



**Government of Jammu and Kashmir
Health and Medical Education Department
Civil Secretariat, Jammu.**

Subject: Contempt petition No.645/2014 in SWP No.1548/2008 titled Dr. Abdul Rehman Sheikh V/S State and others.

Government Order No: 756 -HME of 2015
D a t e d : 04 - 12 - 2015

Whereas, Dr. Abdul Rehman Sheikh was appointed as Assistant Surgeon vide Government order No.857-HME of 1985 dated:16-11-1985;

And whereas, while posted as Registrar in the Department of Paediatrics at Government Medical College, Srinagar the doctor proceeded on earned leave for 30 days w.e.f. 13-6-1996. After expiry of the said leave, the doctor extended the leave telegraphically which was not sanctioned by the concerned authority, but he continued to remain away from duty as a result of which his tenure appointment as Registrar was terminated w.e.f. 12-7-1996. He was asked to report to Director Health Services, Kashmir by the Principal, Government Medical College, Srinagar which he failed to do so;

And whereas, Dr. Abdul Rehman Sheikh remained on un-authorized absence from duty w.e.f. 13-7-1996 and thereafter approached the Director Health Services, Kashmir on 29-01-2001 and requested for re-joining the department;

And whereas, the request of the doctor was considered and vide Government order No.501-HME of 2001 dated 19-07-2001 he was allowed to re-join the department as a fresh appointee as Medical Officer in terms of Government order No.183-HME of 2000 dated 07-4-2000;

And whereas, Dr. Abdul Rehman Sheikh requested that his case may be considered on the analogy of Dr. Nisar Ahmad Gasi, Assistant Surgeon;

And whereas, Dr. Nisar Ahmad Gasi, Assistant Surgeon was also on unauthorized absence and allowed to re-join the department as a fresh appointee vide Government order No.486-HME of 2000 dated:04-08-2000. Later on, vide Government order No.1113-HME of 2003 dated: 20-10-2003, the period of un-authorized absence of Dr. Nisar Ahmad Gasi, Assistant Surgeon w.e.f. 25-02-1996 to 04-08-2000 was treated as leave whatever kind due to him. The remaining period for which leave is not due was treated as 'dies-non';

And whereas, the Hon'ble High Court in SWP No.1548/2008, CMP No.2772/2008 titled Dr. Abdul Rehman Sheikh v. State and others has passed the following orders on 5-2-2014:

“..... Viewed thus, the writ petition is allowed. Respondents are directed to consider the case of the petitioner on the parity of case of Dr. Nisar Ahmed Gasi and Dr. H. Waqar Ahmed and other doctors whose names figured in the afore-referred Govt. orders then to pass appropriate orders so as to bring him at par with those similarly situated doctors whose period of absence has been settled by sanction of leave whatever kind due to him and then balance, if any, to be treated as dies non as has been more particularly done with Government order no.145-HME of 2008 dated:23-10-2008. This exercise be undertaken and completed within a period of three months from the date of order is served upon the respondents.

Disposed of along with CMA no. 2772/2008.”

And whereas, the case has been examined and it is found that the petitioner doctor was on un-authorized absence from 13-7-1996 to 19-07-2001 and he was allowed to re-join in the department as fresh candidate for all practical purpose.

Accordingly, in pursuance of the judgement passed by the Hon'ble High Court on 05-02-2015, the period of un-authorized absence of Dr. Abdul Rehman Sheikh from 13-7-1996 to 19-07-2001 has been decided to treat the period of absence as leave whatever kind due to him to the extent the leave is due, and to treat the remaining period of absence for which leave is not due to him as dies-non in terms of Article 163 of J&K, CSR's Vol-I read with SRO 514 of 1999;

Now, therefore, it is, hereby, ordered that period of un-authorized absence of Dr. Abdul Rehman Sheikh, Assistant Surgeon w.e.f. 13-7-1996 to 19-07-2001 shall be treated as leave whatever kind due to him to the extent the leave is due, the remaining period of un-authorized absence for which leave is not due to him shall be treated as dies-non in terms of Article 163 of J&K, CSR's Vol-I read with SRO 514 of 1999.

By order of the Government of Jammu and Kashmir.

(Dr. M.K. Bhandari) IAS
Secretary to Government,
Health and Medical Education Department

No.HD/Legal/Gaz/MR-170/2014-A

Dated: 04 - 12- 2015

Copy to the:-

1. Director Health Services, Kashmir.
2. OSD with Hon'ble Minister for Health & Medical Education.
3. PS to Hon'ble Minister of State for Health.
4. PS to Secretary to Government, Health and Med. Edu. Deptt.
5. Doctor concerned.
6. Government Order file/Stock file/Monday Return (w.2s.c).


(Pooja Rasgotra)

Under Secretary to Government
Health and Medical Education Department