

HIGH COURT OF AZAD JAMMU AND KASHMIR



Writ Petition: 3459/2021;
Date of Institution 20.10.2021;
Date of Hearing. 16.12.2025;
Date of Decision.24.12.2025.

Abdul Majeed S/o Lal Din R/o Kerni Tehsil & District
Haveli/Kahutta, Azad Kashmir.

....Petitioner

VERSUS

1. Director General Health Azad Jammu & Kashmir,
Muzaffarabad;
2. Medical Superintendent District Headquarter Hospital
Haveli/Kahutta;
3. Selection Committee through Chairman (MS) District
Headquarter Hospital Haveli/Kahutta;
4. District Health Officer Haveli/Kahutta;
5. Shahid Iqbal S/o Ahmed Din, R/o Kerni Dental Technician
BPS-09 District Headquarter Hospital Haveli/Kahutta;
6. District Accounts Officer Haveli/Kahutta.

..... Respondents

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Writ Petition No.1797/2025;
Date of Institution.18.07.2025;

1. Ghulam Mujtaba Kiani S/o Ghulam Shakoor Kiani, R/o
Hallan Shumali Tehsil & District Haveli/Kahutta;
2. Muhammad Idrees Taj S/o Taj Muhammad, R/o Bringbun
Tehsil & District Haveli/Kahutta;
3. Ejaz Masood S/o Khalid Masood, R/o Chakyas Tehsil
Mumtazabad District Haveli/Kahutta;
4. Khawaja Muhammad Iqbal Zaheer S/o Khawaja Bashir
Ahmed, R/o Raiji Tehsil Khurshidabad District
Haveli/Kahutta;
5. Nazakat Ali S/o Muhammad Mukhtar, R/o Sheebun Tehsil
Mumtazabad District Haveli/Kahutta;

6. Chaudhary Muhammad Hammad Gorsî S/o Chaudhary Din Muhammad Gorsî, R/o Degwar Teerwan Junobi Tehsil & District Haveli/Kahutta;
7. Adnan Aslam S/o Muhammad Aslam, R/o Sheebun Tehsil Mumtazabad District Haveli Kahutta.

.....Petitioners

VERSUS

1. Secretary Health Services Azad Government of the State of Jammu & Kashmir, Muzaffarabad;
2. Director General Health Services, Muzaffarabad;
3. Additional Director Health Services Azad Government of the State of Jammu & Kashmir, Muzaffarabad;
4. District Health Officer Haveli/Kahutta;
5. Selection Committee through Chairman/DHO Haveli/Kahutta for the post of Junior Technician Medical BPS-9;
6. District Education Officer Haveli/Kahutta;
7. Zeeshan Sadiq, Junior Technician Medical BPS-9, FAP Kangran District Haveli/Kahutta;
8. Raja Sheraz Ali, Junior Technician Medical BPS-9, FAP Charoon District Haveli/Kahutta;
9. Danish Manzoor, Junior Technician Medical BPS-9, THQ Hospital Mumtazabad District Haveli/Kahutta;
10. Amir Raza, Junior Technician Medical BPS-9, FAP Jarlaan District Haveli/Kahutta;
11. Syed Najam ul Saqib, Junior Technician Medical BPS-9, FAP Kirni Mohri District Haveli/Kahutta;
12. Tanvir Asif, Junior Technician Medical BPS-9, FAP Bringbun District Haveli/Kahutta;
13. Raja Muhammad Naveed Khan, Junior Technician Medical BPS-9, FAP Chanjhal District Haveli/Kahutta;
14. Raja Amjad Ali, Junior Technician Medical BPS-9, FAP Toongairi District Haveli/Kahutta;
15. Khawaja Tahir Iqbal, Junior Technician Medical BPS-9, FAP Naarri Chandaan District Haveli/Kahutta;
16. Iftikhar Siddique, Junior Technician Medical BPS-9, FAP Hallan Junobi District Haveli/Kahutta;
17. Israr Yousuf, Junior Technician Medical BPS-9, FAP Nakarkot District Haveli/Kahutta;
18. Mansoor Saeed, Junior Technician Medical BPS-9, FAP Karsandharra District Haveli/Kahutta;

19. Zaheen Abbas, Junior Technician Medical BPS-9, Civil Dispensary Soli District Haveli/Kahutta;
20. Momin Ali, Junior Technician Medical BPS-9, FAP Fatehpur District Haveli/Kahutta;
21. Khurram Khurshid, Junior Technician Medical BPS-9, FAP Chanjhal District Haveli/Kahutta;
22. Attique-ur-Rehman, Junior Technician Medical BPS-9, FAP Jabarra District Haveli/Kahutta;
23. Muhammad Saboor, Junior Technician Medical BPS-9, RHC Hallan Junobi District Haveli/Kahutta;
24. Attique Ahmed Dar, Junior Technician Medical BPS-9, FAP Hajibal District Haveli/Kahutta;
25. Muhammad Mohsin Ashfaq, Junior Technician Medical BPS-9, FAP Nakkar District Haveli/Kahutta;
26. Syed Waqas Manzoor Gillani, Junior Technician Medical BPS-9, FAP Kharri District Haveli/Kahutta;
27. Adnan Qasim, Junior Technician Medical BPS-9, FAP Paddar District Haveli/Kahutta;
28. Danyal Moeen, Junior Technician Medical BPS-9, RHC Khurshidabad District Haveli /Kahutta;
29. Ayaz Sharif, Junior Technician Medical BPS-9, FAP Basahan District Haveli/Kahutta;
30. Junaid Iqbal, Junior Technician Medical BPS-9, FAP Hundi Peeran District Haveli/Kahutta.

.... Respondents

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Writ Petition: 1806/2025.

Date of Institution 21.07.2025;

Mehboob Hussain Kiani S/o Muhammad Sakhi Kiani R/o Soli Khass Tehsil & District Haveli Kahutta AJ&K.

....Petitioner

VERSUS

1. Secretary Health Services Azad Govt. of the State of Jammu & Kashmir Muzaffarabad.
2. Director General Health Services Azad Govt. of the State of Jammu & Kashmir Muzaffarabad.
3. Additional Director Health Services Azad Govt. of the State of Jammu & Kashmir Muzaffarabad.
4. District Health Officer District Haveli Kahutta AJ&K.

5. Selection Committee through Chairman (Dr. Jawad Afzal Kiani DHO Kahutta Haveli) for the post of Junior Technician Pathology B-9.
6. District Accounts Officer District Haveli Kahutta AJ&K.
7. Muhammad Ahtisham Ayyaz illegally appointed as Junior Technician Pathology B-9 THQ Mumtazabad District Haveli AJ&K.

..... Respondents

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Writ Petition No. 1808/2025;
Date of Institution. 21.07.2025;

Adnan Aslam S/o Muhammad Aslam, R/o Sheebun Tehsil Mumtazabad District Haveli/Kahutta, Azad Kashmir.

.....Petitioner

VERSUS

1. Secretary Health Services Azad Govt. of the State of Jammu & Kashmir Muzaffarabad;
2. Director General Health Services Azad Jammu & Kashmir, Muzaffarabad;
3. Additional Director Health Services, Muzaffarabad;
4. District Health Officer Haveli/Kahutta;
5. Selection Committee through Chairman for the Post of Junior Technician Preventive Care, BPS-9;
6. District Accounts Officer Haveli/Kahutta;
7. Syed Ehtesham Gillani Junior Technician Preventive Care BPS-9 DHO Office Haveli/Kahutta;
8. Muhammad Awais Younus, Junior Technician Preventive Care BPS-9 FAP Chanjhal District Haveli/Kahutta, Azad Kashmir.

..... Respondents

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Writ Petition No. 1845/2025.
Date of Institution 23.07.2025;

Saman Sharif W/o Shafiq Ahmed Lone R/o Hotter, Union Council Chanjal Tehsil & District Haveli Kahutta.

....Petitioner

VERSUS

1. Health Department through Secretary Health Azad Govt. of the State of Jammu & Kashmir Muzaffarabad.
2. Secretary Health AJ&K Muzaffarabad.
3. Director General Health Services office situated at Narrual Tehsil & District Muzaffarabad.
4. Selection Committee through Chairman DHO Haveli Kahutta having his office at District Headquarter Haveli Kahutta.
5. DHO District Haveli Kahutta.
6. District Accounts Officer District Haveli Kahutta.
7. Sadaf Batool D/o Rafique Ahmed Shah R/o Hallan Shamli Tehsil & District Haveli Kahutta presently illegally appointed as Junior Technician Primary Health Care (MCH) B-9 posted at RHC Bahadi Mota Nawali District Haveli Kahutta.
8. Hadia Muzaffar D/o Muzaffar Hussain Kahn R/o Kalali Tehsil and District Haveli Kahutta presently illegally appointed as Junior Technician Primary Health Care (MCH) B-9 posted at BHU Hallan Shamali District Haveli Kahutta.
9. Rukhsana Bano W/o Muhammad Zahid R/o Kalamola Tehsil Khurshidabad District Haveli Kahutta presently illegally appointed as Junior Technician Primary Health Care (MCH) B-9 posted at BHU Kalamola District Haveli Kahutta.
10. Asia Bibi W/o Shahid Mahmood R/o Mori Madan Tehsil & District Haveli Kahutta presently illegally appointed as Junior Technician Primary Health Care (MCH) B-9 posted at RHC Bahadi Mota Nawali District Haveli Kahutta.
11. Anwash Ghalib D/o Mirza Ghalib Baig R/o Gugdar Tehsil Mumtazabad District Haveli Kahutta presently illegally appointed as Junior Technician Primary Health Care (MCH) B-9 posted at BHU Mandhar District Haveli Kahutta.

..... Respondents

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Writ Petition No.1967/2025;
Date of Institution.02.08.2025;

Muhammad Zakriya Bin Lal S/o Lal Din, R/o Shebun Tehsil Mumtazabad District Haveli/Kahutta.

.....Petitioner

VERSUS

1. Selection Committee through Chairman/District Health Officer Haveli/Kahutta;
2. Secretary Health Services Azad Government of the State of Jammu & Kashmir, Muzaffarabad;
3. Director General Health Services, Muzaffarabad;
4. District Health Officer Haveli/Kahutta;
5. District Accounts Officer Haveli/Kahutta;
6. Muhammad Ehtesham Ayaz, Junior Technician Pathology BPS-9, THQ Hospital Mumtazabad District Haveli Kahutta.

.... Respondents

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Writ petition No.2112/2025;
Date of Institution 16.08.2025;

1. Mehreen Bashir D/o Muhammad Bashir Chohan, R/o Kahutta Tehsil & District Haveli Kahutta;
2. Shahnaz Akhtar w/o Muhammad Akhlaq Ahad, R/o Khurshidabad District Haveli/Kahutta.

....Petitioners

VERSUS

1. Secretary Health Services Azad Government of the State of Jammu & Kashmir, Muzaffarabad;
2. Director General Health Services, Muzaffarabad;
3. Additional Director Health Services Azad Government of the State of Jammu & Kashmir, Muzaffarabad;
4. District Health Officer Haveli/Kahutta;
5. Selection Committee through Chairman (DHO Kahutta/Haveli for the post of Junior Technician Primary Health Care (MCH) BPS-9;
6. District Accounts Officer Haveli/Kahutta;
7. Aasia Bibi, Junior Technician Primary Health Care (MCH) (BPS-9) RHC Bhedi Motanwali District Haveli/Kahutta;

8. Sadaf Batool, Junior Technician Primary Health Care (MCH) (BPS-9) RCH Bhedi Motanwali District Haveli/Kahutta;
9. Hadia Muzaffa, Junior Technician Primary Health Care (MCH) (BPS-9) BHU Halan Shumali District Haveli/Kahutta;
10. Rukhsana Bano, Junior Technician Primary Health Care (MCH) (BPS-9) BHU Kalamula District Haveli/Kahutta;
11. Anosh Ghalib, Junior Technician Primary Health Care (MCH) (BPS-9) BHU Mandhar District Haveli/Kahutta.

..... Respondents

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Writ Petition: 2148/2025.

Date of Institution 21.08.2025;

Raja Muhammad Gohar Raza S/o Muhammad Raza R/o Pallan Chaudhrian Tehsil & District haveli Kahutta AJ&K.

....Petitioner

VERSUS

1. Director General Health Services office situated at Narrual Tehsil & District Muzaffarabad.
2. Additional Director Health Services having his office at Narrul Muzaffarabad AJ&K.
3. DHO District Haveli Kahutta.
4. Selection Committee through Chairman (Dr. Jawad Afzal Kiani DHO Kahutta Haveli) for the post of Junior Technician Pathology B-19 THQ Mumtazabad District Haveli.
5. District Accounts Officer District Haveli Kahutta AJ&K.
6. Muhammad Ahtisham Ayaz Rathore S/o Muhammad Hameed Khan Rathore R/o Bringban Tehsil & District Haveli Kahutta illegally appointed as Junior Technician Pathology B-9 in THQ Mumtazabad District Haveli.

..... Respondents

WRIT PETITIONS

Before:- Justice Chaudhary Khalid Rasheed, J.

APPEARANCES:

M/s Chaudhary Ghulam Nabi, Akif-ud-Din Muhammad Riaz, Khaliq Naqashbandi & Mir Tanvir Hussain, Advocates for the petitioners.

M/s Raja Muhammad Arif Rathore, Azhar Mehmood Khan, Atif Mushtaq Gillani, Sheik Muhammad Aslam, Advocate for the respondents.

Legal Advisor of the Health Department.

VERDICT:

The instant writ petitions are hereby accepted.

JUDGMENT:**FOREWORD:**

The captioned writ petitions have been filed under Article 44 of the Azad Jammu and Kashmir Interim Constitution, 1974, whereby appointment orders of private respondents as Junior Technician B-9 in the Health Department in pursuance of advertisement dated 10.05.2025 issued by District Health Officer Haveli have been assailed. As common questions of facts and law are involved in the captioned writ petitions, hence, were heard together and are decided through this single judgment.

STANCE OF THE PETITIONERS:

The learned counsel for the petitioners reiterated the facts and ground already taken in the writ petitions by contended that under the relevant rules the appointing authority for the post of Junior Technician B-9 is an officer of B-19 in the relevant jurisdiction however, the advertisement for

inviting applications for the posts of Junior Technician has been issued by an officer of B-18 who was assigned additional charge of District Health Officer B-19, therefore, the appointments are illegal and liable to be set aside. They also stated that whole selection process was unfair, unjust, bogus and only blue eyed persons have been accommodated, thus, the entire selection process is liable to be struck down.

REFUTATION OF THE RESPONDENTS:

The learned counsel for the respondents contended that an Officer B-18 was assigned the additional charge of District Health Officer B-19 therefore, no illegality has been committed while issuing the advertisement and impugned appointment orders of private respondents as Junior Technician, thus, the writ petitions entails dismissal.

I have heard the learned counsel for the parties, gone through the record of the case with utmost care and caution.

COURT OBSERVATIONS AND RELEVANT LAW:

Under the Azad Jammu & Kashmir Health Department (Paramedics & Medical Assistants Dying Cadre (4-tiers formula) Service) Rules, 2015 issued vide notification dated 24.06.2015 the appointing authority for the posts of Junior

Technician (Medical, Dental, Pathology, Radiology, Surgical, Preventive Care, MCH B-9) is an officer BPS-19 in relevant jurisdiction. The Azad Government vide notification dated 11.04.2025 constituted selection committees as was required under Rule 4(4) of the Azad Jammu & Kashmir Civil Servants (Appointment and Conditions of Service), Rules, 1977. The selection committee for appointment from B-5 to B-10 was consisting of (i) officer BPS-18 concerned department as Chairman, (ii) officer BPS-17 as Member/Secretary Committee, (iii) representative of appointing authority of concerned department as Ex-Officio Member. The Secretary Health Department Azad Jammu & Kashmir in furtherance of notification dated 11.04.2025 constituted committees for promotions/appointments in BPS-1 to BPS-15 vide order dated 09.05.2025. According to said order dated 09.05.2025, committee for grade BPS-5 to BPS-10 (District Offices Health Department, ADHOs, DHOs, Hospitals Allied Health Institutes, Colleges, Vertical Programs) was consisting of (i) DDHO/ADHO/DMS/SMO, concerned District/Hospital BPS-18 as Chairman, (ii) Civil Medical Officer/Superintendent BPS-17 as Member/Secretary Committee, (iii) Representative of Appointing Authority as Ex-Officio Member. The Secretary

Health issued further order dated 23.05.2025 and nominated Dr. Jawad Afzal Kiani, District Health Officer Kahutta/Haveli as Chairman, Dr. Samia Mehroz, Family Medical Officer as Member/Secretary Committee and Syed Nisar Hussain Shah, Head Clerk as Ex-Officio Member for conducting test and interview to be held on 26/27.05.2025.

The main question which is required to be resolved by this Court is as to whether an advertisement for inviting applications from the candidates who were desirous to compete for appointment could be issued by the selection committee or the appointing authority. The Azad Jammu & Kashmir Civil Servants Act, 1976 and the Azad Jammu & Kashmir Civil Servants (Appointment and Conditions of Service), Rules, 1977 though provide a mechanism for appointments in Government Departments but the said Act and Rules are silent that which of the authority is competent to issue the advertisement, hence in absence of specific provision to issue the advertisement for inviting applications in a special Act/Rules, the power vests upon administrative head of the department to issue advertisement for inviting applications because the determination of quota for direct recruitment and promotion, declaring post vacant for initial recruitment and initiation of proceedings to fill up the

posts are administrative functions of the department and a selection committee has got no nexus with such functions rather the function of selection committee is only to conduct test, interview and recommend suitable candidates to the appointing authority for issuance of appointment order. Under the relevant rules which regulate the services of Health Department an officer in B-19 in the relevant jurisdiction has been declared as appointing authority for Junior Technician B-9, thus, the powers of administrative head of the department would be deemed to have been delegated to the appointing authority. Under rule 49 of the Azad Jammu & Kashmir Rules of Business (Revised) 1985, all administrative powers shall be exercised by such authorities as delegated under the Azad Jammu & Kashmir (Civil Service) Delegation of Administrative Powers Rules, issued and notified by the Government from time to time. The Secretary to Government of the concerned Department is the administrative head of the department who is empowered to issue the advertisement, however when the rules have been framed and an appointing authority has been nominated then the powers are delegated to the appointing authority for specific purpose, hence the issuance of advertisement by any other officer except the appointing authority is not recognized by any law and any

action which is not backed by the relevant law cannot be declared as justified, thus the issuance of advertisement for inviting applications by an officer of BPS-18 has made the whole selection process as coram-non-judice, so when it is established that the base is unlawful then the superstructure has got no option except to fall. The question is answered in the manner that only the administrative head of the department or the appointing authority with the approval of administrative head may issue advertisement for inviting applications in order to fill up a post in the Govt. departments.

The other question which also requires the deliberation of this Court is as to whether an officer of BPS-18 who was assigned an additional charge of DHO BPS-19 would be treated as an officer of BPS-19 for the purpose of making appointments in BPS-9 for which the appointing authority is an officer of BPS-19 in the relevant jurisdiction? The answer is obviously in negation. It is not disputed rather admitted that the appointing authority for the post of Junior Technician B-9 is an officer of grade B-19 in the relevant jurisdiction while officer B-18 who was just assigned additional charge of District Health Officer B-19, issued advertisement and conducted the whole selection process, hence, the appointments of the private

respondents are ab-initio void and coram-non-judice as being based on an illegal advertisement issued by an incompetent authority.

The argument advanced by the learned counsel for the respondents that an officer of B-18 was assigned the additional charge of District Health Officer B-19 hence, he was competent to issue the advertisement and conduct selection process has got no plausible essence because it is blatantly obvious in the rules that only an officer of B-19 is an appointing authority for the post of Junior Technician B-9 thus merely assigning of additional charge to an officer of B-18 as District Health Officer does not amount to consider him as an officer of B-19. Even otherwise the assigning of additional charge is not recognized by any law as has been held by the Hon'ble Supreme Court of Azad Jammu & Kashmir in 2022 SCR 1163 hence the argument is repelled.

Adverting to the question as to the whether the appointments have been made in a transparent manner or only the blue eyed persons have been accommodated by violating the merit, it may be stated that in writ petition No.1967/2025 the learned counsel for the petitioner leveled an allegation that private respondent appointed as Junior Technician Pathology

has been awarded marks for technical education and Matric exam in discriminatory manner, which fact is established from the record. A perusal of the merit list reveals that petitioner, herein, obtained 39 marks in the written test whereas private respondent secured 33 marks, the petitioner obtained 638 marks out of 1100 in Matric exam and in technical education 2714 out of 3800 marks which comes to 16.5 whereas private respondent obtained 542 marks out of 1100 in Matric and 238 out of 600 in technical profession but despite that in interview private respondent has been allotted 21 marks whereas petitioner has been granted only 12 marks in the interview which clearly suggests that in order to accommodate private respondent he has been allotted additional marks in the interview which is a clear proof of the fact that selection process was not transparent at all.

In writ petition No. 1797/2025 the petitioners have placed on record different verifications appended with the replication which speaks that the experience certificates of appointed private respondents were fake but the official respondents did not bother to obtain verification regarding experience certificates of private respondents which is a question mark on the selection process.

In writ petition No.1845/2025, the merit list prepared for the posts of Junior Technician MCH BPS-9 in furtherance of test and interview conducted on 27.05.2025 reveals that according to the said merit list, respondent No.9 Rukhsana Bano took birth on 07.06.2002, however her practical experience is mentioned as ten years in MNCH Program which is not possible because she attained the age of 18 years on 07.06.2020 then how she can be in possession of ten years practical experience in the year 2025 which fact also establishes that the merit list has not been prepared in a fair manner.

Under the relevant rules, the required qualification for the posts of Junior Technician is two years diploma in relevant field from the recognized institute/Board of Provincial Government of Pakistan. It is evident from the record that in writ petitions No.3459/2021 & 1808/2025 the diplomas of private respondents have been issued by the Skill Development Council Islamabad, however the said institution is not recognized by Pakistan Nursing Council/Provincial Government of Punjab as has been held by the Honourable Supreme Court of Azad Jammu & Kashmir in a case titled Director General Health & others v. Saeed Ahmed dated 12.03.2019 but the official respondents did not bother to verify the concerned diplomas/certificates of the

selected candidates. Similarly, in writ petition No.1808/2025 the petitioners levelled allegation in ground 'L' of the writ petition that one of the appointed private respondent is 3rd Division in Matric which fact has not been specifically denied by the respondents, hence it can safely held that entire selection process has not been conducted in a transparent manner rather unfair has been done.

It is also pertinent to mark that the appointments of private respondents have been made on the recommendations of selection committee under the Chairmanship of Dr. Jawad Afzal Kiani who was assigned the additional charge of District Health Officer Haveli. The Hon'ble Supreme Court of Azad Jammu & Kashmir in criminal original No.36/2025 titled Muhammad Sharafat Mir Vs. Dr. Jawad Afzal Kiani found him responsible of tempering the merit list for the posts of drivers, directed the Govt. to initiate inquiry against him and remove him from his present assignment forthwith, thus the officer who was found involved in tampering of the merit list for the posts of drivers cannot be declared as a worthy or a reliable person for appointments to the posts of Junior Technician B-9, hence, in view of the judgment of the Hon'ble Supreme Court it can safely be concluded that the merit list prepared by District Health

Officer Haveli/Kahutta who already committed the offence of tampering in the merit list is not transparent, so the whole selection process for the posts of Junior Technician B-9 in pursuance of advertisement dated 10.05.2025 is liable to be declared as unfair, hence deserves to show the doors.

DISPOSAL:

The sum and substance of the above discussion is, the instant writ petitions are hereby accepted and the impugned appointment orders of private respondents are hereby declared as ab-initio-void and coram-non-judice, thus extinguished.

Muzaffarabad;
24.12.2025.

JUSTICE