

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

Subject: Settlement of period of undergoing higher studies in favour of Dr. Hilal Ahmad Bhat, Medical Officer.

Ref: No.Est/3/1-133/2179 dated 08-10-2020 from Directorate of Health of Services, Kashmir.

Government Order No: 236 -JK(HME) of 2020
Dated: 29-10-2020

WHEREAS, Dr. Hilal Ahmad Bhat was appointed as Medical Officer in the Health Services Department, vide Government Order No.592-HME of 2011 dated 28-10-2011 and has reported in Directorate of Health Services, Kashmir on 01-11-2011;

AND WHEREAS, the aforesaid doctor was selected for DNB in Anesthesia at Max Hospital, New Delhi and on the recommendations of Directorate of Health Services, Kashmir, the H&ME Department had conveyed NOC of the Administrative Department, vide communication No. HD/Gaz/Gen/36/2018 dated 19.04.2018, to relieve concerned doctor for undergoing said super specialization;

AND WHEREAS, while undergoing DNB in Anesthesia, Dr. Hilal Ahmad Bhat, among others was appointed/posted as Consultant Anesthesiology at DH Kishtwar vide Government Order No 741-HME of 2018 dated 28.12.2018;

AND WHEREAS, the concerned doctor had communicated in his joining report that he may be allowed to continue the course which was midway and will join back to respective place of posting once course is completed. As such, preferred to continue studies and did not physically join;

ALL, AND WHEREAS, subsequently, the Directorate of Health Services, Jammu vide communication No. ES-3/Sel/906 dated 07.06.2019, among others, conveyed the status of Dr. Hilal Ahmad Bhat (appointee Consultant), as not joined;

AND WHEREAS, the H&ME Department vide Government Order No 735-HME of 2019 dated 30.07.2019, cancelled the appointment of Dr. Hilal Ahmad Bhat as Consultant Anesthesia ab-initio;

AND WHEREAS, after cancellation of appointment of Dr. Hilal Ahmad Bhat as Consultant Anesthesia, the Director Health Services, Jammu vide communication No. ES-3/4057 dated 31.12.2019 has forwarded

application of concerned doctor alongwith order dated 14.01.2019 of Hon'ble High Court passed in SWP No. 46/2019 IA No. 01/2019 titled Dr. Shaista Yaqoob & Ors. Vs State of J&K and Ors. for seeking instructions for grant of extension in joining in favour of the said doctor;

AND WHEREAS, the H&ME Department vide communication dated 12.03.2020 asked Director, Health Services, Jammu to explain factual position/details of court orders as were concealed in her earlier communication which has resulted cancellation of appointment of the doctor;

AND WHEREAS, in response, the Director, Health Services, Jammu vide communication No. ES-3/6433/5631 dated 31.03.2020 has informed that the Court case was filed in Hon'ble High Court of J&K at Srinagar and copy of interim order dated 14.01.2019 has not been served/received in their office at that relevant point of time;

AND WHEREAS, the operative part of interim order dated 14.01.2019 passed by the Hon'ble High Court in SWP No. 46/2019 IA No. 01/2019 titled Dr. Shaista Yaqoob & Ors. Vs State of J&K and Ors. reads as under:-

"In the meanwhile, subject to the objections from the other side and till next date of hearing before the Bench, the positions against which the petitioners are appointed in terms of the Government Order No. 741-HME of 2018 dated 28.12.2018, shall not be utilized. The respondents shall also consider the case of the petitioners in light of the policy in vogue, if any, for giving extension for joining on the positions on completion of the assignment on which they are presently working."

AND WHEREAS, the concerned doctor after completion of the authorized course has reported in the Directorate of Health Services, Kashmir for allowing him to join and the Director, Health Services, Kashmir vide communication No. Est/3/1-133/1856 dated 07.09.2020 submitted the case to Administrative Department;

AND WHEREAS, the H&ME Department vide letter dated 29.09.2020 sought a detailed information from Director, Health Services, Kashmir in a prescribed format in order to consider allowing of joining and settlement of the period of absence and in response, the Director, Health Services, Kashmir has given detailed point wise information vide communication No. Est/3/1-133/2179 dated 08.10.2020 which reveals that Dr. Hilal Ahmad Bhat, Medical Officer after completion of the authorized course, has reported in the Directorate of Health Services, Kashmir on

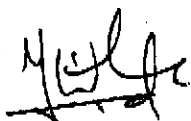
02.07.2020 for allowing him to join, owing to the fact that his appointment as Consultant stands already cancelled;

AND WHEREAS, the Directorate of Health Services, Kashmir has forwarded his case regarding re-joining/settlement of higher studies to the Administrative Department for issuance of appropriate instructions;

AND WHEREAS, the issue with regard to settlement of the intervening period was examined in consultation with Director Finance, Health and Medical Education Department (Chairman, Departmental Designated Committee) and the Department while taking considerate view in the matter, decided to accept the rejoining in respect of Dr. Hilal Ahmad Bhat as Medical Officer, notionally w.e.f 02-07-2020 and monetarily with immediate effect and the period of undergoing DNB in Anesthesia at Max Hospital, New Delhi w.e.f 27-04-2018 to 01-07-2020, as leave whatever kind due except study leave and remaining period of shortfall be treated as Dies-Non subject to outcome of SWP No. 46/2019 IA No. 01/2019 titled Dr. Shaista Yaqoob & Ors. Vs State of J&K and Ors. and subject to the condition that the said doctor was not involved in any subversive activities as well as was not employed in any Govt./private sector and no departmental enquiry is pending against him, for which an affidavit duly authenticated by the Ist Class Judicial Magistrate shall be obtained by the Director, Health Services, Kashmir from the concerned doctor.

Now, therefore, sanction is hereby accorded to:-

- i. Accept rejoining of Dr. Hilal Ahmad Bhat as Medical Officer notionally from 02.07.2020 and monetarily with immediate effect.
- ii. Treat the period of undergoing DNB in Anesthesia at Max Hospital, New Delhi w.e.f 27-04-2018 to 01-07-2020, as leave whatever kind due except study leave and remaining period of shortfall be treated as Dies-Non subject to outcome of SWP No. 46/2019 IA No. 01/2019 titled Dr. Shaista Yaqoob & Ors. Vs State of J&K and Ors. and subject to the condition that the said doctor was not involved in any subversive activities as well as was not employed in any Govt./private sector and no departmental enquiry is pending against him, for which an affidavit duly authenticated by the Ist Class Judicial Magistrate shall be obtained by the Director, Health Services, Kashmir from the concerned doctor.
- iii. Director, Health Services, Jammu shall fix the responsibility as to who were dealing hands in Directorate and failed to submit factual report in the instant case and report to be furnished within a month positively.



Further, the concerned doctor is warned not to leave his place of posting un-authorizedly for any occasion in future, failing which disciplinary action shall be initiated against him without any further notice.

Both Director, Health Services, Jammu/Kashmir in consultation with standing counsel shall file objections on behalf of official respondents immediately in SWP No. 46/2019 IA No. 01/2019, if they have not filed yet and shall furnish latest status of the court case.

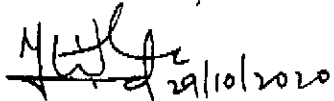
By order of the Government of Jammu & Kashmir.

Sd/-
(Atal Dulloo) IAS
Financial Commissioner
Health and Medical Education Department
Dated: 29.10.2020

No. HD/Gaz/Gen/36/2018-PF

Copy to the:-

1. Principal Secretary to the Hon'ble Lieutenant Governor.
2. Joint Secretary (J&K), Ministry of Home Affairs, Government of India, New Delhi.
3. Director, Health Services, Kashmir/Jammu.
4. Director Finance, Health & Medical Education Department.
5. OSD with Advisor (B) to Hon'ble Governor.
6. Director, Archives, Archaeology & Museums, J&K, Srinagar.
7. Concerned.
8. Private Secretary to the Financial Commissioner, Health and Medical Education Department.
9. I/C Website, Health and Medical Education Department.
10. Government Order file/Stock file.


(Mohammad Iqbal Lone)
Under Secretary to the Government
Health & Medical Education Department

