



**Central Administrative Tribunal
Jammu Bench, Jammu**

T.A. No. 1854/2021
(SWP No.1585/2018)

Tuesday, this the 2nd day of March, 2021

(Through Video Conferencing)

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Pradeep Kumar, Member (A)**

Dr. Faizan-i-Asrar Nazki, aged 35 years
d/o Mohammad Iqbal Nazki
r/o A/P Peerbagh Srinagar

..Applicant

(Mr. R A Bhat, Advocate)

Versus

1. State of Jammu and Kashmir, through Commissioner-cum-Secretary to Government, Health and Medical Education Department, Civil Secretariat, Srinagar/Jammu.
2. Director Health Services, Kashmir, Srinagar
3. Principal Govt. Medical College Srinagar

..Respondents

(Mr. Amit Gupta, Additional Advocate General)

ORDER (ORAL)

Mr. Justice L. Narasimha Reddy:

The applicant was selected and appointed as Assistant Surgeon / Medical Officer in the Health & Medical Education Department of Jammu & Kashmir in the year 2011. She applied for the post of Senior Residency in the Sher-i-Kashmir Institute of Medical Sciences in the year 2018. However, she did not obtain the 'No Objection Certificate' (NOC), nor was her application channelized through the Department. Therefore, she



was not permitted to join, though she was selected. At that stage, she filed SWP No.1585/2018 before the Hon'ble High Court of Jammu & Kashmir with a prayer to the respondents to relieve her from the post to enable her to join as Registrar with Bio Chemistry in the 3rd respondent – organization. It was pleaded that the study of the course would be helpful for her service in the Government and there was no basis for the respondents in denying the permission. An interim order was passed on 16.07.2018 directing the 2nd respondent to relieve the applicant and 3rd respondent to permit her to join with or without such NOC.

3. The SWP has since been transferred to this Tribunal in view of re-organization of the State of Jammu & Kashmir and renumbered as T.A. No.1854 /2021.

4. Today, we heard Mr. R A Bhat, learned counsel for applicant and Mr. Amit Gupta, learned Additional Advocate General, through video conferencing.

5. It is somewhat curious to note that a strange practice is prevailing in Jammu & Kashmir, whereunder the medical doctors, who are selected and appointed under stiff competition for the sole purpose of providing service to the needy public, invariably make an attempt to join the post of Registrar/ Demonstrator/Senior Residency, etc., so that they would be out of duties of serving in rural areas for a period of two to three

years. Repeated efforts made by the Government to discourage such practice, did not have any impact. It is only in the recent past, that some stability has been achieved.



6. As a government servant, the applicant was supposed to obtain the NOC well in advance before she applied for the Registrarship. However, she did it on her own accord and on being selected, she insisted on being relieved. The Government has its own norms as regards postings. It has to strike the balance between the need to provide the medical facilities to the needy people on the one hand, and the need of the doctors to improve the qualifications on the other. Another aspect is to verify as to whether the so-called additional qualifications would be of any utility in the service at all. The applicant has chosen to submit her application without there being an NOC, and on the strength of the interim orders, she is now pursuing the course. Nothing remains to be decided in this T.A.

7. It is accordingly closed. The manner, in which the absence of the applicant from service during the course of study must be decided, would be dependent upon the relevant provisions of law. There shall be no order as to costs.

(Pradeep Kumar)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

March 2, 2021
/dkm/sd/sunil/jyoti/