



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

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Subject: CCP (S) 398 of 2021 in SWP No. 2729 of 2017 titled  
Mohammad Maqbool Hajam V/s Shri Vivek Bhardwaj &  
Ors.

**Government Order No: 307 -JK(HME) of 2023**

**D a t e d: 11 -04-2023**

**WHEREAS,** Mr. Mohammad Maqbool Hajam S/o Ab. Rahim Hajam R/o Raiyar, Khansahib, District Budgam was appointed as consolidated Safaiwala by the then Chief Medical Officer, Budgam vide order No. Est-SW/16/231-33 dated 29.04.2004;

**AND WHEREAS,** as per Government Order No. 1786-GAD of 1997 dated 11.11.1997 issued by General Administration Department, the Chief Medical Officers, were competent to make appointments against Class-IV posts only upto 11.11.1997;

**AND WHEREAS,** the then Chief Medical Officer, Budgam, used excessive powers and appointed the applicant as Safaiwalla beyond his competence;

**AND WHEREAS,** the applicant filed a writ petition bearing SWP No. 2729/2017 titled Mohd. Maqbool Hajam Vs State & Ors for regularization of his services;

**AND WHEREAS,** the Hon'ble High Court at Srinagar disposed of the SWP No. 2729/2017 titled Mohd. Maqbool Hajam

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Vs State & Ors vide its Order dated 10.01.2018 with the following directions:-

"In view of the aforesaid statement of the learned counsel for the petitioner, the writ petition is disposed with a direction to the Respondents to treat the same as representation on behalf of the petitioner and accord consideration to the claim of the petitioner as detailed out in the writ petition. Needless, on part of the Respondents, to be done in accordance with the rules governing the field within a period of six weeks from the date the certified copy of this order along with the writ petition with all its annexures is made available to him by the petitioner.

**AND WHEREAS,** the case of the petitioner has been examined in the department and the Director, Health Services, Kashmir vide letter dated 30.01.2018 was advised to consider the claim of the petitioner as detailed out in the writ petition in accordance with the rules governing the field and pass appropriate order/speaking order accordingly;

**AND WHEREAS,** in the meanwhile, the petitioner filed a contempt petition bearing CSPW No. 519/2018-titled Mohd Maqbool Hajam Vs Shri Atal Dulloo and, accordingly, vide this department's communication dated 14.01.2019, the Director, Health Services, Kashmir was again requested to take necessary steps in pursuance of the earlier communication dated 30.01.2018 issued by Health & Medical Education Department and accordingly file the statement of facts in the Hon'ble Court;

**AND WHEREAS,** the Hon'ble Court, Srinagar vide its order dated 16.09.2019 disposed of the contempt petition with the following directions/observations:-

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"The instant contempt petition shall stand disposed of with the liberty to the petitioner to approach the present incumbents with the copy of order of this Court, subject matter of the contempt petition, for seeking the implementation of the same, of course, in case same has remained unimplemented so far. Further, in the event, the petitioner, after availing the aforesaid liberty, is still dissatisfied as regards the implementation of the directions of this Court, he shall be at liberty to file appropriate proceedings for implementation of the same in accordance with law."

**AND WHEREAS,** a copy of aforesaid order dated 16.09.2019 passed by the Hon'ble Court was forwarded to the Director, Health Services, Kashmir with the advice to take necessary steps in pursuance of the previous communications of this department, besides, he was also requested to communicate the action taken in the matter to the department;

**AND WHEREAS,** the petitioner aggrieved of non-implementation of judgment of the Hon'ble High Court filed fresh contempt petition bearing No. CCP(S) No. 398 of 2021 in SWP No 2729/2017 titled Mohammad Maqbool Hajam Vs Shri Vivek Bhardwaj & Another;

**AND WHEREAS,** vide this department's letter No. HD/8/2021-02 dated 13.09.2021 followed by another letter No. HD-Legal/128/2021-02 dated 13.10.2021, clarification was sought from the Director, Health Services, Kashmir regarding non-implementation of the Court directives, in response of which, the Director, Health Services, Kashmir vide letter No. DHSK/legal/Bud/495/Part-II/796 dated 23.11.2021 informed that the case of the petitioner was examined in compliance with the judgment dated 10.01.2018 passed by the Hon'ble High Court Srinagar and it was observed that the petitioner is seeking

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regularization under the provisions of J&K Civil Services (Special Provisions) Act, 2010, which was beyond their domain of competence;

**AND WHEREAS,** vide letter dated 10.02.2022, the Director, Health Services, Kashmir was also advised to file the statement of facts in the instant contempt petition so as to avoid any adverse orders from the Hon'ble Court;

**AND WHEREAS,** the DHS Kashmir vide communication dated 07.03.2023 has informed that the instant matter was listed for hearing on 11.11.2022 before the Hon'ble Court at Srinagar and following orders were passed by the Hon'ble Court:-

"Statement of facts has been filed wherein it is being stated that the case of the petitioner is pending before the Administrative Department for further necessary action and decision thereof is being awaited. Since the respondents came to be directed by this court in terms of order dated: 10th January, 2018, to accord consideration to the case of the petitioner within a period of six weeks, the respondents admittedly have delayed the consideration of the same. However, in the interest of justice, it is deemed appropriate not to take recourse to the coercive measures at this stage in view of the statement made by the counsel for the respondents that a decision in the matter is expected soon to be rendered by the Administrative Department. Let the respondents file a latest/ fresh compliance report by or before the next date."

**AND WHEREAS,** the Government from time to time has formulated different policies to regularize the adhoc/contractual/consolidated employees of different departments and subsequently different empowered committees

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were also constituted for the purpose. Firstly, it was the policy notified vide G.O. No. 1220-GAD of 1989 dated 11.09.1989 read with G.O. No. 1285-GAD of 2001 dated 06.11.2001 superseded by G.O. No. 168-GAD of 2004 dated 09.02.2004 read with G.O. No. 237-GAD of 2004 dated 20.02.2004, G.O. No. 794-GAD of 2004 dated 22.06.2004. The policy was once again superseded by the Jammu and Kashmir Civil Services (Special Provision) Act 2010, however the same was also repealed by the Government following the Jammu & Kashmir Re-Organization Act, 2019;

**AND WHEREAS,** as of now, there is no policy governing the regularization of adhoc employees in the UT of J&K.

**Now therefore,** in view of above elaborated facts and in compliance to the directions the Hon'ble High Court at Srinagar passed in the SWP No. 2729/2017 titled Mohd. Maqbool Hajam Vs State & Ors vide its Order dated 10.01.2018 & 11.11.2022, the case of the petitioner has been considered in light of the fact that the petitioner was appointed by a non-competent authority and that currently no such policy of regularization is in place, the case is found devoid of any merits and, hence, rejected.

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

**Sd/-**

**(Bhupinder Kumar) IAS,**

Secretary to Government,

Health & Medical Education Department

**No. HD-Lgal/128/2021-02**

**Dated: // .04.2023**

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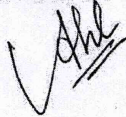
1. Joint Secretary, Secretary (J&K), Ministry of Home Affairs, Government of India.
2. **Director, Health Services, Kashmir, with the advice to initiate necessary action against the then CMO**

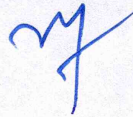
**Budgam, who appointed/engaged the petitioner, beyond his competency by using excessive powers.**

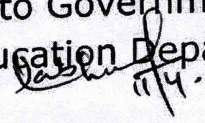
3. Director Archives, Archaeology and Museums, J&K, Srinagar.
4. Chief Medical Officer Budgam.
5. OSD with the Advisor (K).
6. Private Secretary to Secretary to Government, Health & Medical Education Department.
7. Government Order file/Stock file (w.2 s.c)

  
**(Pamposh Ganju)**

Under Secretary to Government  
Health & Medical Education Department





  
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