

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

Subject: Termination of probation and discharge from service thereof.

Government Order No. 327 – JK (HME) of 2023
Dated: 19 -04-2023

WHEREAS, Dr. Malik Javied Ahmad was appointed as Medical Officer vide Government Order No. 487-HME of 2019 dated 17.05.2019 and was posted in Block Kralpora Kupwara;

AND WHEREAS, while posted at NTPHC Budnamal Kralpora, the doctor applied for grant of study leave in his favour for undergoing higher studies (Post-graduate course) through NEET in the year 2020;

AND WHEREAS, before sanctioning of the same, the doctor left his place of posting and resorted to un-authorized absence from duties w.e.f. 26.07.2020;

AND WHEREAS, vide No. Est/3/1-133/2922-24 dated 18.12.2020, Director, Health Services, Kashmir issued a notice to the doctor on his residential address, wherein, he was informed that he cannot be spared for P.G Course as he is not eligible as per study leave rules and an opportunity was given to him to report back to his duties at NTPHC Budnamal Kralpora within seven days from the date of issuance of said notice, failing which it shall be presumed that he is not interested to serve the Department anymore and action as warranted under rules shall be initiated against him;

AND WHEREAS, Director, Health Services, Kashmir received the reply of the doctor to the notice through registered post on 29.01.2021, wherein, the doctor stated that before joining the said course, he applied for grant of NOC as well as study leave from the Department and he approached the Hon'ble Central Administrative Tribunal, with a petition bearing No. OA/62/686/2020 titled Dr. Javied Ahmad Malik V/S UT of J&K and others;

AND WHEREAS, the Hon'ble Tribunal vide its order dated 07.10.2020, passed the interim directions in OA/62/686/2020, the operative part of which reads as under:-



"Respondents are directed to consider the question of issuing NOC to the applicant in accordance with rules and regulations within two weeks from the date of receipt of certified copy of the order. In case, the respondents are of the view that NOC cannot be issued to the applicant, they will reject the request of the applicant for issuance of NOC by way of reasoned and speaking order to the applicant. In case, the respondents deny the issuance of NOC to the applicant, the respondents shall consider the study leave application and dispose of the same by way of speaking and reasoned order with intimation to the applicant within a period of two weeks from the date of receipt of certified copy of the order".

AND WHEREAS, in compliance of the order dated 07.10.2020 passed by the Hon'ble Central Administrative Tribunal, the case of the doctor was considered in light of policy and the rules governing the subject and found without any merit, therefore, vide Order No. 673/LS of 2021 dated 24.07.2021, Director, Health Services, Kashmir issued consideration/speaking order rejecting the claim of the petitioner and served the same to the doctor on his residential address;


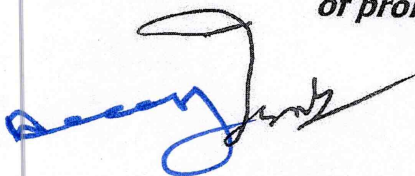
AND WHEREAS, vide letter No. CMOK/Est/3115 dated 12.08.2021, Chief Medical Officer, Kupwara reported that the doctor did not resume his duties and remained on unauthorized absence from duties;

AND WHEREAS, vide letter No. HD- Gaz0Gen/391/2021-02 dated 24.11.2021, DHSK was asked to initiate disciplinary action against the doctor as warranted under rules for remaining un-authorizedly absent from duties for pursuing PG Course w.e.f. 26.07.2020;

AND WHEREAS, vide No. Est/3/1-133/8603-06 dated 03.01.2022, Director, Health Services, Kashmir issued another notice to Dr. Malik Javed Ahmad, Medical Officer, wherein, an opportunity was given to him to report back to his duties within seven days from the date of issuance of notice, failing which, his case shall be submitted to Administrative Department for termination of his services, but the doctor failed to report back to his duties;

AND WHEREAS, Rule 21(1) of the J&K Civil Services (Classification, Control & Appeal) Rules, 1956 reads 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”.*

NOW, THEREFORE, in exercise of powers conferred under clause (b) of Rule 21 (1) of the Jammu & Kashmir Civil Services (Classification, Control and Appeal) Rules, 1956, the probation of Dr. Malik Javied Ahmad, Medical officer S/o Ab Rahman Malik R/o Dachoo, Tehsil & District Shopian is hereby terminated and he is discharged from the government service with effect from 26.07.2020 for remaining on unauthorized absence from duties w.e.f. 26.07.2020.

By Order of the Government of Jammu and Kashmir.

Sd/-
(Bhupinder Kumar) IAS
Secretary to the Government,
Health and Medical Education Department

No. HD-Gaz0Gen/391/2021-02

Dated: 19 .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

