



**UNION TERRITORY OF JAMMU & KASHMIR**  
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Subject:-O.A. No. 61/234/2022 titled Dr. Amer Hussain Vs UT of J&K & Ors.

**ORDER**

Whereas, the Hon'ble Central Administrative Tribunal, Jammu Bench has disposed of the above titled case, on 10-03-2022, and Para 7 & 8 of the judgment reads as under:-

7. *".....In view of the above submissions of counsels for both the parties, this O.A. is disposed of at the admission stage, without expressing any opinion on the merits of the case, directing respondent Nos. 1 and 2 i.e Commissioner cum Secretary to Government, Health and Medical Education Department, Civil Secretariat, Jammu and Director Health Services, Jammu Division to quickly consider the representation of the applicant dated 30-12-2021, on similar basis with case of Dr. Prabhat Singh, as per provisions of relevant Government orders on the subject of higher study courses by in-service doctors dated 27-05-2019 and decide it quickly by 13-03-2022 and to communicate the order to the applicant immediately thereafter. No costs.*
8. *Mr. Hunar Gupta, D.A.G. assures that he would communicate the contents of this order to the concerned respondent authority today itself and request them to decide the applicant's representation before 13-03-2022."*

Whereas, the department came to know about disposal of the above titled case, on 15-03-2021, only after receipt of notice in this office from the counsel of the applicant. Immediately, thereafter, the record has been examined and found that the applicant has not filed any representation dated 30-12-2021 in this office, and;

Whereas, the applicant in his representation annexed with the OA as Annexure A2 has requested to forward his case to the competent authority for issuance of certificate of permission/NOC to participate in selection process NEE-SS, and;

Whereas, the case of the applicant has been examined in light of rule position and relevant Govt. Orders and Circulars and sought out that the Government vide Government Order No:-03-HME of 2019, dated 27-05-2019 has issued a policy/guidelines regarding undergoing of higher study courses viz Registrarship, Demonstratorship, Senior Residency, PG, Diploma, tutor etc by in service doctors. The circumstances leading to issuance of policy/guidelines are that it has been observed by the Government that earlier during the process of recruitment of Medical Officers, a substantial chunk of selectees were undergoing PG/Senior Residency/Registrar ship/ Demonstratorship at the time of their selection and as a consequence, such selectees pleaded for permission to continue their higher studies courses. These posts though substantively occupied, physically/practically remained vacant which in turn led to great resentment in the public and consequent crisis of non availability of doctors in the concerned Health institutions in the rural/peripheral areas. It has further been observed that on earlier occasion as well the Government vide Government order No:-164-HME of 2012, has issued some guidelines for the deputation of in-service doctors for the tenure posts of Registrar/Demonstrator and the Hon'ble High Court of J&K at Srinagar vide its decision dated 31-05-2016 in SWP No:-2355/2015 has also directed to strictly adhere to the rules and Government Order No:-164-HME of 2012 for the deputation of doctors. Therefore, the Government vide Government Order No:-03-HME of 2019, dated 27-05-2019 came up with policy/guidelines for the deputation of in-service doctors for undergoing higher study courses/tenure posts. There are certain terms and conditions in the policy/guidelines and condition No:-1 & 3 of these guidelines provides 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.*
3. *The concerned eligible doctors shall submit their cases through the concerned HOD well within the prescribed time fixed by the selection agencies alongwith all service particulars enabling Administrative Department to take decision prior to cut off date, as the case may be.*

Whereas, it is pertinent to mention here that the condition of three years services came to be modified to five years in the case of higher study courses vide Circular No:-18-HME of 2020, dated 29-12-2020 which provided as under:-



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