



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

Subject: Regularization of Adhoc/contractual/consolidated employees.

- Reference: i. GDC-143/CM/2016 Dated 01.10.2018 from General Administration Department.
ii. Est/3/1-133/5656 dated 06.02.2017 from Directorate of Health Services, Kashmir.

Government Order No. 95 -HME of 2019
Dated: 24 .01.2019

Whereas the case relates to regularization of the following two Adhoc doctors:-

1. Dr. Abdul Rouf Malik
2. Dr. Muneer Ahmad Bhat

Whereas, as per recommendations of the Director Health Services, Kashmir the case was taken up with the Empowered Committee (Finance Department) for their recommendations; &

Whereas, Empowered Committee in Finance Department vide O.M No. PS/DC/Misc-272/14 dated 23.10.2015 and notification No. 49 dated 15.09.2015 notified the eligible names of Adhoc/Contractual/Consolidated employees of Health Department; &

Whereas, among others, the notification also included the following two names with the remarks shown against each:-

S. No.	16 ECM S. No	Name of Employee	Designation	Parentage	Address	Remarks. if any
1	9ECM S. No. 56 (Adhoc)	Dr. Abdul Rouf Malik	Asstt. Surgeon	Gh. Rasool Malik	Solina Payeen, Srinagar	Recommended subject to the condition that the department shall have the break on account of pursuing MD condoned.

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2	35 ECM S. No.	Dr. Muneer Ahmad Bhat	Asstt. Surgeon	Ghulam Hassan Bhat	Karan, Srinagar	Recommended subject to the condition that the department shall have the break on account of pursuing MD condoned
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Where the Health and Medical Education was asked to take the necessary action and issuance of regularization orders in their favour in accordance with the provisions of J&K Civil Services (Special Provisions) Act 2010 subject to the fulfilment of following conditions:-

1. That these appointees have not been selected by any Recruiting agency/or appointed in any other government department;
2. That the allowances other than what was admissible/due has not been drawn;
3. That these incumbents are working against clear vacancy and have not been conveyed/ recommended earlier by the Empowered Committee;
4. That the appointment/s have been made by the Competent Authority or initial appointment made by an authority not competent to engage, is got regularized;
5. That the status of appointment is only contractual, consolidated or adhoc;
6. That no disciplinary or criminal proceedings are pending against the employees;
7. That the appointees are not part time or seasonal including those whose wages are paid out of local funds or contingent grants; and
8. That the concerned department shall fully verify their original qualification, date of birth, permanent Residential Certificates, prior to the issuance of the regularization orders after obtaining necessary approval of the competent authority.

Whereas, the department vide letter dated 27.10.2015 requested Director Health Services, Kashmir to furnish the clarification/information with regard to the observations raised by the Empowered Committee;

Whereas, the Director Health Services, Kashmir furnished the point wise reply of the observations raised by the Finance Department:-

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1. That the appointees have not been selected by any Recruiting agency/or appointed in any other Government department and they are still working in the department.
2. The allowances other than what were admissible/due have not been drawn in favour of these employees;
3. That the doctors are working against clear vacancies and have not been recommended earlier by the Empowered Committee.
4. That the appointments have been made by the Competent Authority.
5. That the status of appointments in Adhoc.
6. That no disciplinary or criminal proceedings are pending against them.
7. That the appointees are not part time or seasonal including those whose wages are paid out of local funds or contingent grants.
8. Verification report of their qualification, date of birth and permanent residential certificate have been verified by the Competent Authority and verification reports were enclosed.

Whereas, the Director Health Services, Kashmir vide reference dated 12.02.2016 also furnished the detail with regard to the period for undergoing PG/ Registrarship/ Sr. Residency in respect of both the doctors as under:-

Dr. Abdul Rouf Malik, Medical Officer:-

Course	From	To
PG	05/2005	04/2008
Registrarship	11/2010	05/2013

Dr. Muneer Ahmad Bhat, Medical Officer:-

Course	From	To
PG /Sr. Residency	05/2009	06/2016

Whereas, the department vide letter dated 21.04.2016, requested General Administration Department to furnish the Vigilance Clearance or otherwise in favour of both the above mentioned doctors; and

Whereas, the GAD vide O.M. No. GAD(Vig)/01-NOC/2016-HME dated 24.05.2016 intimated that there is no preliminary Enquiry/FIR pending against the said doctors; &

Whereas, the department vide U.O. No. HD/Gaz/Gen-177/2015-II dated 17.07.2017 submitted relaxation case of both the doctors to the General Administration Department for condonation of breaks by the Competent Authority.

Whereas, the General Administration Department vide U.O. No. GDC-143/CM/2016 dated 11.10.2017 returned the file with the following observations:-

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'Returned. The department is advised to clarify as to whether it has accorded sanction to the Contractual doctors in question to pursue their PG/PG Diploma/ Registrarship and if so, whether any leave or absence has been accorded/permited to them for this purpose.'

Whereas, the DHSK was requested to clarify the observations of GAD, who vide letter No. Est/3/1-133/5656 dated 06.02.2017 stated that Dr. Abdul Rouf Malik, Medical Officer (Adhoc) has physically joined the Department on 14.01.2014 and Dr. Muneer Ahmad, Medical Officer (Adhoc) after completion of his P.G/Sr. Residency joined in the Directorate on 07.06.2016; &

Whereas, the case was again re-submitted to the then Hon'ble Chief Minister through the Chief Secretary in coordination for condonation of breaks/relaxations of upper age bar on the ground that both the doctors have completed seven years of aggregate service required for regularization and are practically serving in the department against the clear vacancies; &

Whereas, the General Administration Department vide U.O.No GDC-143/CM/2016 dated 03.10.2017 returned the file with the following observations:-

"Returned. The department is advised to proceed further in the matter as per the record note of the meeting held on 20.09.2018 copy where of is placed on CF side"

Whereas, the record note of the meeting revealed that the meeting was held under the Chairmanship of Chief Secretary, J&K in his office Chamber on 20.09.2018 at 03:30 p.m regarding condonation of breaks/regularization of Dr Abdul Rouf Malik and Dr. Muneer Ahmad Bhat, Adhoc Assistant Surgeons in terms of Jammu and Kashmir Civil Services (Special Provisions), Act, 2010 which revealed as under:-

"The following officers attended the said meeting.

- i. Principal Secretary to the Government, Health & Medical Education Department.
- ii. Principal Secretary to Government, Finance Department.
- iii. Commission/Secretary to the Government, General Administration Department.
- iv. Special Secretary to the Government, Department of Law, Justice & Parliamentary Affairs.

The Principal Secretary to the Government, Health & Medical Education Department briefed the chair that the proposal has been submitted in coordination for approval of the competent authority to accord sanction to the condonation of break periods of Dr. Abdul Rouf Malik and Dr. Muneer Ahmad Bhat, Adhoc Assistant Surgeons for their

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regularization in terms of the Jammu and Kashmir Civil Services (Special Provisions) Act, 2010 in relaxation of upper age limit; &

Whereas, the Empowered Committee in the Finance Department recommended among others the aforementioned doctors for the regularization as Assistant Surgeons with the condition that the Department shall have the break on account of pursuing PG courses by the two doctors condoned; &

Whereas, Dr. Abdul Rouf Malik, Assistant Surgeon (Medical Officer) while working at Block Budgam was selected for undergoing PG in the Department of Ortho at GMC, Srinagar and the then Chief Medical Officer, Budgam vide Order No. CMOB/Estt-II/G/113-16 dated 15.04.2005 relieved the said doctor to join PG course at his own level without informing the Directorate of Health Services, Kashmir and without seeking permission from competent authority. The doctor completed the PG course on 04/2008. The said doctor, while working at D.H. Handwara was selected for Registrarship in the discipline of Orthopedics at GMC, Srinagar and he was relieved to join Registrarship in GMC Srinagar by Director, Health Services Kashmir vide office No. Est-3/1-133/3485-88 dated 02.11.2010; &

Whereas, Dr. Muneer Ahmad Bhat, Assistant Surgeon (Medical Officer) while posted at CHC Nagam was selected for undergoing PG Course in SKIMS, Soura, through BOPEE. The Doctor was relieved for said course by BMO Nagam vide Order No. BMO/N/S/38-40 dated 30.05.2009, at his own level. The Administrative Department vide No. HD/Legal/Gaz/MR-233/2014 M-Part file dated 10.07.2015 directed the Directorate of Health Services, Kashmir to allow the doctor to rejoin the department on completion of his PG/Sr. Residency from SKIMS Srinagar in pursuance to the judgement dated 04.02.2015 of the Hon'ble Court. The doctor submitted an application in the Directorate alongwith affidavit attested by 1st Class Judicial Magistrate declaring therein that his tenure of Sr. Residency was getting completed on 07.06.2016, after which he will immediately report in the Directorate; &

Whereas, the service details of the two doctors are summarized below:-

S.No.	Name of the doctor	Details of appointment/relieving/joining	Break periods
1.	Dr. Abdul Rouf Malik	Appointed as Assistant Surgeon on Adhoc basis vide Government Order No. 600-HME of 2000 Dated 15.09.2000	05/2005 to 04/2008 and 11/2010 to 05/2013 for undergoing PG/Registrarship in GMC Srinagar.
2.	Dr. Muneer Ahmad Bhat	Appointed as Assistant Surgeon on Adhoc basis vide Government Order No. 600-HME of 2000 Dated	05/2009 to 06/2016 for undergoing PG course/ Senior

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	15.09.2000. Relieved by BMO, Nagam vide Order No. BMO/N/S/38-40 dated 30.05.2009 for undergoing PG Course, allowed to join by Director, Health Services on 07.06.2016, after completion of PG/Senior Residency.	Residency in SKIMS Soura.
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Whereas, the committee deliberated on the issue in broader perspective vis-à-vis rule position and found that the two doctors namely; Dr. Abdul Rouf Malik and Dr. Muneer Ahmad Bhat do not qualify for the regularization as there is no provision for condonation of break of service for regularization of Adhoc/contractual/consolidated employees in terms of Jammu and Kashmir Civil Services (Special Provisions) Act, 2010. Moreover, one doctor namely Mr. Muneer Ahmed Bhat Assistant Surgeon was also not continuing on the appointed day as per condition of Section (05) (ii) of the Jammu and Kashmir Civil Services (Special Provisions) Act, 2010; &

Whereas, it was decided that the Health & Medical Education Department shall pass a consideration order capturing all the facts of the case vis-à-vis rule position in respect of Dr. Abdul Rouf Malik and Dr. Muneer Ahmad and reject the claim for their regularization in terms of the Jammu and Kashmir Civil Services (Special Provisions), Act, 2010.

Whereas, Section (05) of the Jammu and Kashmir Civil Services (Special Provisions) Act, 2010 envisages as under:-

“Regularization of adhoc or contractual or consolidated appointees- Notwithstanding anything to the contrary contained in any law for the time being in force or any judgement or order of any court or tribunal, the adhoc or contractual or consolidated appointees referred to in section 3 shall be regularized on fulfilment of the following conditions, namely:-

- i. That he has been appointed against a clear vacancy or post.
- ii. That he continues as such on the appointed day.
- iii. That he possessed the requisite qualification and eligibility for the post on the date of his initial appointment on Adhoc or contractual or consolidated basis as prescribed under the recruitment rules governing the service or post.
- iv. That no disciplinary or criminal proceedings are pending against him on the appointed day and

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v. That he has completed seven years of services as such on the appointed day.

Provided that the regularization of the eligible ad hoc or contractual or consolidated appointees under this Act shall have effect only from the date of such regularization, irrespective of the fact that such appointees have completed more than seven years and shall thereafter be entitled to regularization under this Act.

Provided further that any adhoc or contractual or consolidated appointee who has not completed seven years service on the appointed day shall continue as such till completion of seven years and shall thereafter be entitled to regularization under this Act.

Whereas, the Health & Medical Education Department considered the case interms of the observations of the General Administration Department and Jammu and Kashmir Civil Services (Special Provisions), Act, 2010 and now, therefore it is ordered that the claim of Dr. Abdul Rouf Malik S/o Gh. Rasool Malik R/o Solina Payeen, Srinagar and Dr. Muneer Ahmad Bhat S/o Gh. Hassan Bhat R/o Karan Nagar, Srinagar for regularization of their services is hereby rejected.

By order of the Government of Jammu and Kashmir.

Sd/-

(Atal Dulloo) IAS

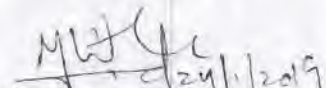
Principal Secretary to the Government
Health & Medical Education Department

No. HD(Gaz)Gen-177/2015-II

Dated: 24.01.2019

Copy to the:-

1. Principal Secretary to the Government, Finance Department.
2. Commissioner Secretary to the Government, General Administration Department.
3. Director Health Services, Kashmir.
4. Director, Archives, Archaeology & Museums, J&K.
5. OSD with Advisor (K) to the Hon'ble Governor.
6. Principal Private Secretary to Chief Secretary.
7. Pvt. Secretary to Principal Secretary to the Government, Health & Medical Education Department.
8. Concerned Doctor.
9. I/c Website, Health and Medical Education Department.
10. Government Order file/Stock file/Monday Return (w.2.s.c).


(Mohammad Iqbal Lone)

Under Secretary to the Government,
Health & Medical Education Department

