



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

Subject: OA No. 771/2023 titled Aijaz Ahmad Bhat Vs UT of J&K & Ors. -  
**Consideration order thereof.**

**Government Order No. 275 -JK(HME) of 2024**  
**Dated: 08.04.2024**

**WHEREAS**, vide Circular No. 03-HME of 2019 dated 27.05.2019 read with Circular No. 18-HME of 2020 dated 29.12.2020, the Health & Medical Education Department notified policy guidelines in respect of in- service doctors for undergoing higher study courses and tenure posting of Registrarship, Demonstratorship, Senior Residency, PG, Diploma, Tutor, etc;

**AND WHEREAS**, the Health and Medical Education Department vide Government Order No. 905-HME of 2019 dated 17.10.2019 has devised an elaborate procedure by constituting a Departmental Designated Committee for examining cases of doctors for issuing NOC in favour of eligible in-service doctors, who are desirous of undergoing higher study courses/applying against the tenure posts during each calendar year on the directions of Hon'ble High Court dated 30.07.2019, passed in WP(C) No. 2553/2019, CM No. 4967/2019 titled Dr. Abdul Roof & Ors. Vs State & Ors;

**AND WHEREAS**, Dr. Ajaz Ahmad Bhat S/o Ali Mohd Bhat R/o Yandal Pampore, Pulwama (petitioner) was appointed as Medical Officer vide Government order No. 639-HME of 2016 dated 09-12-2016 and he has reported in Directorate of Health Services, Kashmir on 28.12.2016 for further duties. However, during this period, the said doctor was undergoing PG in Orthopaedics and continued same without seeking approval of the Department and after completion of the said course he has reported back in DHSK on 01.06.2019;

**AND WHEREAS**, vide Government order No: 639-HME of 2019 dated: 08-07-2019, the rejoining of the doctor, among others was accepted notionally from the date he applied for joining viz 01-06-2019 and monetarily with immediate effect i.e w.e.f. 08-07-2019 and was posted at CHC Rajpora with a warning not to leave his place of posting unauthorizedly for any occasion in future;

**AND WHEREAS**, thereafter, a consolidated list of doctors, who were unauthorizedly absent from duties, was submitted to Administrative Department

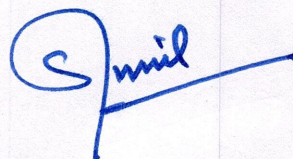
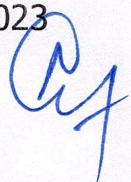
by the Directorate of Health Services, Kashmir vide letter No. Est/3/1-133/2673 dated 18.11.2020 (with full details of each doctor) and the doctor concerned was figuring at S.No. 32 in the list and he had remained absent from duty w.e.f. 31.03.2020;

**AND WHEREAS**, it is apt to mention that, the H&ME Department invited formal applications in a standard proforma in terms of Circular No. 02-JK(HME) of 2020 dated 20.01.2020 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 2020;

**AND WHEREAS**, simultaneously, the case of unauthorized absence of the doctor in question, among other, was examined in the department and finally the services of doctor (petitioner), among other doctors, were terminated vide Government Order No. 418-JK(HME) of 2022 dated 20.06.2022 for remaining unauthorized absent from duty in terms of Article 128 of J&K Civil Service Regulations, 1956 Volume-1.

**AND WHEREAS**, based on order dated 16.04.2021 passed by the Hon'ble Central Administrative Tribunal in TA/62/142/2021 titled Dr. Ajaz Ahmad Bhat and Other Vs UT of J&K and others, the issue had been examined in the department and it was found that:-

- The service of Dr. Ajaz Ahmad Bhat, Medical Officer was terminated in terms of aforesaid Government Order in the year 2022 for remaining unauthorized absent from duty w.e.f 31.03.2020.
- Besides, the doctor in question had not applied for NOC/Permission prior to undergoing of selection process of NEET/NBE for the calendar year 2020 as per laid down policy/guidelines/procedure already notified by the Health and Medical Education Department nor he was eligible for grant of NOC/permission as he was yet to complete his period of probation.
- Accordingly, keeping in view of the facts as discussed above, and in compliance to the Order dated 16.04.2021 passed by the Hon'ble CAT in TA No. 62/142/2021 titled Dr. Ajaz Ahmad Bhat and other VS UT of J&K and Others, the claim of the petitioner for grant of NOC in his favour was found not justifiable as the service of doctor in question stands already terminated in the year 2022 and he had not fulfilled the eligibility guidelines/policy at that point of time for grant of NOC in his favour, as such, his case is found devoid of any merit and was rejected vide G.O.No.473-JK(HME) of 2023 dated 06.06.2023



**AND WHEREAS**, now, Dr. Aijaz Ahmad Bhat, Medical Officer, has filed a another petition before Hon'ble CAT bearing O.A.No.771/2023 praying as under:-

- a. Quash/Set aside Government Order No. 473-JK(HME) of 2023 dated 06.06.2023
- b. Directing the respondents to consider the case of the applicant for the period the applicant has gone Registrarship in pursuance to Government Order No. 121-JK(HME) of 2021 dated 17.02.2021
- c. Issue such appropriate order or direction this Hon'ble Tribunal deems necessary in the facts and circumstances of the instant case.

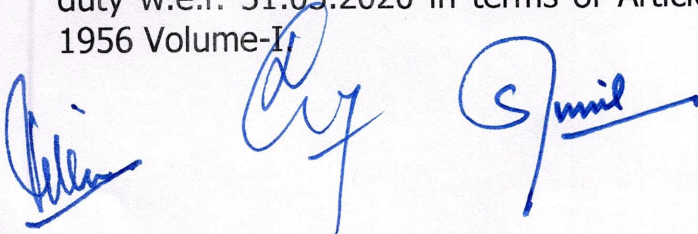
**AND WHEREAS**, Hon'ble CAT vide its order dated 25.09.2023 in O.A. No. 771/2023 titled Dr. Aijaz Ahmad Bhat Vs. UT of J&K has ordered as under:-

*".....In view of the limited prayer made by learned counsel for the applicant, this OA is disposed of with the direction to the respondents to treat it as representation of the applicant and decide the same in accordance with law within a period of eight weeks to be reckoned from the date a certified copy of this order is served on them. It is further provided that in the process, if the applicant feels it necessary to be heard in the matter, the respondents shall provide him opportunity of personal hearing. The decision so taken in the matter shall be communicated to the applicant.*

*With this, the O.A. 771/2023 shall stand disposed of along with connected M.As."*

**AND WHEREAS**, in compliance to the directions of Hon'ble CAT vide its order dated 25.09.2023 passed in O.A. No. 771/2023 titled Dr. Aijaz Ahmad Bhat Vs. UT of J&K, the case of the petitioner has been re-examined in the department and it has been found that the doctor in question had not applied for NOC/Permission prior to undergoing of selection process of NEET/NBE for the calendar year 2020 as per laid down policy/guidelines/procedure already notified by the Health and Medical Education Department nor he was eligible/fulfilled the eligibility criteria (three years substantive service) for grant of NOC/permission as he was yet to complete his period of probation;

**AND WHEREAS**, besides, the services of Dr. Ajaz Ahmad Bhat, Medical Officer stands already terminated vide Government Order No. 418-JK(HME) of 2022 dated 20.06.2022 for remaining unauthorizedly absent from duty w.e.f. 31.03.2020 in terms of Article 128 of J&K Civil Service Regulations, 1956 Volume-I



**AND WHEREAS**, the petitioner has not requested for providing him an opportunity to be heard in person, as had been observed by Hon'ble CAT.

Now therefore, keeping in view of the facts as enumerated above, and in compliance to the Order dated 25.09.2023 passed by the Hon'ble CAT in O.A. No.771/2023 titled Dr. Ajaz Ahmad Bhat and other VS UT of J&K and Others, the claim of the petitioner for Quashing/Setting aside Government Order No. 473-JK(HME) of 2023 dated 06.06.2023 and other reliefs sought in the OA has been found not justifiable as amongst other grounds stated above, the service of doctor in question stands already terminated in the year 2022, as such, the applicant's case is found devoid of any merit, hence rejected.

By order of the Government of Jammu & Kashmir.

Sd/-

**(Dr. Syed Abid Rasheed Shah) IAS**  
**Secretary to the Government**

No. ME-leg/208/2023-01 (E- 7311190)

Dated: 08.04.2024

Copy to the:-

1. Joint Secretary (Jammu, Kashmir & Ladakh), Ministry of Home Affairs, Government of India, New Delhi.
2. Director, Archives, Archaeology & Museums, J&K.
3. OSD with Advisor(B) to Hon'ble Lieutenant Governor, J&K.
4. Director, Health Services, Kashmir.
5. Pvt. Secretary to Secretary to the Government, Health & Medical Education Department.
6. Concerned doctor
7. I/c Website, Health and Medical Education Department.
8. Government order file/ Stock file/Monday Return (w.2.s.c).

**(Dr. Javed Iqbal) JKAS**

Deputy Secretary to the Government

*J. Iqbal*  
*Dr. Javed Iqbal*  
*Dr. Sunil*