



Government of Jammu and Kashmir
Health & Medical Education Department

Civil Secretariat, Jammu/Srinagar.

Subject: Termination of services of Dr. Faisal Azhar Masoodi, Medical Officer from J&K Health & Family Welfare (Gazetted) Service – **Consideration thereof.**

Ref. i. Government Order No. 623-JK(HME) of 2021 dated 20.09.2021 issued by Health & Medical Education Department

Government Order No. 773 - JK(HME) of 2023

Dated: 18-09-2023

WHEREAS, Dr. Faisal Azhar Masoodi, Medical Officer, while posted at SDH Sopore, Baramulla applied for study leave for undergoing super Specialty course in Surgical Gastroenterology. At the same time, Dr. Faisal proceeded for 04 days casual leave w.e.f 28.12.2020 and thereafter did not joined back as reported by the concerned Directorate;

AND WHEREAS, the Directorate of Health Services, Kashmir submitted the case of the doctor to Administrative Department stating therein that a notice was served to the said doctor to report back to his duties at SDH Sopore within 07 days, however, the said doctor responded with the plea that he is undergoing DNB in Surgical Gastroenterology (unauthorizedly) and has requested for allowing him to continue and will join the department only after completion of course;

AND WHEREAS, it is pertinent to mention here that, since last few years, H&ME Department has been making vigorous efforts continuously to streamline the issue with regard to allowing/permitting medicos for undergoing higher study courses/tenure postings well in time & accordingly a committee has been constituted on the directions of the Hon'ble High Court for granting NOC/Permission for applying/appearing counseling before NBE/NEET or any authorized forum/entity, only to avail selection procedure/process for various Super-Specialization Courses, PG/PG diploma courses and tenure postings/trainings i.e. Registrarship/Demonstratorship/Sr. Residency/Tutor etc during the calendar year. However, as reported by Directorate of Health Services, Kashmir, Dr. Faisal was supposed to obtain prior NOC from the Department but he opted to undergo his desired course without the NOC/permission of the Department thereby ignoring all the guidelines related to the subject;

AND WHEREAS, the matter was further examined in the department and it was observed that due to the crisis arisen out of COVID-19 at that point of time, the doctors were the only saviours and the non serious attitude of Dr. Faisal Azhar

Masoodi, Medical Officer not only hampered the patient care but was also set a bad precedence for other doctors who are/have followed the procedure/guidelines issued by the Administrative department from time to time. Besides, Dr. Faisal, instead of serving and saving the precious human lives at the time of need/crisis, opted higher study course that too by ignoring all the guidelines on the subject. The unauthorized absence of the doctor coupled with non-compliance of orders (notice issued by Director, Health Services, Kashmir) amounts to dereliction of duties at the crucial juncture (COVID PANDEMIC);

AND WHEREAS, despite all this, an another chance was provided to the said doctor and Administrative Department served a final notice to Dr. Faisal Azhar Masoodi, Medical Officer with the direction to resume his duties/charge within a period of 07 days from the date of issuance of the notice, failing which, it shall be presumed that the said doctor has nothing to say in his defence and disciplinary proceedings under Article-128 of J&K Civil Services, (Classification, Control & Appeal) Rules, 1956, shall be initiated against him ex-parte, but **the concerned doctor did not joined back and continued with his course;**

AND WHEREAS, accordingly, in view of position explained hereinabove, and the rules governing the subject, the services of Dr. Faisal Azhar Masoodi, Medical Officer were terminated w.e.f. 28.12.2020 (i.e. the date he resorted to unauthorized absence) vide G.O.No.623-JK(HME) of 2021 dated 20.09.2021;

AND WHEREAS, thereafter Dr. Faisal Azhar Masoodi, Medical Officer approached before the Hon'ble Central Administrative Tribunal through OA No. 1591/2021 seeking following relief:

- a. *Quash the impugned order bearing Government Order No 623-JK(HME) of 2021 dated 20.09.2021 issued under endorsement No. HD-Gaz/Gen/183/2021-02 dated 20.09.2021 and applicant be allowed to resume duties as MO.*
- b. *The respondents be directed to produce all the records of the case along with their reply for perusal of this Hon'ble Tribunal.*
- c. *Allow the costs of this application to the applicant.*
- d. *The Hon'ble Tribunal be pleased to pass such other orders or reliefs as deemed fit and proper in the facts and circumstances of the case in favour of the applicant and against the respondents.*
- e. *In addition to the aforementioned reliefs, the applicant also seeks staying of Government Order No 623-JK (HME) of 2021 dated 20.09.2021 issued under endorsement No HD-Gaz/Gen/183/2021-02 dated 20-09-2021 and further prays that the respondents be directed not to fill up the post in question to meet the ends of justice till the final disposal of OA.*

AND WHEREAS, after filing of objections, the Hon'ble Tribunal disposed of the aforesaid application on 13/07/2023 with the following orders:




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"Be that as it may, we dispose of this OA with a direction to the applicant to avail the remedy of appeal within a period of one week from the date of receipt of a certified copy of this order. We make it clear that the delay occurred in filing of appeal is condoned by this Tribunal and shall not come in the way of deciding of the appeal of the applicant. Further, we direct the respondents to decide the appeal so submitted by the applicant, by not only taking in view the judgment referred to above of the Hon'ble High Court but also the various orders passed by their own department in the case of other doctors and to take a holistic view as to whether the service of the applicant can be reinstated. The same be done within a period of four weeks from the receipt of such appeal from the applicant.

6. In terms of the above directions and observations, the OA stands disposed of. Pending applications, if any, stand closed. No costs"

AND WHEREAS, while going through the appeal submitted by the **petitioner,** it came to fore that he has made a reference of following orders wherein other similarly situated doctors were allowed to rejoin:-

- i. Government Order No. 83-JK(HME) of 2023 dated 30.01.2023
- ii. Government Order No. 115-JK(HME) of 2023 dated 03.02.2023
- iii. Government Order No. 116-JK(HME) of 2023 dated 06.02.2023

AND WHEREAS, the crux of these cases whereunder aforesaid Government Orders stand issued are reflected below alongwith the relevant details:-

S. No.	G.O. No. /Date	Details of Doctors	Action taken by Department	Final Disposal
1.	Government Order No. 83-JK(HME) of 2023 dated 30.01.2023	Dr. Ovais Nazir, Medical Officer resorted to unauthorized absence for undergoing DNB Neuro anesthesiology	The case was examined in terms of J&K (CCA) Rules, and notice was issued to the doctor, to explain his conduct for remaining unauthorized absence. Dr. Ovais nazir responded to the notice and requested for allowing him to rejoin.	Consequent upon the response submitted by the doctor, he was allowed to rejoin.
2.	Government Order No. 115-JK(HME) of 2023 dated 03.02.2023	1. Dr. Kamini Sharma, Medical Officer 2. Dr. Wahida Anjum, Dental Surgeon 3. Dr. Kaiser Karim Regu, Medical Officer 4. Dr. Mudasar Hamid Buch, Medical Officer 5. Dr. Samiullah	DHSJ/DHSK had submitted details of doctor who were unauthorized absent from their duties or were pursuing higher study courses without approval from administrative department. A notice was issued to them by the concerned Directors, however they did not joined back.	Consequent upon the response submitted by only 05 doctors, they were allowed to rejoin.

		Khan, Officer	Medical	The matter was examined in the department and a final notice was issued to them for explaining the reason as to why their service may not be terminated. Among all of them, only 05 doctors responded to the notice and requested for allowing them to rejoin.	
3	Government Order No. 116-JK(HME) of 2023 dated 06.02.2023	Dr. Syed Abbas, Medical Officer		Dr. Syed Abbas was selected for undergoing PG Orthopedics at SKIMS Soura, Srinagar and underwent the same without approval of competent authority. The doctor after completing his course requested for rejoining.	The matter was examined in the department and it was observed that the said doctor had been relieved by CMO Kargil with the prior approval of the then Deputy Commissioner/CEO LAHDC and keeping in view the request of the doctor, he was allowed to rejoin.

AND WHEREAS, as can be seen from above, the case of the doctor is in no way similar to that of other doctors mentioned in his petition/appeal. As notice(s) were issued to all the doctors by the concerned Directorates and thereafter final notice was served upon by the Administrative Department, to which all the doctors responded and requested for allowing them to rejoin. However, in the case of Dr. Faisal Azhar Masoodi, the scenario is totally different. As Director, Health Services, Kashmir issued him a notice to resume his duties, to which he responded that he is undergoing DNB in Surgical Gastroenterology and requested for allowing him to continue and will join the department only after completion of course;

AND WHEREAS, thereafter, a final notice was served by the **Administrative Department** to him with the direction to assume his duties/charge within a period of 07 days from the date of issuance of the notice, failing which, it shall be presumed that the said doctor has nothing to say in his defence and disciplinary proceedings under Article-128 of J&K Civil Services, (Classification, Control & Appeal) Rules, 1956, shall be initiated against him ex-parte, but **the concerned doctor did not joined back and continued with the desired course;**

AND WHEREAS, from position explained hereinabove, it is amply clear that the services of Dr. Faisal Azhar Masoodi, Medical Officer were terminated only after giving him a fair and considerable number of chances for reporting back to his

duties, however, the doctor failed to do so and preferred to continue with his desired course unauthorizedly by absconding from his place of posting, **hampering the health care services during the peak of COVID-19 pandemic and keeping his personal interests above the line of duty, when his services were badly needed for the patient care;**

Now therefore, in light of the comprehensive elucidation and in compliance to the directives of the Hon'ble Central Administrative Tribunal (CAT) as pronounced in O.A No. 1591/2021 dated 13th July, 2023 and in continuation to Government Order No. 623-JK(HME) of 2021 dated 20.09.2021, the claim/representation of Dr. Faisal Azhar Masoodi (petitioner) is found devoid of any merit and hence rejected.

By order of the Government of Jammu & Kashmir.

Sd/-

(Bhupinder Kumar) IAS

Secretary to the Government
Health & Medical Education Department

Dated: 18.09.2023

No. HD-Lgal/195/2021-02 (CC-70855)

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. Additional Secretary to the Government (Law), H&ME Department.
4. Director, Health Services, Jammu.
5. Concerned doctor.
6. Pvt. Secretary to Secretary to the Government, Health & Medical Education Department.
7. I/c Website, Health and Medical Education Department.
8. Government order file/ Stock file/Monday Return (w.2.s.c).

(Shakeer Ahmad) JKAS

Deputy Secretary to the Government
Health and Medical Education Department