

राजस्थान सरकार

निदेशालय, चिकित्सा एवं स्वास्थ्य सेवाएँ, राज0 जयपुर।

क्रमांक: प.7(विविध)चिस्वा/अव./विधि/2014/

दिनांक:

अतिरिक्त निदेशक (प्रशासन)  
मुख्यालय।

संयुक्त निदेशक  
चिकित्सा एवं स्वास्थ्य सेवायें  
जोन-जोधपुर/उदयपुर/बीकानेर/अजमेर।

विषय:-दिनांक 17.09.2014 तक उच्च न्यायालय जोधपुर में विभाग के विरुद्ध विचाराधीन प्रकरण जिनमें जवाब दावें प्रस्तुत नहीं किये गये हैं में संबंधित समन्वयकों से जवाब दावें तैयार कर माननीय न्यायालय में प्रस्तुत करवाते हुये पालना रिपोर्ट भिजवाने बाबत।

विषयान्तर्गत माननीय उच्च न्यायालय जोधपुर में विभाग के विरुद्ध लम्बित प्रकरणों में आपके अधिनस्थ पदस्थापित अधिकारी जिन्हें अवमानना प्रकरणों में जवाब दावा प्रस्तुत करवाने हेतु समन्वयक नियुक्त किया गया था के द्वारा बार-बार निर्देश जारी करने के पश्चात् भी माननीय न्यायालय में जवाब दावें प्रस्तुत नहीं करवाये गये हैं और न ही नियमानुसार पालना की कार्यवाही की रिपोर्ट प्रेषित की गयी है।

अवमानना प्रकरणों में नियमानुसार पालना/स्टै/जवाब दावें की कार्यवाही नहीं करवाने को प्रमुख शासन सचिव महोदय द्वारा गम्भीरता से लेते हुये उक्त कार्यवाही अविलम्ब करवाने हेतु निर्देशित किया है।

अतः निदेशालय के विधि अनुभाग में प्राप्त अवमानना प्रकरण जिसमें अभी तक समन्वयकों द्वारा नियमानुसार पालना/स्टै/जवाब दावें की कार्यवाही नहीं की गई है कि सूची संलग्न कर निर्देशित किया जाता है कि संलग्न सूची में वर्णित प्रकरणों में नियमानुसार पालना/स्टै/जवाब दावें की कार्यवाही सात दिवस में करवाते हुये पालना भिजवावे, साथ ही जिन अवमानना प्रकरणों में पालना पूर्ण कर जवाब दावा प्रस्तुत किये जा चुके हैं, उन्हें अविलम्ब माननीय न्यायालयों सुनवाई हेतु लगवाकर खारिज करवाने की कार्यवाही करावे।

पत्र को उच्च प्राथमिकता प्रदान करें।  
संलग्न:- उपरोक्तानुसार।

निदेशक (जन स्वास्थ्य)  
चिकित्सा एवं स्वास्थ्य सेवायें,  
राजस्थान, जयपुर

दिनांक: 17-9-14

क्रमांक: प.7(विविध)चिस्वा/अव./विधि/2014/ 208

प्रतिलिपि:-निम्न को सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित है:-

1. निजी सचिव, प्रमुख शासन सचिव, चिकित्सा एवं स्वास्थ्य सेवायें, जयपुर।
2. संयुक्त शासन सचिव, चिकित्सा एवं स्वास्थ्य विभाग (गुप-2 व 3)।
3. उप शासन सचिव, एनआरएचएम, मुख्यालय।
4. अतिरिक्त निदेशक (प्रशासन/राजपत्रित) मुख्यालय।
5. प्रभारी सर्वर रूम, मुख्यालय को भेजकर लेख है कि सभी संबंधित को मय संलग्न ई-मेल करें।

निदेशक (जन स्वास्थ्य)  
चिकित्सा एवं स्वास्थ्य सेवायें,  
राजस्थान, जयपुर

**निदेशालय चिकित्सा एवं स्वास्थ्य सेवायें, राजस्थान जयपुर में प्राप्त अवमानना प्रकरण जिसमें जवाब दावे प्रस्तुत नहीं किये गये है कि सूची दिनांक 17.09.2014 उच्च न्यायालय जोधपुर**

क्र.सं.	फाईल नं.	प्राप्ति दिनांक	अव0 सं0	याचिका संख्या	उनवान	पदनाम	निर्णय दिनांक	केस प्रभारी अधिकारी	अधिवक्ता का नाम	निर्णय सारांश	पालना	जवाब
1	प.7(571)	18.03.13	93/13	4737/12	प्रहलाद भावसर बनाम श्री दीपक उप्रेती	एमपीएचडब्ल्यू	11.05.12	मुख्य चिकित्सा एवं स्वास्थ्य अधिकारी, झूगरपुर	श्री यशपाल खिलेरी	रिट याचिका का निस्तारण समान प्रकृति की रिट याचिका संख्या 6909/06 चन्द्रशेखर कुमार व अन्य बनाम राज0 राज्य व अन्य एवं खण्डपीठ में दायर अपील (रिट) 994/11 में दिये गये निर्णय के अनुसार करते हुये निर्णय की पालना करने के निर्देश दिये है।	डी0बी0 निर्णयाधीन पालना पूर्ण	
2	प.7(578)	20.03.13	441/12	801/09	भंवर लाल व अन्य बनाम श्री बी0एल0शर्मा	एमपीएचडब्ल्यू	06.02.12	मुख्य चिकित्सा एवं स्वास्थ्य अधिकारी, उदयपुर	श्री यशपाल खिलेरी	रिट याचिका का निस्तारण अन्य याचिकाओं के साथ करते हुये प्रत्यर्थागणों को निर्देश दिये है कि यदि याचिगणों का प्रकरण रिट याचिका संख्या 6909/06 चन्द्रशेखर कुमावत व अन्य बनाम राज0 राज्य व अन्य में उच्च न्यायालय, जोधपुर द्वारा पारित निर्णय दिनांक 20.08.08 के अनुसार कवर करता हो तो इन्हें भी समान परिणाम प्रदान किये जावे।	डी0बी0 निर्णयाधीन पालना पूर्ण	
3	प.7(650)	28.10.13	559/13	10978/10	डॉ0 अशोक सिंघवी बनाम श्री दीपक उप्रेती	क0वि0 ऑर्थोपेडिक्स के पद पर पदोन्नति बाबत	04.01.13	उप अधीक्षक, महात्मा गांधी अस्पताल, जोधपुर	श्री यशपाल खिलेरी	रिट याचिका स्वीकार करते हुये प्रत्यर्थागणों को निर्देश दिये है कि वे याची की क0वि0 ऑर्थोपेडिक्स के पद पर पदोन्नति हेतु परिपत्र दिनांक 26.07.06 द्वारा प्रतिबन्धित कलाज(3) को नजरअंदाज करते हुये वर्ष 2006-07 की शक्तियों के विरुद्ध यदि वह योग्य पाया जाता हो तो उसकी पात्रता पर विचार करें।	निर्णय विरुद्ध कार्मिक विभाग द्वारा दायर डी0बी0स्व0 अपील खारिज हो जाने से उनके स्तर से सर्वोच्च न्यायालय में एस्पेलपी दायर	
4	प.7(691)	16.12.13	686/20	8630/201	कैलाश चन्द बनाम श्री सी0के0 मैथ्यू, मुख्य सचिव	एम0पी0 एच0डब्ल्यू0	20.05.13	उप मुख्य चिकित्सा एवं स्वास्थ्य अधिकारी (स्वास्थ्य), राजसमन्द	श्री यशपाल खिलेरी	रिट याचिका स्वीकार करते हुये प्रत्यर्थागणों को निर्देश दिये गये है कि वे याचिकाकर्ता को प्रथम चयनित वेतनमान 4000-6000 दिनांक 11.02.1991 से स्वीकृत कर द्वितीय एवं तृतीय चयनित वेतनमान परिपत्र दिनांक 25.01.1992 एवं 17.02.1991 की शर्त के पैरा 5 के अनुसार स्वीकृत करें।		

5	प.7(829)	14.06. 14	41 / 201 4	1232 / 13	भानू प्रकाश व अन्य	(एमएचडब्ल्यू)	04.03.13	सहायक लेखाधिकारी, कार्यालय मुख्य चिकित्सा एवं स्वास्थ्य अधिकारी, दुरु एवं समन्वयक।	श्री अनिल कुमार बिस्सा,	"रिट याचिका स्वीकार करते हुये याचिका संख्या 1633/12 विजयपाल डबी व अन्य बनाम राजस्थान राज्य व अन्य में पारित निर्णय दिनांक 28.01.2013 एवं याचिका संख्या 2000/2013 अर्जुन सिंह सहारण व अन्य बनाम राजस्थान राज्य व अन्य तथा 47 अन्य याचिकाओं में पारित निर्णय दिनांक 04.03.2013 के परिपेक्ष्य में प्रत्यर्थागणों को निर्देश दिये है कि वे याचीगणों को उनके 9, 18 व 27 वर्षीय चयनित वेतनमान उनकी प्रथम नियुक्ति से कमशः वेतन श्रृंखला 975-1720, 1200-2050 एवं 1640-2900 स्वीकृत करें।
6	प.7(847)	12.06. 14	194 / 20 14	11795 / 20 12	असगर अली	(एमपीडब्ल्यू)	28.01.13	मुख्य चिकित्सा एवं स्वास्थ्य अधिकारी, बीकानेर एवं समन्वयक।	श्री अनिल कुमार बिस्सा,	"For order, see judgment dated 28-01-2013 passed in S.B. Civil Wirte Petitioner no. 1633/12; Vijay Pal Dabi Vs. State of Rajasthan Ors."
7	प.7(848)	18.06. 14	196 / 20 14	11780 / 20 12	श्रीमती किरण देवी	(एमपीडब्ल्यू)	28.01.13	मुख्य चिकित्सा एवं स्वास्थ्य अधिकारी, बीकानेर एवं समन्वयक।	श्री अनिल कुमार बिस्सा,	"In view of above, the present writ petition is allowed and the respondents are directed to fix the selection grades of the petitioners in the first, second and third selection grades in the pay scales of 975-1720, 1200-2050, 1640-2900 on completion of 9, 18 and 27 years of service respectively from their initial date of appointment. The exercise shall be completed within a period of two months from today. A copy of this order be placed on each file mentioned in annexed Schedule."

8	प.7(849)	18.06. 14	195 / 20 14	11786 / 2 012	करीमबक्श	(एमपीडब्ल्यू)	28.01.13	मुख्य चिकित्सा एवं स्वास्थ्य अधिकारी, बीकानेर एवं समन्वयक।	श्री अनिल कुमार बिस्सा,	“In view of above, the present writ petition is allowed and the respondents are directed to fix the selection grades of the petitioners in the first, second and third selection grades in the pay scales of 975-1720, 1200-2050, 1640-2900 on completion of 9, 18 and 27 years of service respectively from their initial date of appointment. The exercise shall be completed within a period of two months form today.  A copy of this order be placed on each file mentioned in annexed Schedule”	
9	प.7(850)	18.06. 14	197 / 20 14	11797 / 20 12	मंगल चंद माली पुत्र श्री मांगी लाल माली	(एमपीडब्ल्यू)	28.01.13	मुख्य चिकित्सा एवं स्वास्थ्य अधिकारी, बीकानेर एवं समन्वयक।	श्री अनिल कुमार बिस्सा,	“In view of above, the present writ petition is allowed and the respondents are directed to fix the selection grades of the petitioners in the first, second and third selection grades in the pay scales of 975-1720, 1200-2050, 1640-2900 on completion of 9, 18 and 27 years of service respectively from their initial date of appointment. The exercise shall be completed within a period of two months form today.  A copy of this order be placed on each file mentioned in annexed Schedule”	

10	प.7(851)	18.06.14	262 / 2014	8911 / 2009	पूनम चन्द गोदारग	(लेब टैक्नी. के पद पर नियुक्ति के संबध मे)	17.12.13	उप मुख्य चिकित्सा एवं स्वास्थ्य अधिकारी (स्वास्थ्य), जोधपुर एवं समन्वयक।	श्री अनिल कुमार बिस्सा.	"Therefore, in the considered opinion of this Court, the present writ petitions deserve acceptance and the same are, accordingly, allowed and quashing the impugned rejection orders of the Medical & Health Department. Govt. of Rajasthan, the respondents are directed to re-consider the case of the petitioners for appointment as Laboratory Technician in the said selection process and if the vacancies are still existing of have been kept Vacant under the interim orders of this Court, as the case may be, such consideration will be made and appointments offered within a period of three months from today. No costs. A copy of this order be sent to the concerned parties forthwith."
11	प.7(852)	18.06.14	240 / 2014	11794 / 2012	हबीबुद्दीन	(एमपीडब्ल्यू)	28.01.13	मुख्य चिकित्सा एवं स्वास्थ्य अधिकारी, बीकानेर एवं समन्वयक।	श्री अनिल कुमार बिस्सा.	"In view of above, the present writ petition is allowed and the respondents are directed to fix the selection grades of the petitioners in the first, second and third selection grades in the pay scales of 975-1720, 1200-2050, 1640-2900 on completion of 9, 18 and 27 years of service respectively from their initial date of appointment. The exercise shall be completed within a period of two months from today. A copy of this order be placed on each file mentioned in annexed Schedule."

12	प.7(853)	18.06. 14	238 / 20 14	11788 / 20 12	मो0 जपफार	(एमपीडब्ल्यू)	28.01.13	मुख्य चिकित्सा एवं स्वास्थ्य अधिकारी, बीकानेर एवं समन्वयक।	श्री अनिल कुमार बिस्सा,	"In view of above, the present writ petition is allowed and the respondents are directed to fix the selection grades of the petitioners in the first, second and third selection grades in the pay scales of 975-1720, 1200-2050, 1640-2900 on completion of 9, 18 and 27 years of service respectively from their initial date of appointment. The exercise shall be completed within a period of two months form today.  A copy of this order be placed on each file mentioned in annexed Schedule. "
13	प.7(854)	18.06. 14	237 / 20 14	11789 / 20 12	लक्ष्मी नारायण	(एमपीडब्ल्यू)	28.01.13	मुख्य चिकित्सा एवं स्वास्थ्य अधिकारी, बीकानेर एवं समन्वयक।	श्री अनिल कुमार बिस्सा,	"In view of above, the present writ petition is allowed and the respondents are directed to fix the selection grades of the petitioners in the first, second and third selection grades in the pay scales of 975-1720, 1200-2050, 1640-2900 on completion of 9, 18 and 27 years of service respectively from their initial date of appointment. The exercise shall be completed within a period of two months form today.  A copy of this order be placed on each file mentioned in annexed Schedule. "

14	प.7(855)	18.06.14	236/2014	11777/2012	बद्री दास व्यास	(एमपीडब्ल्यू)	28.01.13	मुख्य चिकित्सा एवं स्वास्थ्य अधिकारी, बीकानेर एवं समन्वयक।	श्री अनिल कुमार बिस्सा,	"In view of above, the present writ petition is allowed and the respondents are directed to fix the selection grades of the petitioners in the first, second and third selection grades in the pay scales of 975-1720, 1200-2050, 1640-2900 on completion of 9, 18 and 27 years of service respectively from their initial date of appointment. The exercise shall be completed within a period of two months from today. A copy of this order be placed on each file mentioned in annexed Schedule."	
15	प.7(856)	25.06.14	65/2014	18836/2013	भंवरलाल	(कम्प्यूटर ऑपरेटर)	21.11.13	जिला प्रजनन एवं शिशु स्वास्थ्य अधिकारी, जोधपुर एवं समन्वयक।	श्री अनिल कुमार बिस्सा,	निर्णय की प्रति अप्राप्त है।	
16	प.7(857)	25.06.14	263/2014	8909/2009	अमित कुमार झांब	(लेब टेक्नी. के पद पर नियुक्ति के संबंध में)	17.12.13	उप मुख्य चिकित्सा एवं स्वास्थ्य अधिकारी (स्वास्थ्य), जोधपुर एवं समन्वयक।	श्री अनिल कुमार बिस्सा,	"Therefore, in the considered opinion of this Court, the present writ petitions deserve acceptance and the same are, accordingly, allowed and quashing the impugned rejection orders of the Medical & Health Department. Govt. of Rajasthan, the respondents are directed to reconsider the case of the petitioners for appointment as Laboratory Technician in the said selection process and if the vacancies are still existing of have been kept Vacant under the interim orders of this Court, as the case may be, such consideration will be made and appointments offered within a period of three months from today. No costs. A copy of this order be sent to the concerned parties forthwith."	डी0बी0 अपील दायर

17	प.7(858)	25.06. 14	209 / 20 14	1305 / 201 3	डॉ० चन्द्रभान मिड्डा	(एमओओ)	16.05.13	मुख्य चिकित्सा एवं स्वास्थ्य अधिकारी, हनुमानगढ़ एवं समन्वयक।	श्री अनिल कुमार बिस्सा,	'In view of above, the writ petition preferred by the petitioner deserves acceptance and the same is accordingly allowed. the respondents are directed to treat the petitioner retired from services w.ef. 31 of January 2012 and consequently allow him all retiral benefits including pension, gratuity, commutation of pension, and leave encashment benefits etc. The respondents are directed to ensure compliance of the directions as expeditiously as possible, out not later than two months from today.  The parties are left to bear their own costs. "
18	प.7(859)	25.06. 14	239 / 20 14	11787 / 2 012	किशन लाल मारु	(एमपीडब्ल्यू)	28.01.13	मुख्य चिकित्सा एवं स्वास्थ्य अधिकारी, बीकानेर एवं समन्वयक।	श्री अनिल कुमार बिस्सा,	"In view of above, the present writ petition is allowed and the respondents are directed to fix the selection grades of the petitioners in the first, second and third selection grades in the pay scales of 975-1720, 1200-2050, 1640-2900 on completion of 9, 18 and 27 years of service respectively from their initial date of appointment. The exercise shall be completed within a period of two months from today.  A copy of this order be placed on each file mentioned in annexed Schedule. "



19	प.7(860)	30.06. 14	313/20 13	7593/20 12	डॉ० कृष्ण गोपाल अग्रवाल	(एम०ओ०)	01.08.12	मुख्य चिकित्सा एवं स्वास्थ्य अधिकारी, पाली एवं समन्वयक।	श्री अनिल कुमार बिस्सा,	"It is made clear that if the petitioner's case for retiral benefits is not finalised within, then petitioner will be entitled to interest @ 12% and said interest shall be paid from the salary of the authority who is authorized to issue no pendency of inquiry certificate."
20	प.7(863)	08.07. 14	302/20 14	8223/20 12)	मनोहर लाल	फार्मासिस्ट	08.08.12	मुख्य चिकित्सा एवं स्वास्थ्य अधिकारी, बीकानेर एवं समन्वयक।	श्री अनिल कुमार बिस्सा,	"In the meanwhile, the respondents are directed to continue the petitioners on the post of pharmacist if they possess requisite eligibility to hold the post concern and further if any vacancy is available with the respondents after giving appointments to regularly selected incumbents as a consequent to the process of selection conducted by the respondents."
21	प.7(873)	08.08. 14	292/20 14	9020/20 11	डॉ० ईश्वर चंद गौड बनाम श्री दीपक उग्रेती,	(एम०ओ०)	13.09.12	प्रमुख चिकित्सा अधिकारी, श्रीगंगानगर एवं समन्वयक	श्री अनिल कुमार बिस्सा,	"In view of the fact that retiral benefits have been paid to the petitioner after delay of eight months, therefore, this writ petition is disposed of with direction to respondents that interest for delayed payment of retiral benefits shall be paid to petitioner as per Rule 89 of the Rules 1996, within a period of three months from the date of receipt of certified copy to this order."

22	प.7(874)	12.08. 14	128/20 14	7515/201 2	मदन लाल पंवार बनाम श्री दीपक उप्रेती,	(संविदा फार्मा0)	12.09.13	संयुक्त निदेशक, चिकित्सा एवं स्वास्थ्य सेवायें, जोन-जोधपुर एवं समन्वयक	श्री अनिल कुमार बिस्सा	"In view of the fact that Commissioner (physical Disability), Rajasthan Jaipur is statutory authority, therefore, this writ petition is disposed of with the direction to the respondents to consider the case of the petitioner for providing appointment in the light of order passed by the Commissioner (Physical Disability) Government of Raj. Jaipur in accordance with the relevant rules within a period of one week from the date of receipt of certified copy of this order."	
23	प.7(875)	14.08. 14	294/20 14	11024/20 12	रघुवीर सिंह बनाम श्रीमती अल्का चौधरी व अन्य			मुख्य चिकित्सा एवं स्वास्थ्य अधिकारी, श्रीगंगानगर एवं समन्वयक।	श्री अनिल कुमार बिस्सा		
24	प.7(876)	20.08. 14	344/20 14	7465/200 6	सुमन एवं अन्य बनाम श्री दीपक उप्रेती		05.03.14	मुख्य चिकित्सा एवं स्वास्थ्य अधिकारी, नागौर एवं समन्वयक	श्री अनिल कुमार बिस्सा,	"In view of above this writ petition is disposed of with direction to the respondents to consider the case of petitioners for regularization strictly in the light of directives given by Hon'ble supreme Court in para 53 of the judgment in the case of Uma Devi (supra) within two months from the date of receiving certified copy of this order."	

25	प.7(877)	27.08. 14	327 / 20 14	8912 / 200 9	पुनीत शर्मा बनाम श्री दीपक उप्रेती,	(लेब टैक्नी.)	17.12.13	संयुक्त निदेशक, चिकित्सा एवं स्वास्थ्य सेवायें, जोन-जोधपुर एवं समन्वयक।	श्री अनिल कुमार बिस्सा,	"Therefore, in the considered opinion of this Court, the present writ petitions deserve acceptance and the same are, accordingly, allowed and quashing the impugned rejection orders of the Medical & Health Department. Govt. of Rajasthan, the respondents are directed to re-consider the case of the petitioners for appointment as Laboratory Technician in the said selection process and if the vacancies are still existing of have been kept Vacant under the interim orders of this Court, as the case may be, such consideration will be made and appointments offered within a period of three months from today. No costs. A copy of this order be sent to the concerned parties forthwith."	
26	प.7(878)	27.08. 14	393 / 20 14	12351 / 20 13	प्रियका चौधरी बनाम श्री दिनेश जागिड,	(नर्स ग्रेड-2 अभ्यर्थी)	07.11.13	संयुक्त निदेशक, चिकित्सा एवं स्वास्थ्य सेवायें, जोन-जोधपुर एवं समन्वयक।	श्री अनिल कुमार बिस्सा,	"In view of the above, Condition No.7 of the order dated 11.03.2013 (Annex.6) is hereby quashed and set aside. The respondent - State is directed to treat the experience of the petitioners at par with those employees who were appointed by the Government in National Rural Health Mission and Medi care Relief Society and consider their cases for appointment while taking into account the eligibility for the post of Nurse Grade-II. All above writ petitions are allowed in above terms."	

27	प.7(881)	28.08. 14	290 / 20 14	12787 / 2 012	डॉ० बी.वी. धिगडा बनाम श्री दीपक उम्रेती,	(चि०अ०)	25.11.13	संयुक्त निदेशक, चिकित्सा एवं स्वास्थ्य सेवायें, जौन-जोधपुर एवं समन्वयक ।	श्री अनिल कुमार बिस्सा,	"In view of the above, this writ petition is allowed. The respondents are directed to retire the petitioner from Government service w.e.f 31.03.2011 and consequently allow him all the retiral benefits including pension, gratuity, commutation of pension, leave encashment etc. The respondents are also directed to ensure the compliance of the aforesaid directions as expeditiously as possible but not later than three months from the date of production of certified copy of this order, No order as to costs."
28	प.7(884)	08.09. 14	407 / 20 14	12043 / 2 013	सुशीला पंवार बनाम श्री दीपक उम्रेती	(एएनएम)	30.10.13	मुख्य चिकित्सा एवं स्वास्थ्य अधिकारी, पाली एवं समन्वयक ।	श्री अनिल कुमार बिस्सा,	"In view of the aforesaid discussions, this writ petition succeeds and is allowed. The respondents are directed to treat the petitioner to have voluntary retired from service w.e.f. 08.08.2013 and are further directed to release all the retiral benefits to the petitioner in accordance with law."
29	प.7(884)	08.09. 14	382 / 20 13	11116 / 2 012	अराधना अग्रवाल बनाम श्री दीपक उम्रेती,	(अभ्यर्थी फार्मा०)	15.03.13	उप निदेशक (प्रशासन), मुख्यालय एवं समन्वयक ।	श्री एस०के०गुप्ता,	"The rule aforesaid is applicable to all the services listed in the amendment. As per rule, posts meant for women should be filled from te category to which she belongs. The rule however used the word "reservation" in favour of women thought it is not permissible under Article 16(2) of the Constitution of india and not saved by Article 15(3) in view of Constitutional Bench Judgment in the case of Indra Sawhney (supra). The posts meant for female candidates can be saved only when it is termed to be special provision instead of reservation. The detailed discussion has already been made on the aforesaid issue. Thus, applying the principle laid down in this judgment and difference made between "reservation" and "special provision", migration of reserve category to open category, as is permissible in reservation cannot apply interpretation of the rule has to be made in such a manner which may save the posts meant for female and at the same

time, it remains in consonance to the constitutional mandate and ratio propounded by Hon'ble Apex Court in the case of Indra Sawhney (supra) Para 514 of the said judgment quoted earlier reveals that while reservation in favour of women is not saved under Article 15(3) yet looking to the vulnerable condition of female in each category special provision can be made for general SC/ST and OBC women. In the background aforesaid, posts kept for women are looking to their vulnerable condition in their own category irrespective of caste and class. Hence posts meant for each category are to be filled from an amongst said category alone and not be way of migration. If migration is permitted then virtually posts meant for women will turn out to be reservation not permissible under Article 16(2) of the Constitution of India. In the background aforesaid, even the definition of "general/open category" as applicable in reservation would not apply herein otherwise there would be no difference between reservation and special provision. It is however necessary to clarify that keeping posts for women (general) without migration would not be a reservation in favor of general caste, but is an outcome of special provision in favor of women in all categories looking to their

Vulnerable condition. The upliftment of women is required in all the categories, whether general, SC, ST or OBC etc. In view of above discussion the first question is answered in favour of the petitioners. The merit list of the respective posts may be prepared accordingly.

The question now comes regarding 8% and 2% posts meant for widow and

30	प.7(886)	15.09.14	430 / 20 14	7190 / 20 06	श्रीमती नानी बाई व अन्य बनाम श्री दीपक उप्रेती,	(एएनएम)	05.03.14	अति. मुख्य चिकित्सा एवं स्वास्थ्य अधिकारी (प०क०), पाली एवं समन्वयक।	श्री अनिल कुमार बिस्सा	divorcee. The issue aforesaid needs no discussion as it has been agreed by learned Additional Advocate General that calculation of 8% and 2% posts meant for widow and divorcee would be maintained on the posts earmarked for women and not on the total posts advertised for any category. The issue aforesaid is concluded by the aforesaid.  With the discussion made above, all the writ petitions are disposed of. This disposes of stay applications also. " "In view of above this writ petition is disposed of with direction to the respondents to consider the case of petitioners for regularization strictly in the light of directives given by Hon'ble supreme Court in para 53 of the judgment in the case of Uma Devi (supra) within two months from the date of receiving certified copy of this order. "
31	प.7(887)	17.09.14	792 / 20 14	9052 / 20 10	श्री सीता राम जाट बनाम श्री दीपक उप्रेती	(दौवे०भोगी)	03.01.14	उप निदेशक (आर. सी.एच.), मुख्यालय एवं समन्वयक।	श्री एस०के०गुप्ता,	"I find that petitioner was engaged by the respondents somewhere in March 1996. He has already completed 10 year of service on or before 10.4.2006. The continuance of the petitioner is not with intervention of the court and otherwise petitioner was continued by the respondents finding need of the hands to discharge the duties on the post, petitioner is working. In view of the above and keeping in mind Notification dated 27.2.2009 this writ petition is allowed. The respondents are directed to consider case of the petitioner in the light of the Notification dated 27-02-2009. Required exercise, as directed above, may be completed within three months from the date of receipt of copy of this order. If the screening committee make a favourable recommendation for regularisation of the petitioner, necessary order may be issued immediately thereupon."