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

Subject:- Implementation of Order passed by the Hon'ble Central Administrative Tribunal, Jammu Bench, Jammu, in O.A. No. 61/577/2021 dated 06.04.2021 titled, Dr. Bodh Raj Kundal V/s UT of J&K & Ors.

Government Order No. 97- JK(HME) - 2022
D a t e d :- 22- 02- 2022

WHEREAS, Vide Government Order No. 476-HME of 2017 dated 05.09.2017, Dr. Bodh Raj Kundal, Incharge Assistant Professor, Department of Neurology, Super Specialty Hospital, Government Medical College, Jammu was placed under suspension, in terms of sub rule (2) of Rule 31 of Jammu and Kashmir Civil Services (Classification, Control and Appeal) Rules, 1956, on the grounds that a female complainant lodged an FIR against the officer in Police Station Bakshi Nagar, Jammu. The Officer was arrested on 31.08.2017 and subsequently bailed out on the directions of the Hon'ble Court on 11.09.2017;

AND WHEREAS, earlier a proposal for regularization of faculty members of Government Medical College, Jammu including Dr. Bodh Raj Kundal, was submitted to the J&K, Public Service Commission for placing the same before the Departmental Promotion Committee. The Meeting of the Departmental Promotion Committee was held on 20.07.2018. In respect of Dr. Bodh Raj Kundal, Incharge Assistant Professor, Neurology, the Committee decided as under:-

"The Committee decided to adopt the sealed cover procedure in respect of Dr. Bodh Raj Kundal, I/C Assistant Professor, Neurology, as presently he is under suspension".

AND WHEREAS, on 28.04.2021, Dr. Bodh Raj Kundal submitted a representation in the Health and Medical Education Department with a copy of order dated 06.04.2021 passed by the Hon'ble Central Administrative Tribunal, Jammu in O.A. No. 61/577/2021 titled, **"Dr. Bodh Raj Kundal V/s UT of J&K & Ors"** and requested to implement the Order. The Hon'ble Central Administrative Tribunal, Jammu in O.A. 61/577/2021 dated 06.04.2021 has passed the following orders:-

"..... Looking to the facts and circumstances of the case, we dispose of the O.A. with direction to the respondents to consider adopting sealed cover procedure for promoting the applicant to the post of Associate Professor in view of Article 110 (A) CSR vide SRO-153 dated 07.07.1995".

AND WHEREAS, the case was examined in the Health and Medical Education Department in light of the orders passed by the Hon'ble Central Administrative Tribunal in O.A No. 61/577/2021 dated 06.04.2021, and it was decided to place the matter before the DPC/PSC. Accordingly, an agenda note was forwarded to the J&K, Public Service Commission, vide this Department's letter dated 30.06.2021, for placement before the Departmental Promotion Committee/ PSC for an appropriate decision;

AND WHEREAS, the J&K, Public Service Commission on 10.08.2021 conveyed that the Chairman, Departmental Promotion Committee has desired to convene a preliminary meeting on 17.08.2021 in order to discuss the issue for having clarification with regard to the decision of adopting the ' **Sealed Cover Procedure'** in respect of Dr. Bodh Raj Kundal, Incharge Assistant Professor, Neurology by the earlier DPC in its meeting on 20.07.2018, alongwith its latest status for taking an appropriate view in the matter on merits. The said Preliminary Meeting was held in the Commission on 17.08.2021;

AND WHEREAS, the J&K, PSC vide communication No. PSC/DPC/HME/30/2021 dated 09.10.2021 conveyed that the Preliminary Meeting in the Commission was held on 27.09.2021, in which it was observed that the DPC can advise on the issue of adopting "**Sealed Cover Procedure**" in respect of Dr. Bodh Raj Kundal, I/C Assistant Professor, Neurology, GMC, Jammu, only once his regularization at the level of "Associate Professor" is confirmed as per the rules governing the subject. The Commission accordingly conveyed to consider the case of the said doctor in compliance to the directions of the Hon'ble CAT Bench, Jammu, keeping in view the facts & circumstances associated with it & pass a detailed speaking/ consideration order on merits of the case.

AND WHEREAS, the case of the petitioner has further been examined in the Health & Medical Education Department, in light of the directions of Hon'ble CAT, Jammu in O.A. 61/577/2021 dated 06.04.2021, decision of the J&K, PSC conveyed on 09.10.2021, and in terms of Article 110(A) of J&K, Civil Service Regulations and it has been found that that the issue of adopting "**Sealed Cover Procedure**" for promoting Dr. Bodh Raj Kundal to the level of "Associate Professor" can be considered only once he is confirmed/ regularized at the level of Assistant Professor, on the recommendations of the DPC/ PSC.

Now, therefore, the claim of the petitioner for **adopting sealed cover procedure** for promoting the applicant to the post of Associate Professor, having been considered in light of the Hon'ble Central Administrative Tribunal, Jammu passed in O.A. 61/577/2021 dated 06.04.2021 and also in light of relevant rules governing the subject, has been found devoid of merit and is accordingly rejected.

By Order of Government of Jammu and Kashmir.

Sd/-

(Vivek Bharadwaj)IAS
Additional Chief Secretary
Health & Medical Education Department

Dated: 22 - 02 – 2022

No. ME-Gztd/26/2022

Copy to the:-

1. Principal Secretary to the Lieutenant Governor, J&K.
2. Joint Secretary (J&K), Ministry of Home Affairs, Government of India.
3. Secretary, J&K, Public Service Commission.
4. Principal, Government Medical College, Jammu.
5. Director, Archives, Archeology & Museums J&K.
6. Additional Secretary (Law), Health & Medical Education Department.
7. Concerned .
8. Private Secretary to the Additional Chief Secretary, Health and Medical Education Department.
9. I/C Website.
10. Government Order file/Stock File.

(Nasir Bilal Shah)
Under Secretary to the Government
Health & Medical Education Department