

GOVERNMENT OF JAMMU AND KASHMIR
HEALTH & MEDICAL EDUCATION DEPARTMENT
HUMAN RESOURCE MANAGEMENT BRANCH
Civil Secretariat, J&K, Jammu.

Subject: OA No. 62/519/2021 titled Dr. Nusrat Hafiz Dar vs. UT of J&K and others.

**Government Order No. 306 -JK(HME) of 2023
Dated: 11.04.2023**

WHEREAS, Dr. Nusrat Hafiz Dar was initially appointed as Medical Officer in terms of SRO 202 dated 30.06.2015 vide Government Order No. 487-HME of 2019 dated 17.05.2019 and posted at PHC Ladoora Block Sopore, Baramulla where she joined on 01.06.2019;

AND WHEREAS, Dr. Nusrat Hafiz Dar, Medical Officer immediately after her joining in the department applied for 21 days Medical Leave w.e.f. 21.06.2019 and availed the same in anticipation of its sanction;

AND WHEREAS, the doctor reported back to her duties on 05.09.2019 and thereafter resorted to un-authorized absence from duties w.e.f. 09.09.2019 to 27.10.2019. The Block Medical Officer, Sopore called explanation from her for un-authorized absence from duties;

AND WHEREAS, vide letter No. Est-3/1-133/510 dated 08.02.2020, Director, Health Services, Kashmir sought a detailed report from the respective Block Medical Officer/Chief Medical Officer and advised Chief Medical Officer concerned to direct the doctor to submit an affidavit duly attested by 1st class Judicial Magistrate to the Directorate declaring therein that during the absence period she was not working at any other place and also not pursuing any studies. However, BMO, Sopore was also advised not to release salary in favour of the said doctor;

AND WHEREAS, the doctor submitted her joining report on 28.10.2019 before the BMO, Sopore, but the BMO Sopore did not permit her to re-join back without permission/ authorization of the competent authority owing to the reason that the doctor had left the department un-authorizedly while on probation and her services are governed by the SRO 202;

AND WHEREAS, meanwhile, the doctor approached the Hon'ble Central Administrative Tribunal at Jammu through the medium of Original



Application No. 62/519/2021 titled "Dr. Nusrat Hafiz Dar vs. UT of J&K and others" for seeking directions upon the non-applicants to allow her to resume and discharge her duties at the respective place of posting and for release of her salary;

AND WHEREAS, the Hon'ble CAT disposed of the said application vide its order dated 24.03.2021, the operative part of which is reproduced as under:-

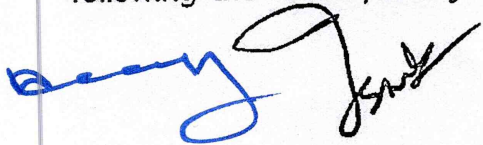
"2. Looking to the arguments of learned counsel for the applicant, the O.A. is disposed of with a direction to the respondents to consider the case of applicant for joining at her place of posting. While deciding the case of the applicant, the respondents will consider the O.A. as representation. This exercise shall be completed within a period of three weeks from the date of receipt of a certified copy of this order".

AND WHEREAS, the applicant again filed a contempt petition bearing CP No. 92/2021 in O.A. No. 519/2021 titled "Dr. Nusrat Hafiz Dar Vs Atal Duloo & Ors" before the Hon'ble CAT and the Hon'ble CAT passed an order dated 08-08-2022, which is reproduced as under:-

"Learned counsel for the respondents states that he has filed an action taken report, as per which the matter is pending with Administrative Department. This plea of the respondents is not acceptable. What is required is the compliance report of the order dated 24-03-2021 passed by this Tribunal and not a procedural details".

AND WHEREAS, in pursuance to the above orders passed by the Hon'ble CAT, the OA No. 62/519/2021 titled "Dr. Nusrat Hafiz Dar vs. UT of and others", the case has been examined and it revealed that the doctor on 21-06-2019, applied for leave for period of three weeks due to injury, which was accepted, however, upon review of injury, the applicant was advised to take rest till 30th August, 2019, for which, she applied for extension of her leave as she could not recover from the ailment. Thereafter, on 05.09.2019, the applicant resumed her duties in the office of Non-applicant No.04 (i.e. BMO Sopore) and she was allowed to resume her duties;

AND WHEREAS, the applicant in its OA has also stated that she was advised to take complete bed rest by the Gynaecologist as the applicant had complications of threatened abortion due the pregnancy and, accordingly, after following the advice, she joined her duties on 28-10-2019 in the office of Non-



applicant No. 04, but the Non-applicant No. 04 did not allow her to mark her attendance and perform her regular duties;

AND WHEREAS, the applicant has also stated that her absence from 16th September, 2019 to 27th October, 2019 was not deliberate, but due to pregnancy related issues;

AND WHEREAS, on advice of the Non-applicant No. 04 (BMO, Sopore), the applicant has submitted an affidavit duly attested by the First Class Judicial Magistrate declaring therein that during her absence, she was not working at any other place and was not pursuing any studies to the Non-applicant No. 02 (Director, Health Services, Kashmir);

AND WHEREAS, Article 128 of J&K Civil Services Regulations, 1956 envisages as under:

"Absence without leave or after the end of leave involves loss of appointment, except as provided in Article 203(b) or when due to ill health in which case the absentee just produce the certificate of Medical Officer."

AND WHEREAS, Rule 21(1) of the J&K Civil Services (Classification, Control & Appeal) Rules, 1956 provides as under:-

"At any time before the expiry of the prescribed period of probation, the appointing authority may:-"

- a. Suspend the probation of a probationer and discharge him from the service for want of vacancy; and***
- b. At its discretion terminate the probation of a probationer and discharge him from the service".***

AND WHEREAS, the Department has taken a lenient view and decided to accept the joining report of the Dr. Nusrat Hafiz Dar, Medical Officer as she was absent from duties due to pregnancy related issues.

NOW, THEREFORE, sanction is hereby accorded:-

- a. to accept the joining report of Dr. Nusrat Hafiz Dar, Medical Officer with immediate effect, subject to following conditions:-**
 - i. She was not involved in any subversive activities as well as was not employed in any other Government/private sector during the said period, for which an affidavit duly authenticated by the 1st Class Judicial Magistrate be obtained by the Directorate of Health Services, Kashmir.***



ii. The concerned doctor is warned not to leave her place of posting for any occasion whatsoever in future, without proper permission from the competent authority, failing which, disciplinary action in terms of Jammu & Kashmir Civil Services Regulations, 1956 shall be initiated against her without any further notice.

b. that the intervening period of absence in favour of Dr. Nusrat Hafiz Dar, Medical Officer, Consultant Medicine shall be decided separately by the Departmental Designated Committee.

By order of the Government of Jammu & Kashmir.

Sd/-

(Bhupinder Kumar) IAS

Secretary to the Government,
Health and Medical Education Department

No. HD-Lgal/325/2022-02

Dated: 11 .04.2023

Copy to the:-

1. Principal Secretary to the Hon'ble Lieutenant Governor.
2. Joint Secretary, (J&K), Ministry of Home Affairs, Government of India.
3. Director, Archives, Archaeology & Museums, J&K, Jammu.
4. Director, Health Services, Kashmir.
5. OSD with Advisor (B) to the Hon'ble Lieutenant Governor.
6. Private Secretary to the Secretary to the Government, Health & Medical Education Department.
7. Concerned doctor.
8. I/C Website H&ME.
9. Government Order file/Stock file/Monday Return.

(Waqar Talib) JKAS

Under Secretary to the Government
Health and Medical Education Department

