

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

Subject: Settlement of period of absence (authorized/unauthorized) in respect of Dr. Showkat Hussain Shah, Consultant Medicine, District Hospital Anantnag (Now GMC Anantnag).

- Ref: i No: ES/3/1-133/1552 dated 17-10-2019 from Directorate of Health Services, Kashmir,
ii U.O.No. GAD(Ser)Genl/24/2020 dated 06-04-2020 from General Administration Department.

**Government Order No: 417 JK(HME) of 2020
Dated: 30 -04- 2020**

WHEREAS, Dr. Showkat Hussain Shah, was appointed as Medical Officer in the Health Services Department, vide Government Order No.464-HME of 2005 dated 01.08.2005, submitted his joining report in the Directorate of Health Services, Kashmir on 05-08-2005;

AND WHEREAS, the aforesaid doctor was selected for undergoing DNB in Cardiology at Batra Hospital and Medical Research Centre w.e.f 04-02-2014. The H&ME Department had conveyed NOC in favour of Dr. Showkat Hussain Shah, Medical Officer to undergo post PG DNB in Cardiology at Batra Hospital and Medical Research Centre, New Delhi;

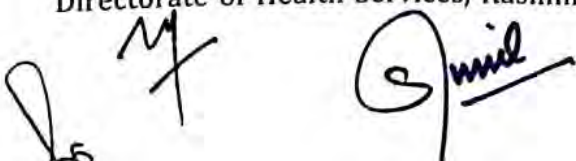
AND WHEREAS, during the period, the aforesaid doctor was appointed as Consultant Medicine vide Government Order No. 698-HME of 2015 dated 20-10-2015 and has submitted his joining report in Directorate of Health Services, Kashmir on 20-10-2015 and was posted at SDH Sogam vide Government Order No. 819-HME of 2015 dated 23-12-2015. However, the said doctor did not join at his respective place of posting and preferred to continue undergoing PG DNB in Cardiology at Batra Hospital and Medical Research Centre, New Delhi;

AND WHEREAS, in the meanwhile, an another doctor namely Dr. Jan Mohammad Sheikh, filed a writ petition in the Hon'ble High Court Srinagar, bearing SWP No. 2859/2015 titled Dr. Jan Mohammad Sheikh & Ors. Vs State & Ors. and the Hon'ble High Court on 04-02-2016 passed the following interim directions in the writ petition:-

"..... In the meantime, the position/posts of Consultants against which the petitioners stands appointed in terms of Govt. Order No. 698-HME of 2015 dated 20-10-2015 and 776-HME of 2015 dated 10-12-2015 shall not be filled up."

AND WHEREAS, Dr. Showkat Hussain Shah, Consultant Medicine, after completion of the course i.e DNB in Cardiology rejoined in the Directorate of Health Services, Kashmir on 30-03-2018 and the said Directorate forwarded his case to the Administrative Department for issuance of appropriate instructions;

AND WHEREAS, the H&ME Department vide letter No. HD/Gaz/Gen/41/2018 dated 05-03-2019 had conveyed the approval of Administrative Department in favour of Dr. Showkat Hussain Shah for allowing him to join from the date he has submitted his joining report in Directorate of Health Services, Kashmir. Besides, Directorate of Health Services, Kashmir was also directed to submit appropriate proposal for posting of the said doctor where his super specialization services can be better utilized in the best interest of patient care. In response, the Directorate of Health Services, Kashmir vide letter No. Est/3/1-133/8377-78 dated 11-03-2019



stated that the services of the doctor are being utilized at DH Anantnag (Now GMC Anantnag) subject to confirmation from Administrative Department;

AND WHEREAS, with the prior consent of Director Finance, H&ME (Chairman, Departmental Designated Committee), it was decided/proposed to treat the period of Dr. Showkat Hussain Shah, Consultant Medicine for undergoing PG DNB in Cardiology w.e.f. 04-02-2014 to 29-03-2018, as leave whatever kind due and remaining period of short fall be treated as Dies Non. Accordingly, the matter was submitted to the authorities for consideration/approval.

AND WHEREAS, the authorities has observed/approved as under:

"Perusal of the departmental notes would reveal that after availing fresh appointment, Dr. Showkat Ahmad Shah has instead of joining at the new places of posting opted for undergoing DNB in Cardiology without prior authorization of approval of the Competent Authority. This would connote that he has remained on unauthorized absence from duty w.e.f. 04.02.2014 to 29.03.2018.

He has been allowed to rejoin the department on 30-03-2018. He should not have been allowed to join but proceeded against for his unauthorized absence. Be that as it may and having been allowed to join, it would not be proper to treat the intervening period of some portion of his absence from 04-02-2014 to 29-03-2018 as leave and some portion as Dies-Non. Having actually remained on unauthorized absence from duty, 'Dies-Non' in terms of 'Government Instructions' below Article 163 of J&K CSRs is the appropriate provision for its settlement.

May accordingly approve to treat the period of unauthorized absence of Showkat Ahmad Shah, Consultant Medicine from 04.02.2014 to 29.03.2018 as 'Dies Non' with break in service. Health & Medical Education Department should move a proposal for his removal from service after due process."

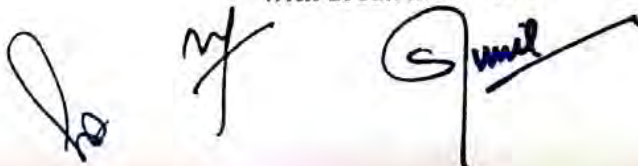
AND WHEREAS, in view of the aforesaid observations, the matter was again examined in the H&ME Department alongwith with other similarly situated settled cases and on the basis of the facts & in the interest of health and patient care, the case file alongwith a detailed note was resubmitted to the authorities for reconsideration and kind approval of Hon'ble Lieutenant Governor;

AND WHEREAS, the General Administration Department returned the file with the following observations:

"Returned. The department is advised to proceed as per the approval accorded at note para 109 of the departmental file bearing No.HD/Gaz/Gen/41/2018-I as there are no sufficient reasons to warrant reconsideration."

Now therefore, in pursuance of the Orders of the authorities conveyed by the General Administration Department vide U.O.No. GAD(Ser)Gen/24/2020 dated 06-04-2020, it is hereby ordered that:

- i. the period of unauthorized absence in respect of Dr. Showkat Ahmad Shah, Consultant Medicine, District Hospital Anantnag (Now GMC Anantnag) for undergoing PG DNB in Cardiology at Batra Hospital and Medical Research Centre, New Delhi w.e.f 04.02.2014 to 29.03.2018 is treated as 'Dies Non' with break in service.



- ii. Director Health Services, Kashmir shall conduct a formal enquiry in respect of Dr. Showkat Ahmad Shah, Consultant Medicine District Hospital Anantnag (Now GMC Anantnag) for remaining unauthorizedly absent w.e.f 04.02.2014 to 29.03.2018 for undergoing DNB in Cardiology from Batra Hospital and Medical Research Centre, New Delhi.

By order of the Government of Jammu and Kashmir.

Sd/-

(Atal Dulloo) IAS

Financial Commissioner

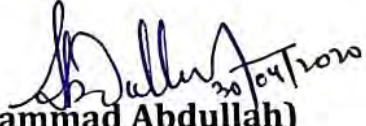
Health and Medical Education Department

Dated:30 -04-2020

No. HD/Gaz/Gen/41/2018-I

Copy to the:-

1. Principal Secretary to the Hon'ble Lieutenant Governor, J&K.
2. Joint Secretary (J&K), Ministry of Home Affairs, Government of India, New Delhi.
3. Secretary to the Government, General Administration Department.
4. Director Finance, H&ME (Chairman, Departmental Designated Committee).
5. Director Health Services, Kashmir.
6. Director, Archives, Archeology & Museums, J&K.
7. OSD with Advisor (B) to Hon'ble Lieutenant Governor, J&K
8. Additional Secretary (Legal), H&ME Department for further necessary action.
9. Additional Advocate General, High Court of J&K.
10. Concerned doctor.
11. Private Secretary to the Financial Commissioner, Health and Medical Education Department.
12. Government Order file/Stock file/ I/C Website H&ME.


(Mohammad Abdullah)

Under Secretary to the Government
Health & Medical Education Department