 of 2013 (Abhishek Chandra and others Vs. Union of India & Others) nor it has taken any decision to this effect in so far as it concerned the appointment of Dr. R.P. Maurya on the post of Assistant Professor of Ophthalmology, in the Department of Ophthalmology.

Keeping in view the aforesaid facts emerging from the records it was found that the Judgement and Order of the High Court of Judicature at Allahabad passed on 17.02.2014 in the Civil Misc. Writ Petition No. 66598 of 2013 has not been complied in case of appointment of Assistant Professor in Ophthalmology, Department of Ophthalmology, IMS, BHU by cancelling the appointment of Dr. R.P.Maurya, Assistant Professor in Ophthalmology, Department of Ophthalmology, IMS, BHU who had joined the said post on 07.02.2014.

Based on the aforementioned facts on record and in the light of the opinion given by the Legal Advisor and Sr. Standing Counsel of the University at High Court of Judicature at Allahabad, the appointment of Dr. R P Maurya as Assistant Professor in the Department of Ophthalmology be cancelled forthwith in compliance to the order dated 17.2.2014 of Hon'ble High Court in the Civil Misc. Writ Petition No.66598 of 2013 (Abhishek Chandra and others Vs. Union of India & Others) and he be reverted back to his earlier post of Senior Medical Officer in the Health Centre, BHU. The post of Assistant Professor in Department of Ophthalmology be advertised afresh. The matter be reported to Executive Council for ratification in its meeting scheduled on 7.12.2019.

The Hon'ble High Court of Judicature at Allahabad be also informed of the compliance of the order."

Accordingly, as directed the appointment of Dr. R.P. Maurya on the post of Assistant Professor in Ophthalmology, Department of Ophthalmology, Institute of Medical Sciences, BHU is hereby cancelled and he is reverted to the post of Senior Medical Officer in the University Employees Health Care Complex, BHU with immediate effect. The post of Assistant Professor in Department of Ophthalmology be advertised afresh.

REGISTRAR

No.AB/14-L-1031/39607.

; of date: 30.11.2019

Copy forwarded to the following for information and necessary action :

1. Dr. R.P. Maurya, Assistant Professor in Ophthalmology, Department of Ophthalmology, IMS, BHU.
2. The Director, Institute of Medical Sciences, BHU
3. The Dean, Faculty of Medicine, IMS, BHU
4. The Head, Department of Ophthalmology, IMS, BHU
5. The Medical Superintendent, S.S. Hospital, BHU
6. The Coordinator, Legal Cell, BHU with the request to report the matter to the Hon'ble High Court at Allahabad.
7. The Joint Registrar (RAC), BHU for advertising the post of Assistant Professor in the Department of Ophthalmology, IMS, BHU afresh.
8. The Joint Registrar (SC/ST & Disability Cell) BHU
9. The Joint Registrar (OBC Cell), BHU
10. The Joint Registrar (A/cs-Establishment), BHU
11. The Joint Registrar (Admin-Teaching), BHU
12. The Dy.Registrar (A/cs-Budget), BHU
13. The Dy.Registrar (Academic), BHU
14. The Dy.Registrar (Development), BHU
15. The Asstt.Registrar & Secretary to V.C., BHU
16. The Section Officer (Electronic Data Cell), R.O.(Finance), BHU
17. The Section Officer, (E.C. Cell), R.O.(Admin), BHU with the request to report the matter in the next meeting of the Executive Council of BHU for ratification of the order of the Hon'ble Vice-Chancellor.
18. The Section Officer (Coordination Cell), R.O.(Admin), BHU
19. The Section Officer (LTC Cell), R.O.(Admin), BHU.


REGISTRAR

ITEM 16

TO CONSIDER the order of the Vice-Chancellor for implementation of the Office Memorandum issued by the MHRD, New Delhi vide letter No. F.No. 1-26/2014-Desk (U) dated November 29, 2019 regarding sanction of manpower for manpower requirement in newly established Centenary Superspeciality Complex, SS Hospital, Banaras Hindu University (BHU)

NOTE

The Government of India, Ministry of Human Resource Development, Department of Higher Education, New Delhi vide letter No. F.No. 1-26/2014-Desk (U) dated November 29, 2019 (**Annexure-16A**) conveyed the approval/sanction of posts for Manpower requirements at Centenary Superspeciality Complex, SSH, IMS, BHU. Further the Ministry of Finance a proposed a funding of Rs. 616 Crore to IMS, BHU comprised of the following three components:

- (i) Strengthening of Manpower with an estimated cost to Rs, 160 crore.
- (ii) Super Speciality Blok at IMS, BHU under PMSSY with an estimated cost of Rs. 200 crore.
- (iii) Kayakalp initiative with an estimated cost of Rs. 256 crore.

The above proposed components were appraised by the Ministry of Finance, Government of India by way of an EFC during meeting dated 12.02.2019 and the Finance Minister has approved them.

The University Grant Commission, New Delhi referred the communication of the MHRD vide letter No. F.No. 1-26/2014-Desk (U) dated November 29, 2019 and communicated the approval vide letter No. F.54-4/2017(CU) dated November 29, 2019 (**Annexure-16B**) of sanction of manpower requirement in newly established Centenary Superspeciality Complex, SS Hospital, Banaras Hindu University (BHU).

Accordingly, the Vice-Chancellor has been pleased to approve implementation of the said Office Memorandum.

The Executive Council may consider approve creation of the aforementioned posts sanctioned by UGC in the University establishment.

F. No. 1-26/2014 – Desk (U)
Government of India
Ministry of Human Resource Development
Department of Higher Education

Shastri Bhawan, New Delhi
Dated November 29, 2019

To,

The Secretary,
University Grants Commission (UGC),
New Delhi – 110 002

Subject: Manpower requirement component appraised in Expenditure Finance Committee (EFC) proposal of IMS, BHU of Rs. 616 Crore – regarding

Sir,

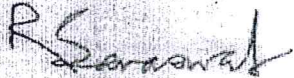
I am directed to refer to UGC's letter No. 54-4/2017 (CU) dated 06.11.2019 requesting this Ministry to convey the approval/ sanction of posts for manpower requirements at Centenary Super-Speciality Complex, SSH, IMS, BHU.

2. In this regard, it is re-iterated that a proposal for funding of Rs.616 Crore to IMS, BHU was appraised by the Ministry of Finance by way of an EFC during meeting dated 12.02.2019. The aforementioned fund of Rs. 616 crore comprised of three components viz. (i) Strengthening of Manpower with an estimated cost of Rs. 160 crore (ii) Super Speciality Block at IMS, BHU under PMSSY with an estimated cost of Rs. 200 crore and (iii) Kayakalp Initiative with an estimated cost of Rs. 256 crore. The proposal has the approval of Hon'ble Finance Minister.

3. It is, therefore, requested that UGC may accord necessary approval accordingly.

4. This issues with the approval of Secretary(HE).

Yours faithfully,



(Raju Saraswat)
Under Secretary

JS (au)
29/11/19



ज्ञान-विज्ञान विमुक्तये



सत्यमेव जयते

विश्वविद्यालय अनुदान आयोग
University Grants Commission

(मानव संसाधन विकास मंत्रालय, भारत सरकार)
(Ministry of Human Resource Development, Govt. of India)

बहादुर शाह ज़फ़र मार्ग, नई दिल्ली-110002

Bahadur Shah Zafar Marg, New Delhi-110002

दूरभाष Ph : 011-23239200

E-mail : jitendratripathi.ugc@nic.in

डॉ. जितेन्द्र कुमार त्रिपाठी
संयुक्त सचिव

Dr. Jitendra K. Tripathi
Joint Secretary

Speed Post

No.F.54-4/2017(CU)

November, 2019

The Vice Chancellor,
Banaras Hindu University,
Varanasi - 221 005.

29 NOV 2019

Subject: Proposal for manpower requirement in newly established Centenary Superspeciality Complex, S S Hospital, Banaras Hindu University (BHU) – Regarding.

Dear Sir,

Kindly refer to your office letter No. AAVI-RAC/CSC-SSH/39 dated 12th October, 2019 and subsequent communication received from MHRD vide its letter No. 1-26/2014 – Desk(U) dated 29th November, 2019 (copy enclosed) conveying the approval for the proposal of (i) Strengthening of Manpower with an estimated cost of Rs. 160 crore (ii) Super Speciality Block at IMS, BHU under PMSSY with an estimated cost of Rs. 200 crore and (iii) Kayakalp Initiative with an estimated cost of Rs. 256 crore. Accordingly, I am to convey the approval of UGC for the same and for creation of 1460 (One Thousand Four Hundred Sixty) regular positions and 393 (Three Hundred Ninety Three) outsourcing positions as per details given below:-

1) **REGULAR POSITIONS**A) **TEACHING POSITIONS**

| S. No. | Name of Post | Pay Matrix Level | No. of posts |
|--------|---------------------|------------------|--------------|
| 1 | Professor | AGP 14 | 2 |
| 2 | Associate Professor | AGP 13A | 14 |
| 3 | Assistant Professor | AGP 10 | 41 |
| | TOTAL | | 57 |

B) **NON-TEACHING POSITIONS**

| | | | |
|----|----------------------------------|----|-----|
| 4 | Senior Resident | 11 | 167 |
| 5 | Medical Officer | 10 | 10 |
| 6 | Nursing Officer | 7 | 770 |
| 7 | Senior Nursing Officer | 8 | 297 |
| 8 | Assistant Nursing Superintendent | 10 | 5 |
| 9 | Dy. Nursing Superintendent | 10 | 2 |
| 10 | Nursing Superintendent | 11 | 1 |
| 11 | OT Attendant | 1 | 35 |
| 12 | Lab Attendant | 1 | 18 |
| 13 | ICU Attendant | 1 | 16 |
| 14 | Lab Attendant | 1 | 50 |
| 15 | Cath Lab Technician | 5 | 6 |
| 16 | Endoscopy Attend. | 1 | 5 |

- : 2 : -

| | | | |
|--------------------------------|----------------------|---|-------------|
| 17 | Dialysis Technician | 5 | 8 |
| 18 | Anesthesia Attendant | 1 | 11 |
| 19 | Perfusionist | 5 | 2 |
| | TOTAL | | 1403 |
| TOTAL REGULAR POSITIONS | | | 1460 |

2) OUTSOURCING POSITIONS

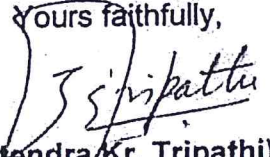
| S. No. | Name of Post | No. of posts |
|--------|---------------------------------|--------------|
| 1 | Executive Engineer | 1* |
| 2 | Asstt. Engineer | 2* |
| 3 | Junior Engineer | 3* |
| 4 | Electrician | 3* |
| 5 | Workshop Attendant | 6* |
| 6 | Security Officer | 1* |
| 7 | Supervisor | 2* |
| 8 | Guards | 40* |
| 9 | Computer Operators | 35* |
| 10 | MTS | 300* |
| | Total (Outsource Person) | 393 |

* Manpower requirement through outsourcing.

It is further inform to you that if there is any omission or doubt in the pay scale, the matter may be referred to UGC for clarification.

This issue has the approval of the competent authority.

Encl.: as above

Yours faithfully,

(Jitendra Kr. Tripathi)
Joint Secretary

ITEM 17

TO CONSIDER AND APPROVE the draft rules for Compassionate Appointment against the Group C and erstwhile Group D vacancies in the University.

NOTE

The University has a provision for offering appointment on compassionate grounds to a dependent family member of a University employee dying in harness or who is retired on medical grounds, thereby leaving his/her family in penury and without any means of livelihood, to relive the family of the University employee concerned from the financial destination and to help it get over the emergency.

Till date appointment on compassionate grounds in the University are being made against the Group C and erstwhile group D vacancies in the University in terms of the rules duly approved by the Executive Council vide ECR No.204 dated May 31, 2003.

Government of India has released a consolidated instruction in the matter of Compassionate Appointment vide DoPT's O.M.14014/02/2012-Estt.(D) dated 16.01.2013 (**ANNEXURE-17A**).

Therefore it was decided by the University that with the passage of time and in view of introduction of fresh rules for compassionate appointment it would be in fitness of things to draft a fresh consolidated rules for Compassionate Appointment incorporating therein Government of India decisions.

The matter was deliberated at length in the meeting of the Compassionate Appointment Committee at its meeting held on March 11, 2019 and it was

unanimously resolved that a Committee consisting of the following be constituted for drafting a fresh rules for appointment on compassionate ground:

1. **Prof. Ajay Kumar, Faculty of Law** : **Chairman**
2. **The Internal Audit Officer** : **Member**
3. **The Assistant Registrar, Coordination Cell** : **Member Secretary**

The above Committee after several sittings finalized the draft rules for Compassionate Appointment incorporating therein Government of India decisions.

The draft rules were placed before the Compassionate Appointment Committee in its meeting held on 23.11.2019 for consideration and approval.

After deliberating over the matter, the Compassionate Appointment Committee finalized the rules for Compassionate Appointment against the Group C and erstwhile group D vacancies in the University which is placed at **(ANNEXURE-17B)**.

The Executive Council may consider and approve.

F.No.14014/02/2012--Estt. (D)
Government of India
Ministry of Personnel, Public Grievances and Pensions
(Department of Personnel & Training)

North Block,
New Delhi
Dated the 16th January, 2013

OFFICE MEMORANDUM

Subject:- **Consolidated Instructions on compassionate appointment – regarding.**

The undersigned is directed to invite attention to this Department's O.M. No.14014/6/94-Estt(D) dated 09.10.1998 vide which Scheme for "Compassionate Appointment under Central Government" was issued. Subsequently a number of instructions on compassionate appointments under the Central Government have been issued. The content of important/relevant O.Ms and orders on the subject have been further consolidated for the facility of reference and guidance and are being made available on this Department's website www.persmin.nic.in in the dynamic form (OMs & Orders>Establishment>(A) Administration (III) Concessions in appointment (a) compassionate appointment). This may be brought to the notice of all concerned for information, guidance and necessary action.

2. Hindi version will follow.

Virender Singh
16/1/2013

(Virender Singh)

Under Secretary to the Government of India
Tel. No. 2309 3804

To,
All Ministries/Departments of Government of India

Copy to:

1. President's Secretariat, New Delhi
2. Vice-President's Secretariat, New Delhi
3. The Prime Minister's Office, New Delhi
4. Cabinet Secretariat, New Delhi
5. Rajya Sabha Secretariat/Lok Sabha Secretariat, New Delhi
6. The Registrar General, the Supreme Court of India, New Delhi.
7. The Registrar, Central Administrative Tribunal, Principal Bench, New Delhi.

8. The Comptroller and Auditor General of India, New Delhi
9. The Secretary, Union Public Service Commission, New Delhi
10. The Secretary, Staff Selection Commission, New Delhi
11. All attached offices under the Ministry of Personnel, Public Grievances and Pensions
12. National Commission for Scheduled Castes, New Delhi
13. National Commission for Scheduled Tribes, New Delhi
14. National Commission for OBCs, New Delhi
15. Secretary, National Council (JCM), 13, Ferozeshah Road, New Delhi.
16. Establishment Officer & A.S.
17. All Officers and Sections in the Department of Personnel and Training.
18. Facilitation Centre, DOP&T (20 copies)
19. NIC (DOP&T) for placing this Office Memorandum on the Website of DOP&T.
20. Establishment Section (200 copies).

Virender Singh
16/1/2013
(Virender Singh)

Under Secretary to the Government of India
Tel. No. 2309 3804

SCHEME FOR COMPASSIONATE APPOINTMENT

1. **OBJECT**

The object of the Scheme is to grant appointment on compassionate grounds to a dependent family member of a Government servant dying in harness or who is retired on medical grounds, thereby leaving his family in penury and without any means of livelihood, to relieve the family of the Government servant concerned from financial destitution and to help it get over the emergency.

2. **TO WHOM APPLICABLE**

To a dependent family member —

(A) of a Government servant who —

- (a) dies while in service (including death by suicide); or
- (b) is retired on medical grounds under Rule 2 of the CCS (Medical Examination) Rules 1957 or the corresponding provision in the Central Civil Service Regulations before attaining the age of 55 years (57 years for erstwhile Group 'D' Government servants); or
- (c) is retired on medical grounds under Rule 38 of the CCS(Pension) Rules, 1972 or the corresponding provision in the Central Civil Service Regulations before attaining the age of 55 years (57 years for erstwhile Group 'D' Government servants); or

(B) of a member of the Armed Forces who —

- (a) dies during service; or
- (b) is killed in action; or
- (c) is medically boarded out and is unfit for civil employment.

Note I "Dependent Family Member" means:

- (a) spouse; or
- (b) son (including adopted son); or
- (c) daughter (including adopted daughter); or
- (d) brother or sister in the case of unmarried Government servant or
- (e) member of the Armed Forces referred to in (A) or (B) of this para,

-- who was wholly dependent on the Government servant/ member of the Armed Forces at the time of his death in harness or retirement on medical grounds, as the case may be.

- Note II** "Government servant" for the purpose of these instructions means a Government servant appointed on regular basis and not one working on daily wage or casual or apprentice or ad-hoc or contract or re-employment basis.
- Note III** "Confirmed work-charged staff" will also be covered by the term 'Government servant' mentioned in Note III above.
- Note IV** "Service" includes extension in service (but not re-employment) after attaining the normal age of retirement in a civil post.
- Note V** "Re-employment" does not include employment of ex-serviceman before the normal age of retirement in a civil post.

3. **AUTHORITY COMPETENT TO MAKE
COMPASSIONATE APPOINTMENT**

- (a) Joint Secretary in-charge of administration in the Ministry/Department concerned.
- (b) Head of the Department under the Supplementary Rule 2(10) in the case of attached and subordinate offices.
- (c) Secretary in the Ministry/Department concerned in special types of cases.

4. **POSTS TO WHICH SUCH APPOINTMENTS CAN BE MADE**

Group 'C' posts against the direct recruitment quota.

5. **ELIGIBILITY**

- (a) The family is indigent and deserves immediate assistance for relief from financial destitution; and
- (b) Applicant for compassionate appointment should be eligible and suitable for the post in all respects under the provisions of the relevant Recruitment Rules.

6. **A. EXEMPTIONS**

Compassionate appointments are exempted from observance of the following requirements:-

- (a) Recruitment procedure i.e. without the agency of the Staff Selection Commission or the Employment Exchange.
- (b) Clearance from the Surplus Cell of the Department of Personnel and Training/Directorate General of Employment and Training.
- (c) The ban orders on filling up of posts issued by the Ministry of Finance (Department of Expenditure).

B. RELAXATIONS

- (a) Upper age limit could be relaxed wherever found to be necessary. The lower age limit should, however, in no case be relaxed below 18 years of age.

Note I Age eligibility shall be determined with reference to the date of application and not the date of appointment;

Note II Authority competent to take a final decision for making compassionate appointment in a case shall be competent to grant relaxation of upper age limit also for making such appointment.

- (b) In exceptional circumstances Government may consider recruiting persons not immediately meeting the minimum educational standards. Government may engage them as trainees who will be given the regular pay bands and grade pay only on acquiring the minimum qualification prescribed under the recruitment rules. The emoluments of these trainees, during the period of their training and before they are absorbed in the Government as employees, will be governed by the minimum of the – 1S pay band Rs.4440-7440 without any grade pay. In addition, they will be granted all applicable Allowance, like Dearness Allowances, House Rent Allowance and Transport Allowance at the admissible rates. The same shall be calculated on the minimum- 1S pay band without any grade pay. The period spent in the-1S pay band by the future recruits will not be counted as service for any purpose as their regular service will start only after they are placed in the pay band PB-1 of Rs.5200-20200 along with grade pay of Rs.1800. **(Para 1 of O.M. No.14014/2/2009-Estt.(D) Dated the 11th December, 2009)**

Note In the case of an attached/subordinate office, the Secretary in the concerned administrative Ministry/Department shall be the competent authority for this purpose.

- (c) In the matter of exemption from the requirement of passing the typing test those appointed on compassionate grounds to the post of Lower Division Clerk will be governed by the general orders issued in this regard:-

DoP&T's O.M. No. 14014/02/2012-Estt.(D) dated 16.01.2013

- (i) by the CS Division of the Department of Personnel and Training if the post is included in the Central Secretariat Clerical Service; or
 - (ii) by the Establishment Division of the Department of Personnel and Training if the post is not included in the Central Secretariat Clerical Service.
- (d) In case of appointment of a widow not fulfilling the requirement of educational qualification, against the post of MULTI TASKING STAFF, she will be placed in Group 'C'- Pay Band - 1 (Rs. 5200-20200)+ Grade Pay Rs. 1800/- directly without insisting on fulfillment of educational qualification norms, provided the appointing authority is satisfied that the duties of the post against which she is being appointed can be performed with help of some on job training. This dispensation is to be allowed for appointment on compassionate ground against the post of MULTI TASKING STAFF only. (Para 2 of O.M. No.14014/2/2009-Estt. (D) Dated 03.04.2012)

7. DETERMINATION/AVAILABILITY OF VACANCIES

- (a) Appointment on compassionate grounds should be made only on regular basis and that too only if regular vacancies meant for that purpose are available.
- (b) Compassionate appointments can be made upto a maximum of 5% of vacancies falling under direct recruitment quota in any Group 'C' post. The appointing authority may hold back upto 5% of vacancies in the aforesaid categories to be filled by direct recruitment through Staff Selection Commission or otherwise so as to fill such vacancies by appointment on compassionate grounds. A person selected for appointment on compassionate grounds should be adjusted in the recruitment roster against the appropriate category *viz* SC/ST/OBC/General depending upon the category to which he belongs. For example, if he belongs to SC category he will be adjusted against the SC reservation point, if he is ST/OBC he will be adjusted against ST/OBC point and if he belongs to General category he will be adjusted against the vacancy point meant for General category.
- (c) While the ceiling of 5% for making compassionate appointment against regular vacancies should not be circumvented by making appointment of dependent family member of Government servant on casual/daily wage/ad-hoc/contract basis against regular vacancies, there is no bar to considering him for such appointment if he is eligible as per the normal rules/orders governing such appointments
- (d) The ceiling of 5% of direct recruitment vacancies for making compassionate appointment should not be exceeded by utilising any other vacancy e.g. sports quota vacancy.

- (e) The Committee constituted for considering a request for appointment on compassionate grounds should limit its recommendation to appointment on compassionate grounds only in a really deserving case and only if vacancy meant for appointment on compassionate grounds will be available within a year in the concerned administrative Ministry/department/Office, that too within the ceiling of 5% of vacancies falling under DR quota in Group 'C' posts. (O.M.No.14014/18/2000-Estt.(D) dated 22.06.2001)
- (f) Calculation of vacancies by grouping of posts for small offices/cadres - Grouping of posts in small Offices/Cadres for the purpose of calculation of vacancies for appointment on compassionate grounds is allowed. Consequently, Group 'C' posts in which there are less than 20 direct recruitment vacancies in a recruitment year may be grouped together and out of the total number of vacancies 5% may be filled on compassionate grounds subject to the condition that appointment on compassionate grounds in any such post should not exceed one. For the purpose of calculation of vacancies for compassionate appointment, fraction of a vacancy either half or exceeding half but less than one may be taken as one vacancy. (Para 2 and 3 of O.M. No. 14014/24/1999-Estt.(D) dated 28.12.1999)
- (g) Liberalized method of calculation of vacancies for small Ministries/Departments - The small Ministries/Departments may apply a more liberalized method of calculation of vacancies under 5% quota for compassionate appointment. The small Ministries/Departments, for the purpose of these instructions, are defined as organizations where no vacancy for compassionate appointment could be located under 5% quota for the last 3 years. Such small Ministries/Departments may add up the total of DR vacancies in Group 'C' and erstwhile Group 'D' posts (excluding technical posts) arising in each year for 3 or more preceding years and calculate 5% of vacancies with reference to the grand total of vacancies of such years, for locating one vacancy for compassionate appointment. This is subject to the condition that no compassionate appointment was/has been made by the Ministries/Departments during 3 years or number of years taken over and above 3 years for locating one vacancy under 5% quota. (Para 4 of O.M. No. 14014/3/2005-Estt.(D) dated 09.10.2006)
- (h) The compassionate appointment can also be made against technical 'posts' at Group 'C' and erstwhile Group 'D' level. The 5% quota of vacancies will be calculated on the basis of total DR vacancies arising in a year in the technical posts. (Para 2 of O.M. No. 14014/3/2005-Estt(D) dated 19.01.2007.

8. **TIME LIMIT FOR CONSIDERING APPLICATIONS FOR COMPASSIONATE APPOINTMENT:**

Prescribing time limit for considering applications for compassionate appointment has been reviewed vide this Department O.M No.14014/3/2011-Estt.(D) dated 26.07.2012. Subject to availability of a vacancy and instructions on the subject issued by this Department and as amended from time to time, any application for compassionate appointment is to be considered without any time limit and decision taken on merit in each case

9. **BELATED REQUESTS FOR COMPASSIONATE APPOINTMENT**

- (a) Ministries/Departments can consider requests for compassionate appointment even where the death or retirement on medical grounds of a Government servant took place long back, say five years or so. While considering such belated requests it should, however, be kept in view that the concept of compassionate appointment is largely related to the need for immediate assistance to the family of the Government servant in order to relieve it from economic distress. The very fact that the family has been able to manage somehow all these years should normally be taken as adequate proof that the family had some dependable means of subsistence. Therefore, examination of such cases would call for a great deal of circumspection. The decision to make appointment on compassionate grounds in such cases may, therefore, be taken only at the level of the Secretary of the Department/Ministry concerned.
- (b) Whether a request for compassionate appointment is belated or not may be decided with reference to the date of death or retirement on medical ground of a Government servant and not the age of the applicant at the time of consideration.
- (c) The onus of examining the penurious condition of the dependent family will rest with the authority making compassionate appointment **(Para 4 of O.M No.14014/3/2011-Estt.(D) dated 26.07.2012**

10. **WIDOW APPOINTED ON COMPASSIONATE GROUNDS GETTING REMARRIED**

A widow appointed on compassionate grounds will be allowed to continue in service even after re-marriage.

11. **WHERE THERE IS AN EARNING MEMBER**

- (a) In deserving cases even where there is already an earning member in the family, a dependent family member may be considered for compassionate appointment with prior approval of the Secretary of the Department/Ministry concerned who, before approving such appointment, will satisfy himself that grant of compassionate appointment is justified having regard to number of

dependents, assets and liabilities left by the Government servant, income of the earning member as also his liabilities including the fact that the earning member is residing with the family of the Government servant and whether he should not be a source of support to other members of the family.

- (b) In cases where any member of the family of the deceased or medically retired Government servant is already in employment and is not supporting the other members of the family of the Government servant, extreme caution has to be observed in ascertaining the economic distress of the members of the family of the Government servant so that the facility of appointment on compassionate ground is not circumvented and misused by putting forward the ground that the member of the family already employed is not supporting the family.

12. MISSING GOVERNMENT SERVANT

Cases of missing Government servants are also covered under the scheme for compassionate appointment subject to the following conditions:-

- (a) A request to grant the benefit of compassionate appointment can be considered only after a lapse of at least 2 years from the date from which the Government servant has been missing, provided that:
- (i) an FIR to this effect has been lodged with the Police,
 - (ii) the missing person is not traceable, and
 - (iii) the competent authority feels that the case is genuine;
- (b) This benefit will not be applicable to the case of a Government servant:-
- (i) who had less than two years to retire on the date from which he has been missing; or
 - (ii) who is suspected to have committed fraud, or suspected to have joined any terrorist organisation or suspected to have gone abroad.
 - (c) Compassionate appointment in the case of a missing Government servant also would not be a matter of right as in the case of others and it will be subject to fulfillment of all the conditions, including the availability of vacancy, laid down for such appointment under the scheme;
 - (d) While considering such a request, the results of the Police investigation should also be taken into account; and
 - (e) A decision on any such request for compassionate appointment should be taken only at the level of the Secretary of the Ministry/Department concerned.

13. **PROCEDURE**

- (a) The proforma as in Annexure may be used by Ministries/Departments/ Offices for ascertaining necessary information and processing the cases of compassionate appointment.
- (b) The Welfare Officer in each Ministry/Department/Office should meet the members of the family of the Government servant in question immediately after his death to advise and assist them in getting appointment on compassionate grounds. The applicant should be called in person at the very first stage and advised in person about the requirements and formalities to be completed by him.
- (c) An application for appointment on compassionate grounds should be considered in the light of the instructions issued from time to time by the Department of Personnel and Training (Establishment Division) on the subject by a committee of officers consisting of three officers – one Chairman and two Members – of the rank of Deputy Secretary/ Director in the Ministry/Department and officers of equivalent rank in the case of attached and subordinate offices. The Welfare Officer may also be made one of the Members/Chairman of the committee depending upon his rank. The committee may meet during the second week of every month to consider cases received during the previous month. The applicant may also be granted personal hearing by the committee, if necessary, for better appreciation of the facts of the case.
- (d) Recommendation of the committee should be placed before the competent authority for a decision. If the competent authority disagrees with the committee's recommendation, the case may be referred to the next higher authority for a decision.

14. **UNDERTAKING FOR MAINTENANCE OF THE FAMILY OF THE DECEASED EMPLOYEE**

A person appointed on compassionate grounds under the scheme should give an undertaking in writing (as in Annexure) that he/she will maintain properly the other family members who were dependent on the Government servant/member of the Armed Forces in question and in case it is proved subsequently-(at any time) that the family members are being neglected or are not being maintained properly by him/her, his/her appointment may be terminated forthwith. The question of its legal enforceability has been examined in consultation with the Ministry of Law (Department of Legal Affairs) and it has been decided that it should be incorporated as one of the additional conditions in the offer of appointment applicable only in the case of appointment on compassionate grounds (O.M No.14014/16/1999-Estt.(D) dated 20.12.1999).

15. REQUEST FOR CHANGE IN POST/PERSON

When a person has been appointed on compassionate grounds to a particular post, the set of circumstances, which led to such appointment, should be deemed to have ceased to exist. Therefore, --

- (a) he/she should strive in his/her career like his/her colleagues for future advancement and any request for appointment to any higher post on considerations of compassion should invariably be rejected.
- (b) an appointment made on compassionate grounds cannot be transferred to any other person and any request for the same on considerations of compassion should invariably be rejected.

16. SENIORITY

A person appointed on compassionate ground in a particular year may be placed at the bottom of all the candidates recruited/appointed through direct recruitment, promotion etc. in that year, irrespective of the date of joining of the candidate on compassionate ground. (Para 4.8 of O.M. No. No.20011/1/2008-Estt.(D) dated 11.11.2010)

17. TERMINATION OF SERVICE

The compassionate appointments can be terminated on the ground of non-compliance of any condition stated in the offer of appointment after providing an opportunity to the compassionate appointee by way of issue of show cause notice asking him/her to explain why his/her services should not be terminated for non-compliance of the condition(s) in the offer of appointment and it is not necessary to follow the procedure prescribed in the Disciplinary Rules/Temporary Service Rules for his purpose.

In order to check its misuse, it has also been decided that this power of termination of services for non-compliance of the condition(s) in the offer of compassionate appointment should vest only with the Secretary in the concerned administrative Ministry/Department not only in respect of persons working in the Ministry/Department proper but also in respect of Attached/Sub-ordinate offices under that Ministry/Department. (O.M. No. 14014/19/2000-Estt(D) dated 24.11. 2000).

18. GENERAL

- (a) Appointments made on grounds of compassion should be done in such a way that persons appointed to the post do have the essential educational and technical qualifications and experience required for the post consistent with the requirement of maintenance of efficiency of administration.
- (b) It is not the intention to restrict employment of a family member of the deceased or medically retired (erstwhile) Group 'D' Government servant to a erstwhile Group 'D' post only. As such, a family member of such erstwhile Group 'D' Government servant can be appointed to a Group 'C' post for which he/she is educationally qualified, provided a vacancy in Group 'C' post exists for this purpose.
- (c) The Scheme of compassionate appointments was conceived as far back as 1958. Since then a number of welfare measures have been introduced by the Government which have made a significant difference in the financial position of the families of the Government servants dying in harness/retired on medical grounds. An application for compassionate appointment should, however, not be rejected merely on the ground that the family of the Government servant has received the benefits under the various welfare schemes. While considering a request for appointment on compassionate ground a balanced and objective assessment of the financial condition of the family has to be made taking into account its assets and liabilities (including the benefits received under the various welfare schemes mentioned above) and all other relevant factors such as the presence of an earning member, size of the family, ages of the children and the essential needs of the family, etc.
- (d) Compassionate appointment should not be denied or delayed merely on the ground that there is reorganisation in the Ministry/Department/ Office. It should be made available to the person concerned if there is a vacancy meant for compassionate appointment and he or she is found eligible and suitable under the scheme.
- (e) Requests for compassionate appointment consequent on death or retirement on medical grounds of erstwhile Group 'D' staff may be considered with greater sympathy by applying relaxed standards depending on the facts and circumstances of the case.
- (f) Compassionate appointment will have precedence over absorption of surplus employees and regularisation of daily wage/casual workers with/without temporary status.
- (g) Any request to increase the upper age-limit of 55 years for retirement on medical grounds prescribed in para 2(A) (b) and (c) above in respect of Group 'A'/'B'/'C' Government servants and to bring it at par with the upper age-limit of 57 years prescribed therein for erstwhile Group 'D' Government servants on the ground that the age of retirement has recently (May, 1998) been raised from 58 years to 60 years for Group 'A'/'B'/'C'

Government servants (which is at par with the age of retirement of 60 years applicable to erstwhile Group 'D' Government servants) or on any other ground should invariably be rejected so as to ensure that the benefit of compassionate appointment available under the scheme is not misused by seeking retirement on medical grounds at the fag end of one's career and also keeping in view the fact that the higher upper age-limit of 57 years has been prescribed therein for erstwhile Group 'D' Government servants for the reason that they are low paid Government servants who get meagre invalid pension in comparison to others.

19. IMPORTANT COURT JUDGEMENTS

The ruling contained in the following judgements may also be kept in view while considering cases of compassionate appointment:-

- (a) The Supreme Court in its judgement dated April 8, 1993 in the case of Auditor General of India and others vs. G. Ananta Rajeswara Rao [(1994) 1 SCC 192] has held that appointment on grounds of descent clearly violates Article 16(2) of the Constitution; but if the appointment is confined to the son or daughter or widow of the Government servant who died in harness and who needs immediate appointment on grounds of immediate need of assistance in the event of there being no other earning member in the family to supplement the loss of income from the bread winner to relieve the economic distress of the members of the family, it is unexceptionable.
- (b) The Supreme Court's judgement dated May 4, 1994 in the case of Umesh Kumar Nagpal vs. State of Haryana and others [JT 1994(3) S.C. 525] has laid down the following important principles in this regard:
 - (i) Only dependents of an employee dying in harness leaving his family in penury and without any means of livelihood can be appointed on compassionate ground.
 - (ii) The posts in Group 'C' and 'D' (formerly Class III and IV) are the lowest posts in non-manual and manual categories and hence they alone can be offered on compassionate grounds and no other post i.e. in the Group 'A' or Group 'B' category is expected or required to be given for this purpose as it is legally impermissible.
 - (iii) The whole object of granting compassionate appointment is to enable the family to tide over the sudden crisis and to relieve the family of the deceased from financial destitution and to help it get over the emergency.
 - (iv) Offering compassionate appointment as a matter of course irrespective of the financial condition of the family of the deceased or medically retired Government servant is legally impermissible.

- (v) Neither the qualifications of the applicant (dependent family member) nor the post held by the deceased or medically retired Government servant is relevant. If the applicant finds it below his dignity to accept the post offered, he is free not to do so. The post is not offered to cater to his status but to see the family through the economic calamity.
 - (vi) Compassionate appointment cannot be granted after lapse of a reasonable period and it is not a vested right which can be exercised at any time in future.
 - (vii) Compassionate appointment cannot be offered by an individual functionary on an ad-hoc basis.
- (c) The Supreme Court has held in its judgement dated February 28, 1995 in the case of the Life Insurance Corporation of India vs. Mrs Asha Ramchandra Ambekar and others [JT 1994(2) S.C. 183] that the High Courts and Administrative Tribunals cannot give direction for appointment of a person on compassionate grounds but can merely direct consideration of the claim for such an appointment.
- (d) The Supreme Court has ruled in the cases of Himachal Road Transport Corporation vs. Dinesh Kumar [JT 1996 (5) S.C. 319] on May 7, 1996 and Hindustan Aeronautics Limited vs. Smt A. Radhika Thirumalai [JT 1996 (9) S.C. 197] on October 9, 1996 that appointment on compassionate grounds can be made only if a vacancy is available for that purpose.
- (e) The Supreme Court has held in its judgement in the case of State of Haryana and others vs. Rani Devi and others [JT 1996(6) S.C. 646] on July 15, 1996 that if the scheme regarding appointment on compassionate ground is extended to all sorts of casual, ad-hoc employees including those who are working as Apprentices, then such scheme cannot be justified on Constitutional grounds.
- (f) The Hon'ble Supreme Court in its judgment dated 05.04.2011 in Civil Appeal No. 2206 of 2006 filed by Local Administration Department vs. M. Selvanayagam @ Kumaravelu has observed that "an appointment made many years after the death of the employee or without due consideration of the financial resources available to his/her dependents and the financial deprivation caused to the dependents as a result of his death, simply because the claimant happened to be one of the dependents of the deceased employee would be directly in conflict with Articles 14 & 16 of the Constitution and hence, quite bad and illegal. In dealing with cases of compassionate appointment, it is imperative to keep this vital aspect in mind". (O.M. No. 14014/3/2011-Estt.(D) dated 26.07.2012).

"RULES REGARDING APPOINTMENT ON COMPASSIONATE GROUNDS"**(i) Object**

The object of the Scheme is to grant appointment on compassionate grounds to a dependent family member of a University employee dying in harness or who is retired on medical grounds, thereby leaving his family in penury and without any means of livelihood, to relived the family of the University employee concerned from financial destitution and to help it get over the emergency.

(ii) Who may file Application

A dependent family member of a University employee who:-

- a) dies while in service (including death by suicide); or
- b) is retired on medical grounds under Rules 2 of the CCS (Medical Examination) Rules 1957 or the corresponding provision in the Central Civil Service Regulations before attaining the age of 55 years (57 years for erstwhile Group 'D' University employee); or
- c) is retired on medical grounds under Rules 38 of the CCS (Pension) Rules 1972 or the corresponding provision in the Central Civil Service Regulations before attaining the age of 55 years (57 years for erstwhile Group 'D' University employee).

(iii) NOTE: I. "Dependent family Member" means:-

- a) Spouse; or
- b) Son (*including legally adopted son*); or
- c) Unmarried/Divorced Daughter (*at the time of demise of the University employee till the submission of filled-up Proforma, including legally adopted daughter*); or
- d) Brother or sister (*in the case of unmarried University employee*);

Who was wholly dependent on the salary of University employee at the time of his death in harness or retirement on medical ground, as the case may be.

NOTE II: "University employee" for the purpose of these instructions means a University employee appointed on regular basis and not one working on daily wages or casual or apprentice or ad-hoc or contract or re-employment basis.

NOTE III: "Service" includes extension in service (but not re-employment) after attaining the normal age of retirement in civil post.

NOTE IV: "Reemployment" does not include employment of Ex-Servicemen before the normal age of retirement in a Civil post.

(iv) Widow appointed on compassionate ground getting remarried:-

A widow appointed on compassionate ground will be allowed to continue in service even after remarriage.

(v) Where there is earning member:-

- a) In deserving cases even where there is already an earning member in the family, a dependent family member may be considered for compassionate appointment with prior approval of the Executive Council who before approving such appointment will, satisfy himself that grant of compassionate appointment is justified having regard to number of dependents, assets and liabilities left by the University employee, income of the earning member as also his liabilities including the fact that the earning member is residing with the family of the University employee and whether he should not be a source of support to other members of the family.

- b) In cases, where any member of the family of the deceased or medically retired University employee is already in employment and is not supporting the other members of the family of University employee, extreme caution has to be observed in ascertaining the economic distress or the members of the family of the University employee so that the facility of appointment on compassionate ground is not circumvented and misused by putting forward the ground that the member of the family already employed is not supporting the family.
- c) If Spouse is permanent employee in Central/State Government the candidature of ward is not acceptable

(vi) Missing University Employee:-

Cases of missing University employees covered under the scheme for compassionate appointment, subject to the following conditions:-

- a) A request to grant the benefit of compassionate appointment can be considered only after a lapse of at least 2 years from the date from which a University employees been missing, provided that:-
 - i) an FIR to this effect has been lodged with the Police,
 - ii) the missing person is not traceable, and
 - iii) the competent authority feels that the case is genuine;
- b) This benefit will not be applicable to the case of a University employee:-
 - i) who had less than two years to retire on the date from which he has been missing; or
 - ii) who is suspected to have committed fraud, or suspected to have joined any terrorist organization or suspected to have gone abroad.
- c) Compassionate appointment in the case of a missing University employees would not be a matter of right as in the case of others and it will be subject to fulfilment of all the conditions including the availability of vacancy, laid down for such appointment under scheme;
- d) While considering such request, the results of the Police investigation should also be taken into account; and
- e) A decision on any such request for compassionate appointment should be taken only at the level of the Executive Council.

(vii) Request for change in post/person:-

When a person has been appointed on compassionate grounds to a particular post, the set of circumstances, which led to such appointment should be deemed to have ceased to exist. Therefore:

- a) he/she should strive in his/her career like his/her Colleagues for future advancement and any request for appointment to any higher post on consideration of compassion should invariably be rejected.
- b) an appointment made on compassionate grounds cannot be transferred to any other person and any request for the same on considerations of compassion should invariably be rejected.

(viii) Undertaking

A person appointed on compassionate grounds under the scheme should give an undertaking in writing that he/she will maintain properly the other family members who were dependent on the University employee in question and in case it is proved subsequently (at any time) that the family members are being neglected or, are not being maintained properly by him/her, his/her appointment may be terminated forthwith.

(ix) Eligibility:

- a) The family is indigent and deserves immediate assistance for relief from financial destitution, and

- b) Applicant for compassionate appointment should be eligible and suitable for the posts in all respects under the provisions of the relevant Recruitment Rules.
- c) Minimum qualification shall be High School pass in cases of Appointment on Compassionate ground.
- d) Essential qualification for the appointment of Junior Clerk is Second Class Graduation with at least six month of training on the use of Computer for office Automation and Typing.
- e) The candidate who possesses higher qualification i.e. Postgraduate degree be offered the post of Junior Clerk for appointment on compassionate ground.
- f) Only two attempts to qualify the Typing Test will be offered to the candidates recommended for the post of Junior Clerk and the disqualified candidates be offered the appointment on the post of Multi Tasking Staff.
- g) The appointees (Junior Clerk) under compassionate ground be required to possess proficiency in typing (English 30wpm/Hindi 25wpm) and academic qualification as prescribed by the University.
- h) The age limit for compassionate appointment should be as per University Recruitment Rules:
 - i) 18-30 years for general category
 - ii) 18-33 years for OBC category
 - iii) 18-35 years for SC/ST category
 - iv) No age bar for widow/spouse
- i) 'Married daughter' can be considered for compassionate appointment, but subject to conditions (i) that she was wholly dependent on the Government servant at the time of his/her death (ii) she must support other dependents family members of the deceased employee.

(x) Belated requests for Compassionate Appointment:-

- a) University can consider request for compassionate appointment even where the death or retirement on medical grounds of a University employee took place long back, say five years. While considering such belated requests, it should however, be kept in view that the concept of compassionate appointment is largely related to the need for immediate assistance to the family of the University employee in order to relieve it from economic distress. The very fact that the family has been able to manage somehow all these years should normally be taken as adequate proof that the family had some dependable means of subsistence. Therefore, examination of such cases would call for a great deal of circumspection. The decision to make appointment on compassionate grounds in such cases may, therefore, be taken only at the level of Executive Council.
- b) Whether a request for compassionate appointment is belated or not may be decided with reference to the date of death or retirement on medical ground of a University employee and not the age of the applicant at the time of consideration.

(xi) Posts to which such appointment can be made:-

Group 'C' (Level 01 & Level 02) posts against the direct recruitment quota as under:

- a) Compassionate appointment can be made only against posts under direct recruitment quota subject to the availability of the post.
- b) The compassionate appointment shall be restricted to Group 'C' Level 01 on the post of Multitasking Staff and under Group 'C' Level 02 on the post of Junior Clerk only. No appointment on compassionate ground shall be made against any teaching post either in the University or at any of its schools.

- c) The candidates shall be considered for appointment under Group 'C' (Level 01 & Level 02) only when they satisfy the eligibility with respect to qualification and other tests prescribed by the University from time to time for the group 'C' posts.
- d) As the appointment have to be cleared at the University level, all the vacancies under Group 'C' (Level 01 to Level 05) are to be pooled for executing to compassionate appointment as per rules.

Where a widow is appointed on compassionate ground to erstwhile group D post as Multi Tasking Staff, she will be exempted from the requirement of possessing the educational qualifications prescribed in the relevant rules provided the duties of the post can be satisfactorily preformed by her without possessing such educational qualifications.

(xii) Determination/Availability of Vacancies

- a) Appointment of compassionate grounds should be made only on regular basis and that too only, if regular vacancies meant for that purpose are available.
- b) Compassionate appointment can be made up to a maximum of 5% (extended from time to time vide resolution of EC) of vacancies falling under direct recruitment quota in any Group 'D' 'C' (Level 01 to 05) post. The Appointing Authority may hold back up to 5%(extended from time to time vide resolution of EC) of vacancies in the aforesaid categories to be filled by direct recruitment through Staff Selection Committee or otherwise, so as to fill such vacancies by appointment on compassionate grounds. A person selected for appointment on compassionate ground should adjust in the recruitment roster against the appropriate category viz. SC/ST/OBC/General depending upon the category to which he belongs. For example, if he belongs to SC category he will be adjusted against the SC reservation point, if he is ST/OBC he will be adjusted against ST/OBC point and if he belongs to General Category, he will be adjusted against the vacancy point meant for General Category.
- c) While the ceiling of 5% for making compassionate appointment against regular vacancies should not be circumvented by making appointment of dependent family members of University employee on casual/daily wages/ad-hoc/contract basis against regular vacancies, there is no bar to considering him for such appointment, if he is eligible as per the normal rules/order governing such appointments.
- d) The ceiling of 5% (extended from time to time vide resolutions of EC) of direct recruitment vacancies for making compassionate appointment should not be exceeded by utilizing any other vacancies e.g. sports quota vacancy.
- e) The application for appointment on Compassionate Ground may be screened on the basis of the "Weightage Points in the scale of 100"

(xiii) Authority competent to made Compassionate Appointment:-

The Compassionate Committee shall consist of:

- | | | | |
|------|--|---|-----------------|
| i) | The Registrar, BHU | - | Chairman |
| ii) | Two nominee of the Vice Chancellor | - | Member |
| iii) | An SC/ST representative (to be nominated by the V.C.) | - | Member |
| iv) | An OBC representative (to be nominated by the V.C.) | - | Member |
| v) | The Finance Officer, BHU | - | Member |
| vi) | The Internal Audit Officer | - | Member. |
| vii) | The Dy. Registrar (Admin-NT) | - | Secretary |

The tenure of the Committee shall be two year.

Appointment on compassionate grounds shall be made after approval of the Vice-Chancellor on the recommendations of the Compassionate Committee.

The compassionate Committee after careful examination of the documents of the concerned candidates establishing their eligibility and suitability to the post shall submit its recommendations for consideration of the Vice-Chancellor.

The Chief Proctor's shall report about the antecedents of the applicant before he/she is considered for appointment on compassionate ground by obtaining the information from Police Station of the applicant.

The persons whose cases once considered and rejected on eligibility ground and not recommended for appointment by the Compassionate Committee shall not be reconsidered.

(xiv) Seniority:-

- a) The inter se seniority of persons appointed on compassionate ground may be fixed with reference to their date of appointment. Their interpolation with the direct recruits/ Promotee may also be made with reference to their date of appointment without disturbing the inter se seniority of direct recruits/promotee.
- b) Date of joining by a person appointed on compassionate grounds shall be treated as the date of his/her regular appointment.
- c) A person appointed on compassionate ground in a particular year may be placed at the bottom of all the candidates recruited/appointed through direct recruitment, promotion etc. In that year, irrespective of the date of joining of the candidate on compassionate ground.

(xv) Saving Clause

These rules shall come into force from January , 2019. Any resolutions, Circulars, provisions rules notified earlier shall stand superseded w.e.f. date of the enforcement of the present rules.

(xvi) A. Exemption

- (a) The person recommended for the post of Junior Clerk completing 45 years of age on the date of their appointment may be granted exemption from the Computer typing test.

B. Relaxations:

The lower age limit should, however, in no case be relaxed below 18 years of age. The age eligibility shall be determined with reference to the date of application; Prescribed Proforma available for making application as Appendix:-'A'.

While considering the requests of Widows of the deceased employees, the Compassionate Appointment Committee relaxes the age bar and minimum qualification.

Recommendation of the Committee should be placed before the competent authority for a decision. If the competent authority disagrees with the Committee's recommendations, the case may be referred to the next higher authority for a decision.

C. TERMINATION OF SERVICE

The compassionate appointment can be terminated on the ground of noncompliance of any condition stated in the offer of appointment after providing an opportunity to the compassionate appointee by way of issue of show cause notice asking him/her to explain why his/her services should not be terminated for non-compliance of the condition(s) in the offer of appointment and it is not necessary to follow the procedure prescribed in the Disciplinary Rules/Temporary Service Rules for his purpose.

In order to check its misuse, it has also been decided that this power of termination of services for non-compliance of the condition(s) in the offer of compassionate appointment should vest only with the Compassionate Appointment Committee.

D. General:

- a) Appointment made on grounds of compassion should be done in such a way that persons appointed to the post do have the essential educational and technical qualifications and experience required for the post consistent with the requirement of maintenance of efficiency of administration.
- b) It is not the intension to restrict employment of a family member of the deceased or medically retired (erstwhile) Group 'D' University employee to a erstwhile group 'D' post only. As such, a family member of such erstwhile Group 'D' University employee can be appointed to a group 'C' post for which he/she is educationally qualified, provided a vacancy in Group 'C' post exists for this purpose.
- c) The Scheme of compassionate appointments was conceived as far back as 1958. Since then a number of welfare measures have been introduced by the University which have made a significant difference in the financial position of the families of the University employee dying in harness/retired on medical ground. An Application for compassionate appointment should, however, not be rejected on the ground that the family of the University employee has received the benefits under the various welfare schemes. While considering a request for appointment on compassionate grounds, a balanced and objective assessment of the financial condition of the family has to be made taking into account its assets and liabilities (including the benefits received under the various welfare schemes mentioned above) and all other relevant factors, such as, the presence of an earning member, size of the family, ages of the children and the essential needs of the family etc.
- d) Requests for compassionate appointment consequent on death or retirement on medical grounds of erstwhile Group 'D' staff may be considered with greater sympathy by applying relaxed standards depending on the facts and circumstances of the case.

Compassionate appointment will have precedence over regularization of daily wage/casual workers with/without temporary status.

- e) Any request to increase the upper age limit of 55 year for retirement on medical grounds prescribed in para 2 (a) (b) and (c) above in respect of Group 'A'/'B'/'C' University employee and to bring it at par with the age limit of 57 years prescribed therein for erstwhile Group 'D' University employee on the grounds that the age of retirement has recently (May 1998) been raised from 58 years to 60 years for Group 'A'/'B'/'C' University employees (which is at par with the age of retirement of 60 years applicable to erstwhile Group 'D' University employee) or on any other grounds should invariably be rejected, so as to ensure that the benefit of compassionate appointment available under the scheme is not misused by seeking retirement on medical ground at the fag end of one's career and also keeping in view the fact that the higher upper age limit of 57 years has been prescribed therein in erstwhile Group 'D' University employee for the reason that they are low paid University employee who get meagre invalid pension in comparison to others.

XVII) Time Limit for considering application for Compassionate Appointment

The filled-up proforma should be submitted in the office within 5 years from the date of death of the University employee.
