



Government of Jammu and Kashmir
Health & Medical Education Department
Civil Secretariat, Jammu/Srinagar

Subject:- Regularization of faculty members of the Department of Surgery,
Government Medical College, Jammu.

Reference:- Letter No.PSC/DPC/HME/28/2021 dated 01.04.2022 from J&K
Public Service Commission.

Government Order No.210 - JK(HME) of 2022
D a t e d : 20 - 04 - 2022

WHEREAS, on the recommendations of the Jammu and Kashmir Public Service Commission conveyed vide their letter No. PSC/DR/Lect-Surgery/29/2005 dated 08.07.2008, the following candidates were appointed as Lecturers in the discipline of General Surgery in Government Medical College, Jammu, vide Government Order No.565-HME(GR) of 2008 dated 11.07.2008:-

S. No.	Name of the appointee	Category
01	Dr. Elias Sharma	Open Merit (OM)
02	Dr. Ishtiyak Ahmad Mir	Open Merit (OM)
03	Dr. Ratnakar Sharma	Open Merit (OM)
04	Dr. Zahur Hussain	Resident of Backward Area (RBA)
05	Dr. Sanjay Kumar Bhasin	Scheduled Caste (SC)

AND WHEREAS, it was provided in the appointment order that the inter-se seniority shall be determined as per the merit assigned by the J&K Public Service Commission;

AND WHEREAS, vide Government Order No.199-HME of 2011 dated 23.03.2011, the final seniority list of faculty members of the Discipline of Surgery, among others, as it stood on 31.12.2010, was notified in the following manner:-

Sr. No.	Designation	Name of the Doctor	Date of Birth	Date of appointment to the present post
01.	Lecturer	Dr. Elias Sharma	28.09.1967	11.07.2008
02.		Dr. Ishtiyak Ahmad Mir	10.05.1967	11.07.2008
03.		Dr. Ratnakar Sharma	14.07.1969	11.07.2008
04.		Dr. Zahur Hussain	04.05.1973	11.07.2008
05.		Dr. Sanjay Kumar Bhasin	06.04.1968	11.07.2008
06.		Dr. Satish Parihar (RBA)	24.12.1976	17.12.2009
07.		Dr. Mohammad Riaz (ST)	15.01.1970	17.12.2009
08		Dr. Rahul Gupta	03.01.1973	17.12.2009

AND WHEREAS, the Principal, Government Medical College, Jammu on 06.06.2011 forwarded the proposal of the following faculty members/ Lecturers of the Department of Surgery for considering their placement on the posts of Assistant Professors:-

- i. Dr. Elias Sharma
- ii. Dr. Ishtiyak Ahmad Mir
- iii. Dr. Sanjay Kumar Bhasin
- iv. Dr. Ratnakar Sharma

AND WHEREAS, the case was examined in the Health and Medical Education Department and vide Government Order No.480-HME of 2011 dated 09.09.2011, among others, Dr. Elias Sharma and Dr. Ishtiyak Ahmad Mir, Lecturers of the Department of Surgery, GMC, Jammu, were placed on the higher posts of Assistant Professors on Incharge basis in their own pay and grade, pending clearance by the Departmental Promotion Committee/J&K PSC;

AND WHEREAS, the case of Dr. Sanjay Kumar Bhasin who belongs to Scheduled Caste Category, was also examined in the Health and Medical Education Department and it was decided to take up the matter with the General Administration Department for opinion as to whether the reservation rules would apply for promotion of Lecturer to the level of Assistant Professor. The General Administration Department returned the case file with the opinion, the operative part of which is re-produced as under:-

.....In view of the above rule position, the reservation in promotion shall also be applicable to the posts in the Health and Medical Education Department which carry a pay scale equivalent to that of Deputy Secretary to the Government and not above that. The Health and Medical Education Department shall have to consider the request of Dr. Sanjay Kumar Bhasin(SC), Lecturer, GMC, Jammu for promotion to the next higher post in terms of SRO-294 of 2005 dated 21.10.2005 read with SRO-144 of 2008 dated 28.05.2008, provided he is, otherwise, eligible under rules and the post against which he is to be considered is carrying a pay scale equivalent to that of Deputy Secretary to the Government and not above that.

The Health and Medical Education Department may take further necessary action accordingly."

AND WHEREAS, the case was examined in the Health and Medical Education Department and vide Government Order No.619-HME of 2011 dated 25.11.2011, Dr. Sanjay Kumar Bhasin was placed as Assistant Professor on Incharge basis in his own pay and grade against Roster Point 03 (SC), for a period of six months or till such time the post was filled-up on the recommendations of Departmental Promotion Committee/J&K PSC, whichever earlier;

AND WHEREAS, a proposal was submitted by the Health and Medical Education Department to the J&K Public Service Commission for placing the same before the DPC/J&K PSC for considering the regularization/ confirmation of the faculty members of various disciplines of GMC, Jammu on higher posts. The regularization proposal of Dr. Zahur Hussain, belonging to RBA category, was not processed owing to non-possession of requisite qualifying service as he did not join the Department of Surgery as Lecturer immediately after the issuance of appointment order and his joining time had to be extended in view of his pursuing the Super Specialization Course;

AND WHEREAS, the meeting of the DPC was held in the J&K Public Service Commission on 26.03.2012. Among others, the following recommendations were conveyed to the Health and Medical Education Department as per the minutes

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of the meeting of the DPC issued by the J&K PSC, vide communication No. PSC / DPC / HME / 17 / 2012 dated 10.05.2012:-

S. No.	Name of the Officer	Designation	Seniority Position	Roster point	D.O. B	Date of retirement	Date of substantive appointment in the present grade	Date of eligibility	Date of placement in OPG	Date of vacancy	Cause of vacancy	Proposed date of regularization
1.	Dr. Elias Sharma	Lecturer	4(1) of 2011	01	28.09.1967	30.09.2025	11.07.2008	11.07.2011	09.09.2011	01.12.2007	Due to promotion of Dr. Tariq Parvaiz as Associate Professor on 01.12.2007	09.09.2011
2.	Dr. Ishtiyak	Lecturer	4(2) of 2011	02	10.05.1967	31.05.2025	11.07.2008	11.07.2011	09.09.2011	01.02.2010	Due to promotion of Dr. Shadi Lal Kachroo as Associate Professor on 01.02.2010	09.09.2011
3.	Dr. Sanjay Kumar	Lecturer	4(5) of 2011	03	06.04.1968	20.06.2026	11.07.2008	11.07.2011	25.11.2011	27.04.2010	Due to promotion of Dr. Bhoupinder Singh Pathania as Associate Professor on 27.04.2010	prospective
4.	Dr. Ratnakar Sharma	Lecturer	4(3) of 2011	04 (RB A candidate not available)	14.07.1969	31.07.2027	11.07.2008	11.07.2011	Not placed in OPG	27.04.2010	Due to promotion of Dr. Sarabjeet Singh as Associate Professor vide G.O No.403-HME of 2010 dated 04.07.2010	prospective

AND WHEREAS, vide Government Order No. 380-HME of 2012 dated 25.05.2012, among others, regularization order was issued in favour of Dr. Elias Sharma, Dr. Ishtiyak Ahmad Mir, Dr. Ratnakar Sharma and Dr. Sanjay Kumar Bhasin. Since the regularization of Dr. Ratnakar Sharma and Dr. Sanjay Kumar Bhasin was cleared by DPC/PSC on prospective basis, thus 25.05.2012, the date of issuance of the Government Order became the date of regularization of these two faculty members as Assistant Professors;

AND WHEREAS, Dr. Elias Sharma and Dr. Ishtiyak Ahmad Mir subsequently left the Department of Surgery in view of their appointment respectively in the Departments of Cardio Thoracic Surgery and Urology in Super Specialty Hospital, Jammu;

AND WHEREAS, a corrigendum to Government Order No. 380-HME of 2012 dated 25.05.2012 was later issued by the Health & Medical Education Department, ante-dating the regularization/ promotion of Dr. Sanjay Kumar Bhasin w.e.f 25.11.2011, i.e. the date when he was placed as Assistant Professor on Incharge basis;

AND WHEREAS, vide Government Order No. 265-HME of 2013 dated 16.04.2013, the Health & Medical Education Department issued the final seniority list of various disciplines of GMC, Jammu including the department of Surgery, placing Dr. Sanjay Kumar Bhasin at S.No.1 and Dr. Ratnakar Sharma at S.No.2 at the level of Assistant Professors;

AND WHEREAS, aggrieved with the Corrigendum dated 25.04.2013 regarding ante-dating of regularization of Dr. Sanjay Kumar Bhasin as Assistant Professor and placement of Dr. Sanjay Kumar Bhasin ahead of him in the seniority list of Assistant Professors, Dr. Ratnakar Sharma filed a writ petition No.1583/2014 before the Hon'ble High Court;

AND WHEREAS, the Health and Medical Education Department vide Government Order No.681-HME of 2014 dated 26.12.2014 placed Dr. Sanjay Kumar Bhasin as Incharge Associate Professor and vide Government Order No.415-HME of 2015 dated 17.09.2015, placed Dr. Ratnakar Sharma as Associate Professor on Incharge basis;

AND WHEREAS, the Division Bench of the Hon'ble High Court, J&K in SWP No.1290/2014 titled, 'Ashok Kumar & Ors V/s State of Jammu and Kashmir & Ors.' and other clubbed petitions, wherein reservation in promotion had been challenged, delivered a judgment on 09.10.2015 with the following directions:-

"For the reasons discussed, the writ petitions SWP Nos.1290/2014, 1006/2005, 1694/2006, 1497/2004, 1619/2006, 213/2001, 1816/2000, 2096/2014 and 1583/2014, 1854/2004 and 131-E/2004 are allowed. Section-6 Jammu and Kashmir Reservation Act 2004 and Rules 9, 10 and 34 Jammu and Kashmir Reservation Rules 2005 are held to be ultra vires Article 16 Constitution of India and accordingly struck down. Government Order Nos.151PW(Hyd) of 2013 dated 3rd June 2013; 92-PW(Hyd) of 2014 dated 3rd March 2014; 95-PW(Hyd) of 2014 dated 4th March 2014; 379-PW(R&B) of 2006 22nd September 2006; 228-PDD of 2002 dated 21st October 2003; 175-PDD of 2002 dated 12th June 2002; 228-PDD of 2001 dated 13th June 2001; 175-PDD of 2004 dated 24th June 2004; 7-PDD of 2002 dated 4th January 2002; 224-PDD of 2004 dated 30th July 2004; 178-PDD of 2001 dated 27th April 2001; 115-ASH of 2000 dated 29th December 2000; 265-HME of 2013 dated 16th April 2013; Corrigendum no.ME-GM-246/2011 dated 25th April 2013 to Government order no.380-HME of 2012 dated 25th May 2012; 619-HME of 2011 dated 25th November 2011 and 43-ASH of 2000 dated 12th June 2000, 338-PDD of 2004 dated 29.10.2004 & 315-PDD of 2004 dated 18.10.2004, impugned in the writ petition are set aside. The writ petition SWP No.1271/2014 is dismissed".

AND WHEREAS, as per the above judgment of the Hon'ble High Court, the placement of Dr. Sanjay Kumar Bhasin as Assistant Professor on Incharge basis w.e.f 25.11.2011, ordered vide Government Order No.619-HME of 2011 dated 25.11.2011; Corrigendum to Government Order No.380-HME of 2012 dated 25.05.2012 issued on 25.04.2013, wherein his date of regular promotion as Assistant Professor was pre-dated/ante-dated to 25.11.2011 instead of 25.05.2012 and seniority issued vide Government Order No. 265-HME of 2013 dated 16th April 2013, wherein Dr. Sanjay Kumar Bhasin was shown to figure at Seniority No.1 ahead of Dr. Ratnakar Sharma (S.No.2) at the level of Assistant Professors in the Department of Surgery, GMC, Jammu were quashed;

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AND WHEREAS, a number of SLPs were filed in the Hon'ble Supreme Court by the Officers belonging to various reserved categories against the judgement of the Hon'ble High Court of J&K;

AND WHEREAS, subsequently a proposal regarding regularization of faculty members of GMC, Jammu on higher posts was submitted to the J&K Public Service Commission for placement before the DPC. The Departmental Promotion Committee, which convened its meeting on 20.07.2018 in the J&K PSC, while deliberating on the agenda placed before it by the Health & Medical Education Department regarding regularization of faculty members of GMC, Jammu on higher posts, did not clear these two faculty members for regularization as Associate Professors and recorded in the minutes that their case was sub-judice in the Hon'ble Supreme Court;

AND WHEREAS, Dr. Sanjay Kumar Bhasin filed a writ petition No.1636/2019, CM No.3415/2019 in the Hon'ble High Court praying for his regularization as Associate Professor w.e.f 26.12.2014. The Hon'ble High Court on 03.05.2019 disposed of the case with the following directions:-

".....Having heard learned counsel for the parties and perusing the record, I am of the view that in the given facts and circumstances of the case and virtually admitted position obtaining on record, it would be in the fitness of things to dispose of this petition by providing that the respondent No.1 shall place the case of the petitioner for his confirmation as Associate Professor w.e.f 26.12.2014 when he was placed against the aforesaid post in the Incharge capacity. On receipt of the case of the petitioner, the respondent No.2 J&K Public Service Commission shall convene the DPC to consider the case of the petitioner or consider it in first available DPC convened thereafter, and make the appropriate recommendations for promotion of the petitioner. Let the case of the petitioner be placed before the next meeting of the DPC/PSC by the respondent No.1 and appropriate decision in the matter for regularization of the promotion of the petitioner as Associate Professor taken within the period of two months from the date of certified copy of this order is made available to the respondents by the petitioner."

AND WHEREAS, meanwhile in order to meet the requirements of the Department of Surgery, GMC, Jammu and in the interest of patient-care and also in order to protect the interests of the faculty members involved in litigation, it was felt by the Department that it would be appropriate to place both Dr. Sanjay Kumar Bhasin and Dr. Ratnakar Sharma on the higher posts of Professor, available in the Department of Surgery, on Incharge basis. Accordingly, vide Government Order No. 915-HME of 2019 dated 18.10.2019, pending clearance by the DPC/PSC, both Dr. Sanjay Kumar Bhasin and Dr. Ratnakar Sharma were placed as Professors on Incharge basis in their own pay and grade. This placement, among other conditions, was made subject to the outcome of the court case between the two faculty members pending before the Hon'ble Courts;

AND WHEREAS, the matter with regard to the regularization of Dr. Sanjay Kumar Bhasin as Associate Professor w.e.f 26.12.2014 was examined in the Department in light of judgment dated 03.05.2019 passed by the Hon'ble High Court of J&K in SWP No.1636/2019 and it was observed that there was a legal impediment for considering his regularization as the earlier promotion of Dr. Sanjay Kumar Bhasin as Assistant Professor, the ante-dating of his promotion as Assistant

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Professor and his seniority above Dr. Ratnakar Sharma as Assistant Professor has been quashed in the judgment of the Division Bench of the Hon'ble High Court of J&K dated 09.10.2015 and that the various SLPs filed in the matter of reservation in promotions were still pending disposal before the Hon'ble Supreme Court;

AND WHEREAS, the case was examined in the Department and it was decided to take-up the matter with the General Administration Department for their advice. The General Administration Department vide U.O.No.GAD/Mtg/RB-IV/23/2021 dated 24.04.2021, returned the Departmental file with their following advice:-

"Returned: The case has been examined and the department is advised to take up the matter with the J&K, Public Service Commission/DPC with regard to the regularization of both Dr. Sanjay Kumar Bhasin and Dr. Ratnakar Sharma afresh at the level of Assistant Professor, while taking the account of the actual availability of vacancies at the relevant point of time."

AND WHEREAS, on the advice of the General Administration Department, a revised agenda note for considering regularization of Dr. Sanjay Kumar Bhasin and Dr. Ratnakar Sharma, as Assistant Professors afresh in the Department of Surgery, GMC, Jammu, was forwarded to the J&K, PSC for placing the same before the Departmental Promotion Committee;

AND WHEREAS, the meeting of the Departmental promotion Committee was held on 08.11.2021 in which the case was discussed;

AND WHEREAS, the Jammu & Kashmir Public Service Commission, Jammu, vide communication No. PSC/DPC/HME/28/2021 dated 01.04.2022, has conveyed the approval of the Commission for release of the following recommendations in favour of Dr. Ratnakar Sharma and Dr. Sanjay Kumar Bhasin on the basis of the unanimous recommendations of the Departmental Promotion Committee made in its meeting held on 08.11.2021:-

Department of Surgery				
S.No	Name of the faculty member	Seniority position	Roster Point	Recommended date of regularization as Assistant Professor, Surgery, GMC Jammu
1	Dr. Ratnakar Sharma	03 of 2011	04(RBA) un-reserved	25.11.2011 on notional basis i.e. for seniority purpose only and regularly on monetary basis from the date he has actually discharged the duties of the Assistant Professor
2	Dr. Sanjay Kumar Bhasin	05 of 2011	03(SC)	25.11.2011 on regular basis

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AND WHEREAS, the Commission has further recommended that the promotion of the aforementioned faculty members shall be subject to the final outcome of the SLP(s) titled "Mohammad Haneef Lone and Others Vs Ashok Kumar Sharma and Others", "Gagan Jyoti and Anr. Vs State of J&K and Others", "Vinod Kumar Bhagat and others Vs State of J&K and Others" and "Nasib Singh & Ors Vs State of J&K and others", pending final adjudication in the Hon'ble Supreme Court.

Now therefore, In pursuance of the recommendations of the DPC/PSC, sanction is, hereby accorded to the:-

- i. Regularization of Dr. Ratnakar Sharma as Assistant Professor in the Department of Surgery, GMC, Jammu **w.e.f 25.11.2011** on notional basis i.e. for seniority purpose only and regularly on monetary basis from the date he has actually discharged the duties of the post of Assistant Professor **i.e. 25.05.2012**, and;
- ii. Regularization of Dr. Sanjay Kumar Bhasin as Assistant Professor, in the Department of Surgery, Government Medical College, Jammu. **w.e.f 25.11.2011** on regular basis.

The promotion of these two faculty members as Assistant Professors, in the manner as indicated above, shall be subject to the final outcome of the SLP(s) titled, "Mohammad Haneef Lone and Others Vs Ashok Kumar Sharma and Others" , "Gagan Jyoti and Anr. Vs State of J&K and Others", "Vinod Kumar Bhagat and others Vs State of J&K and Others" and "Nasib Singh & Ors Vs State of J&K and others", pending final adjudication in the Hon'ble Supreme Court.

By Order of the Government of Jammu and Kashmir.

Sd/-

(Vivek Bharadwaj) IAS

Additional Chief Secretary

Health & Medical Education Department

No:- ME-Gztd/229/2021 (e-office)

Dated: 20 - 04 - 2022

Copy to the:-

1. Principal Secretary to the Lieutenant Governor, J&K.
2. Principal Secretary to the Government, General Administration Department.
3. Joint Secretary (J&K), Ministry of Home Affairs, Government of India.
4. Secretary, J&K Public Service Commission. This is in reference to communication No.PSC/DPC/HME/28/2021 dated 01.04.2022 from the J&K Public Service Commission.
5. Principal, Government Medical College, Jammu.
6. Director Archives. Archaeology & Museums J&K.
7. OSD to Advisor (B) (Incharge Health and Medical Education).
8. Concerned.
9. Private Secretary to the Additional Chief Secretary, Health & Medical Education Department.
10. I/C Website.
11. Government Order File/ Stock File.



(Shaker Ahmad Dar) JKAS

Deputy Secretary to the Government
Health & Medical Education Department

