

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

Subject: O.A.No.61/1097/2020 dated 27th November, 2020 titled Dr. Nancy Bharti Vs UT of Jammu & Kashmir, Health & Medical Education Department & Ors.

- Ref. i. Circular No. 03-HME of 2019 dated 27.05.2019 read with Circular No. 02-JK(HME) of 2020 dated 20.01.2020 issued by the Health & Medical Education Department.
ii. No.ES-3/6280/5311 dated 05.03.2020 & No.ES-3/6280/2554 dated 18-11-2020 from Directorate of Health Services, Jammu.
iii. No.HD/Gaz/Gen/198/2019 dated 10.08.2020 & No.HD/Gaz/Gen/81/2020 dated 27.11.2020 issued by Health & Medical Education Department.

Government Order No: 901-JK(HME) of 2020
Dated: 16-12 -2020

WHEREAS, the H&ME Department vide Circular No.03-HME of 2019 dated 27.05.2019 framed policy/guidelines regarding undergoing of higher study courses viz Registrarship/Demonstratorship, Senior Residency, PG, Diploma, tutorship etc by in-service doctors, which among other conditions, inter-alia specifies as under:-



"1. The concerned HoD shall not forward/recommend any case of doctor intending to appear in the selection process by NEET or Senior Residency/Registrarship/Demonstratorship/PG/Diploma etc unless or until concerned doctor has completed prescribed period of probation or 3 years of service, whichever is later and is intending to undergo such course for the first time during his/her service for which a categoric certificate shall be furnished by the concerned HoD."

AND WHEREAS, vide Government Order No. 905-HME of 2019 dated 17.10.2019, the H&ME Department after considering the directions of Hon'ble High Court in judgement dated 30-07-2019 in WP(C) No.2553/2019, CM No.4967/2019 titled Dr. Abdul Roof & Ors. Vs State & Ors, constituted a departmental committee for examining cases of doctors for issuing NOC in favour of such eligible inservice Medical Officers desirous of undergoing higher study courses/applying against the tenure posts;

AND WHEREAS, the H&ME Department vide Circular No.02-JK(HME) of 2020 dated 20.01.2020 invited formal applications from desirous/intending eligible inservice doctors of J&K Health & Family Welfare (Gazetted) Service, in terms of policy/guidelines issued vide aforesaid Circular No.03-HME of 2019 dated 27.05.2019; for undergoing higher study course/applying against the tenure posts for the calendar year 2020;

AND WHEREAS, on the basis of details provided by Director Health Services, Jammu/Kashmir and recommendations of Departmental Designated Committee, the H&ME Department vide communication No. HD/Gaz/Gen/198/2019 dated 18-03-2019 granted NOC/Permission in favour of 91 doctors 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 2020;

AND WHEREAS, the Directorate of Health Services, Jammu vide communication No.ES-3/6280/5311 dated 05.03.2020, requested for conveying NOC in favour of Dr. Nancy Bharti, Medical Officer for undergoing Registrarship in Obstetrics and Gynaecology from GMC Jammu and it was specifically mentioned that the said doctor has completed three years of probation period which is the basic criteria for considering NOC;

AND WHEREAS, after cut off date, Directorate of Health Services, Jammu / Kashmir submitted few more application forms of doctors seeking NOC/Permission to undergo various courses and while taking a considerate view by the Departmental Designated Committee, it was recommended that Directorate of Health Services, Jammu/Kashmir be asked to furnish present status of doctors with regard to their selection/joining of said course and reasons for not applying within prescribed time frame which forfeit the very purpose of the dealing cases once in a calendar year as per Hon'ble High Court directions. In response, both the Directorate of Health Services have intimated that almost all the doctors could not apply for NOC/permission due to unawareness of circular instructions, COVID-19 pandemic and problem in internet facility including their far away postings in UT of J&K;

AND WHEREAS, on the basis of the response received from Directorate of Health Services, Jammu/Kashmir, the Departmental Designated Committee deliberated upon the issue and found 09 cases of doctors eligible (including Dr. Nancy Bharti) as per laid down policy/guidelines issued from time to time by the H&ME Department, and it was unanimously decided to recommend these above mentioned 09 cases of doctors for grant of NOC/Permission for applying /appearing/counselling 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 2020 subject to the condonation of delay by the competent authority and fulfillment of other requisite conditions;

AND WHEREAS, the H&ME Department vide communication No.HD/Gaz/Gen/198/2019 dated 10.08.2020, conveyed NOC in respect of aforesaid 09 doctors including Dr. Nancy Bharti;

AND WHEREAS, later on, the Directorate of Health Services, Jammu vide communication No.ES-3/6280/2554 dated 18-11-2020 intimated that Dr. Nancy Bharti, Medical Officer has been selected for undergoing Registrarship in GMC Jammu, however, she has rendered less than three years physical active service and as per the guidelines issued by the department, completion of period of probation or 03 years of service (whichever is later) is mandatory for the doctors to undergo any course viz Registrarship/Demonstratorship etc sought necessary instructions thereof.

AND WHEREAS, the matter stands re-examined in the department and it was found that the conditional NOC was granted in respect of Dr. Nancy Bharti, Medical Officer vide Communication No. HD/Gaz/Gen/198/2019 dated 10.08.2020 on the basis of mis-information given by the Directorate of Health Services, Jammu vide communication No. ES-3/6280/5311 dated 05-03-2020 wherein it was wrongly mentioned that the concerned doctor has completed more than three years of probation period and as such needs to be withdrawn by the department ab-initio;

AND WHEREAS, the H&ME Department vide communication No.HD/Gaz/Gen/81/2020 dated 27.11.2020 withdrew the conditional NOC, granted in respect of Dr. Nancy Bharti, Medical Officer, ab-initio subject to outcome of writ petition, if any, pending before any competent court of law. Besides, Director Health Services, Jammu was also directed to explain as to how case of Dr. Nancy Bharti, Medical Officer was recommended to Administrative Department earlier when she was not fulfilling the laid down criteria as notified vide Circular No. 03-HME of 2019 dated 27.05.2019 read with Circular No. 02-JK(HME) of 2020 dated 20.01.2020;

AND WHEREAS, Dr. Nancy Bharti, Medical Officer has filed a petition before the Hon'ble Central Administrative Tribunal for allowing her to relieve so that she can join as Registrar in the discipline of Obst. & Gynae, at GMC Jammu. Accordingly, the Hon'ble Central Administrative Tribunal on 27.11.2020 passed following directions:-

"Respondent No.1 is directed to relieve the applicant as per rules from the post of Medical Officer, District Hospital, Kathua so as to allow her to join the post of Registrar in the discipline of Obst. and Gynae. in Government Medical College,



Jammu. In case of the applicant being relieved, the respondent No.2 shall accept the joining of the applicant against the post of Registrar in the discipline of Obst. and Gynae. in GMC Jammu. In case, the respondent does not intend to relieve the applicant, the respondent No.1 shall pass a reasoned and speaking order in this regard with intimation to the applicant. The entire exercise shall be completed within a period of 10 days from today. Learned Dy. Advocate General would inform the same to the respondents immediately."

AND WHEREAS, the matter has been again re-examined thoroughly in accordance with the aforesaid directions dated 27.11.2020 of the Hon'ble Central Administrative Tribunal and in terms of policy/guidelines on the subject notified by the Health & Medical Education Department vide Circular No.03-HME of 2019 dated 27.05.2019 & Circular No. 02-JK(HME) of 2020 dated 20.01.2020 which are itself based on judgment dated 30-07-2019 passed by the Hon'ble High Court in WP(C) No.2553/2019, CM No.4967/2019 titled Dr. Abdul Roof & Ors. Vs State & Ors, and Dr. Nancy Bharti has not been found eligible for relieving and undergoing Registrarship at GMC Jammu;

Now therefore, in compliance of directions dated 27.11.2020 of the Hon'ble Central Administrative Tribunal passed in O.A.No.61/1097/2020 titled Dr. Nancy Bharti Vs UT of Jammu & Kashmir, Health & Medical Education Department & Ors, the issue was re-examined in the department in terms of policy/guidelines on the subject and it reveals that Dr. Nancy Bharti, Medical Officer, is not eligible for relieving and undergoing Registrarship at GMC Jammu, as she has not completed her mandatory three years of active service in the department & therefore her claim is devoid of merits, hence rejected.

By order of the Government of Jammu & Kashmir.

Sd/-

(Atal Dulloo) IAS

Financial Commissioner


Health and Medical Education Department

Dated: 16-12-2020

No. HD/Legal/G/CAT/MR-28/2020

Copy to the:

1. Principal Secretary to the Hon'ble Lieutenant Governor.
2. Joint Secretary (J&K), Ministry of Home Affairs, Government of India.
3. Principal, GMC Jammu.
4. Director, Archives, Archeology & Museums, J&K.
5. Director Finance, H&ME Department.
6. Director Health Services, Jammu.
7. Additional Secretary (Law), Health and Medical Education Department.
8. OSD to Advisor(B) to Hon'ble Lieutenant Governor.
9. Concerned.
10. Private Secretary to the Financial Commissioner, H&ME Department.
11. Government Order file/Stock file/ Website H&ME.


(Mohammad Iqbal Lone)

Under Secretary to the Government
Health & Medical Education Department