

Government of Jammu & Kashmir  
**Health & Medical Education Department**  
Civil Secretariat J&K –Jammu/Srinagar.

Subject: O.A No. 768/2023 titled "Dr. Umar Ali VS UT of J&K & Ors:- **Consideration order thereof.**

**Government Order No. 972-JK(HME) of 2023**  
**Dated: 30-11-2023**

**WHEREAS**, Dr. Umar Ali was initially appointed as Medical Officer in the J&K Health and Family Welfare (Gazetted) Service vide Government Order No. 748-JK(HME) of 2022 dated 25.10.2022 and was deputed to Government Medical College, Anantnag on standard terms and conditions of deputation;

**AND WHEREAS**, Dr. Umar Ali had represented before the Principal, Government Medical College, Anantnag for seeking NOC for undergoing Senior Residency in the Department of Orthopaedics;

**AND WHEREAS**, the Principal, Government Medical College, Anantnag forwarded the application of Dr. Umar Ali, Medical Officer to the Director, Health Services, Kashmir vide receipt No. 6471 dated 26.07.2023 for issuing NOC in favour of the said doctor;

**AND WHEREAS**, in the meanwhile Dr. Umar Ali, Medical Officer approached the Hon'ble CAT seeking following relief:-

- 1. Directing the respondents to re-designate the applicant as Sr. Resident in the Specialty of Orthopedics in the Government Medical College, Anantnag.**
- 2. Directing the respondents to release the honorarium attached to the post of Sr. Resident in favour of the applicant.**
- 3. Any other order or direction which this Hon'ble Tribunal may deem fit in the circumstances of the case may also be passed in favour of the petitioner and against the respondents in the interest of justice and equity.**

**AND WHEREAS**, the Hon'ble CAT vide disposed the OA No. 768/2023 titled Dr. Umar Ali Vs UT of JK & Ors on 22.09.2023 with the direction:





**"...Accordingly, OA No 768/2023 is disposed of with the direction to the respondents to consider the representation dated 06-07-2023, of the applicant on its merit in accordance with law and rules governing the subject. The consideration be accorded within a period of six weeks from today strictly in accordance with rules and law. A copy of this order be served upon the respondents.**

**The OA No. 768/2023 is disposed of."**

**AND WHEREAS**, vide Circular No. 03-HME of 2019 dated 27.05.2019, policy/guidelines were notified by the Government to allow doctors to apply for undergoing higher study course/tenure posting. While implementing the judgment dated 30-07-2019 passed by the Hon'ble High Court in WP(C) No. 2553/2019, CM No. 4967/2019 titled Dr. Abdul Roof & Ors. Vs State & Ors, the department vide Government Order No: 905-HME of 2019 dated 17-10-2019, constituted a Departmental Committee for examining the cases of doctors for issuing NOC in favour of eligible in-service Medical Officers desirous of undergoing higher study courses/applying against the tenure posts and having regard to the guidelines framed vide Circular No. 03-HME of 2019 dated 27.05.2019;

**AND WHEREAS**, vide Circular No. 58-JK(HME) of 2022 dated 18.11.2022, formal applications in a devised proforma were invited from desirous/intending eligible in-service doctors of J&K Health & Family Welfare (Gazetted) Service for seeking NOC for participating in the selection process for undergoing higher study courses/tenure posts during the calendar year 2023 with cut-off date as 3<sup>rd</sup> December, 2022;

**AND WHEREAS**, the aforesaid designated committee examined/considered cases as per laid down policy/guidelines for submitting recommendations with regard to their eligibility for grant of NOC by the Administrative Department and following procedure/calendar is to be adopted for the purpose:-

**Procedure/Calendar to be followed:**

- a. The concerned HoD shall not entertain any case of doctor intending to appear in the selection process by NEET/NBE etc for undergoing higher study course within/outside UT of J&K , **unless and until concerned doctor has completed prescribed period of 5 years of service (Pre-requisite for study leave) as on 1<sup>st</sup> of January, 2023 and is intending to undergo such course for the first time during his/her service for which a categoric certificate shall be furnished by the concerned HoD.**





- b. The concerned HoD shall not entertain any case of doctor intending to appear in the selection process for tenure posts viz Senior/Junior Residency/Registrarship/Demonstratorship/Fellowship/ Tutorship etc within UT of J&K, unless and until **concerned doctor has completed prescribed period of probation or 3 years of service , whichever is later and is intending to undergo such course for the first time during his/her service for which a categoric certificate shall be furnished by the concerned HoD.**
- c. The concerned HoD shall furnish a specific certificates in respect of intending doctors viz, work & conduct, integrity, no pending enquiry, no pending court case and report on his/her punctuality during his/her past service and there should be no unsettled period of absence.
- d. The Director Health Services Jammu/Kashmir while forwarding/recommending case of any eligible doctor(whether posted in Health Services, Department or working on deputation basis) shall also ensure that in absence of such doctor, health care facilities are not defeated and proper internal arrangement is made for looking after his/her duties.
- e. the concerned eligible doctors shall in no case appear/undergo any such selection process at their own without adhering to the aforesaid guidelines, failing which disciplinary action shall be initiated against such doctor.
- f. The Director Health Services Jammu/Kashmir, shall ensure that all other conditions as laid down in Government Order No: 164-HME of 2012 dated 02-03-2012 are observed/fulfilled strictly.
1. Concerned doctor(s) shall submit their application in a devised proforma duly authenticated by the concerned DDO's and route it through concerned Directorates of Health Services, Jammu/Kashmir by or before 3<sup>rd</sup> of December, 2022. After cut-off date, no such application/request shall be entertained by the concerned HoD for the calendar year 2023, failing which concerned HoD shall be held responsible for such lapse.
2. Concerned doctor(s) shall submit an undertaking duly authenticated by the 1<sup>st</sup> Class Judicial Magistrate to the effect that he/she has gone through the contents of Policy/Guidelines on the subject and shall abide by the laid down terms & conditions/instructions issued by the Health & Medical Education Department from time to time.
3. Concerned Directorates of Health Services, Jammu/Kashmir shall certify details of each eligible doctor, who fulfill laid down criteria as per policy/guidelines in the devised proforma.
4. Consequent upon above, concerned Directorates of Health Services, Jammu/Kashmir shall submit consolidated list of all such eligible doctors to the Administrative Department in a devised proforma (Annexure-C) by or before 10<sup>th</sup> of December, 2022 . No case shall be





entertained/processed by the Administrative Department if forwarded/recommended by other than Director Health Services, Jammu/Kashmir.

5. Applying for NOCs shall not confer any preferential right to the concerned eligible doctors for allowing/relieving/joining the intending course/training which shall be examined/decided only after his/her selection, as per norms governing the subject and recommendations of the departmental Committee constituted for the purpose.
6. Any doctor who deviates from the aforesaid procedure and leaves his/her place of posting un-authorizedly without seeking prior NOC/Permission from the Administrative Department for participating in selection process or undergoing of higher study courses/tenure postings (Senior/Junior Residency/Registrarship/Demonstratorship/Fellowship/Tutorship etc.), shall be liable for disciplinary proceedings without any further notice.
7. Concerned Director, SKIMS Soura/Principal, SKIMS Medical College, Bemina/All Principals of Government Medical Colleges/Government Dental Colleges/ASCOMS Jammu of the UT of J&K shall ensure that only such in-service doctors of Health and Medical Education Department are being allowed to participate in selection process in whose favour NOC of the Administrative Department has been issued for which an undertaking duly authenticated by 1<sup>st</sup> Class Judicial Magistrate shall be obtained from concerned doctors. Besides, such NOC shall, in no case, be entertained as permission for relieving/joining the intending course which shall be examined on case to case basis by the Administrative Department on the recommendations of the concerned Directorates.

**AND WHEREAS**, vide this departments communication No.HD-Gaz0Gen/988/2022-02 (E-7087618) dated 25.01.2023 and communication dated 21.06.2023, NOC was granted to 338 eligible doctors (191 Higher Study and 147 Tenure postings) respectively for the year 2023;

**AND WHEREAS**, the concerned doctor was appointed as Medical Officer in the J&K Health and Family Welfare (Gazetted) Service vide Government Order No. 748-JK(HME) of 2022 dated 25.10.2022 and was posted as Medical Officer in GMC, Anantnag on standard terms and conditions of deputation. However, the said doctor has unauthorizedly taken up Senior Residency in GMC, Anantnag, thus, violating the conditions of his initial appointment Order and policy/guidelines framed by the H&ME Department vide Government Order No. 905-HME of 2019 dated 17.10.2019 read with Circular No. 18 HME of 2020 dated 29.12.2020;

**AND WHEREAS**, the petitioner is on probation for a period of two years as per the terms and conditions governing his appointment, which can be terminated by the competent authority if the same is found to be unsatisfactory. Further, as per the policy guidelines detailed hereinabove, the



petitioner is not eligible for undergoing Senior Residency as neither did he complete the period of probation satisfactorily nor did he complete three years of service as mandated in terms of the policy guidelines;

**AND WHEREAS**, in light of detailed position explained hereinabove as well as instructions contained in J&K Civil Service (Leave) Rules, 1979, policy notified vide Circular No. 03-HME of 2019 dated 27.05.2019 and in strict compliance with the judgment dated 22-09-2023, delivered in O.A No. 768/2023, titled "Dr Umar Ali Vs UT of JK & Ors," it has been deemed appropriate to reject the claim of Dr. Umar Ali (petitioner) as being devoid of any merit;

**NOW THEREFORE**, considering the order dated 22-09-2023 passed by the Hon'ble CAT in O.A No. 768/2023, "titled Dr Umar Ali Vs UT of J&K & Ors as well as instructions contained in J&K Civil Service (Leave) Rules, 1979 and the policy notified by the H&ME Department vide Circular No. 03-HME of 2019 dated 27.05.2019 and in the interest of patient care, it is, hereby, ordered that the claim of Dr. Umar Ali (petitioner), Medical Officer for NOC has been considered and found devoid of any merit, and hence rejected.

**By order of the Government of Jammu and Kashmir.**

**Sd/-**

**(Bhupinder Kumar) IAS**

Secretary to the Government  
Health and Medical Education Department

No.HD-Lgal/351/2023-02(CC-7317657)

Dated:30.11.2023

Copy to the:-

1. Joint Secretary (J&K), Ministry of Home Affairs, Government of India, New Delhi.
2. Director, Archives, Archaeology & Museums, J&K.
3. Principal, Government Medical College, Anantnag.
4. Director, Health Services, Kashmir.
5. Additional Secretary (Law), Health & Medical Education Department.
6. Pvt. Secretary to Secretary to the Government, Health & Medical Education Department.
7. Concerned.
8. I/c Website, Health and Medical Education Department.
9. Government Order file/Stock file/Monday Return (w.2.s.c).

(Shakoor Ahmad Dar) IAS  
Deputy Secretary to the Government  
30/11/2023