

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

Subject: TA No. 62/142/2021 titled Dr. Ajaz Ahmad Bhat and other VS  
UT of J&K and others - consideration order thereof

Ref. No. Est/3/1-133/12626 dated 17.09.2022 from Directorate of Health Services,  
Kashmir.

**Government order No. 473-JK(HME) of 2023**  
**Dated: 06.06.2023**

**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 has 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 way of constitution of 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 DHSK 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**, a consolidated list of doctors, who were absent from duty unauthorizedly, was submitted to Administrative Department by the DHSK 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 remained absent from duty w.e.f. 31.03.2020;



**AND WHEREAS**, in the meantime, the petitioner filed a writ petition No. WP (C) No. 3447/2019 titled Dr. Ajaz Bhat Vs State & Ors in the Hon'ble High Court and the Hon'ble High Court passed following orders in terms of order dated 11.03.2020:-

"Petitioner No. 1 has been selected for the tenure post of Registrar/Demonstrator in the department of orthopedics in Govt. Medical College Srinagar. The respondent No. 3 (Principal Government Medical College Srinagar) is directed to allow the petitioner No. 1 to join, as such, without insisting upon the NOC from the Health department."

**AND WHEREAS**, subsequently, the petitioner filed another writ petition in the Hon'ble Central Administrative Tribunal bearing No. TA/62/142/2021 titled Ajaz Ahmad Bhat and others Vs UT of J&K and others which has been disposed of by the Tribunal vide order dated 16.04.2021, with the following direction:-

"By way of this TA, the petitioners are seeking a direction to the respondent Nos. 1 & 2 to issue No Objection Certificate in favour of the petitioners, so as to enable them to participate in the selection process for the tenure engagement of Registrars in Government Medical College, Srinagar in pursuance of advertisement Notice No. 432 of 2019 dated 13.11.2019.

2. Learned counsel for the applicant submits that the competent authority neither issued No Objection Certificate (NOC) in favour of the petitioners to participate in the selection nor rejected their cases for issuance of NOC. At this stage, he submits that his client would be satisfied if this TA is disposed of with a direction to the competent authority either to issue NOC or pass a reasoned order within a stipulated period.

3. In view of the above, TA is disposed of with a direction to the competent authority/ respondents to consider the question of issuance of No Objection Certificate (NOC) to the applicants within a period of two weeks from the date of receipt of certified copy of the order and in case the competent authority is of the opinion that NOC cannot be issued to the applicants, a reasoned and speaking order to that effect be passed with intimation to the applicants. It is made clear that we have not observed anything on the merits of the case.

No order as to costs".

**AND WHEREAS**, 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-I;

**AND WHEREAS**, now 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 has been examined in the department and it has been found that:-

1. 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.
2. Besides, the doctor in question has 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.

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 at this juncture is not justifiable as the service of doctor in question stands already terminated in the year 2022 and he has 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 hence rejected.

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

Sd/-

**(Bhupinder Kumar) IAS**

Secretary to the Government,  
Health & Medical Education Department

No.HME-HRM/78/2021-02

Dated:06.06.2023

Copy to the:-

1. Principal Secretary to the Hon'ble Lieutenant Governor.
2. Joint Secretary (Jammu, Kashmir & Ladakh), Ministry of Home Affairs, Government of India, New Delhi.
3. Director, Archives, Archaeology & Museums, J&K.
4. Additional Secretary, Legal, H&ME Department.
5. Director Health Services, Kashmir.
6. Private Secretary to the Secretary to the Government, H&ME Department.
7. Concerned doctor.
8. I/C Website H&ME Department.
9. Government order file/stock file.

**(Shakoor Ahmad Dar) JKAS**

Deputy Secretary to the Government  
Health & Medical Education Department