

**Government of Jammu and Kashmir
Agriculture Production Department
Civil Secretariat, Jammu/Srinagar.**

**Subject: Re-joining of Dr. Shabir Ahmad Ganie, the then VAS
Sheep Husbandry Department, Kashmir.**

Government Order No. 30 -JK(APD) of 2022

D a t e d: 30 -05-2022

Whereas, Dr. Shabir Ahmad Ganie was appointed as Veterinary Assistant Surgeon on 08.07.2019 vide Government Order No. 89-ASH of 2019 dated 08.07.2019, after rendering the service for 10-months and 17-days in the Sheep Husbandry Department, he has tendered resignation from this service on 18.05.2020 and joined as Naib Tehsildar in Revenue Department on 19.05.2020.

2. Whereas, the Director Sheep Husbandry, Kashmir vide letter No. DSHKGen-47/G/2639 dated 10.08.2020 has intimated that Dr. Shabir Ahmad Ganie has represented for re-joining of service in the Sheep Husbandry Department, Kashmir as he has taken the decision of resignation in haste and without application of his mind as such, may be allowed to rejoin the Department and the Director, Sheep Husbandry, Kashmir had also recommended to allow Dr. Shabir Ahmad Ganie to rejoin in the Department.

3. Whereas, the case Dr. Shabir Ahmad Ganie was accordingly examined by the department and took up the matter with the General Administration Department vide U.O No. ASH/SH/55/2015 dated: 12.02.2021, for their opinion. The General Administration Department returned the departmental case file vide their U.O No. GAD-MtgORBIV/67/2021-09 dated: 30.06.2021 with the following advise:-

Returned. The matter has been examined in the General Administration Department and from the available information, it transpires that the resignation of Mr. Shabir Ahmad Ganie has not been accepted in the Animal and Sheep Husbandry Department and, therefore, his lien on the post of Veterinary Assistant Surgeon remains intact.

The Animal and Sheep Husbandry Department, being the Appointing/Cadre controlling authority, would need to decide on the acceptance or rejection of the resignation tendered by Mr. Shabir Ahmad Ganie taking into consideration the requirement for his services.

After considering the above aspects, the department is advised to settle the case in consultation with the Department of Law, Justice and Parliamentary Affairs.

J
f

R

4. Whereas, on the advice of the General Administration Department the case of Dr. Shabir Ahmad Ganie was referred to the Law, Justice and Parliamentary Affairs for their opinion. The Department of Law, Justice and Parliamentary Affairs vide U.O No. Law-Opn2/59/2021-10 dated 23.09.2021 has returned the departmental file with the following advice:-

Returned. It is settled preposition of law that an employee, who tendered his resignation may withdraw the same before it becomes effective. However, the Hon'ble Court in case titled Mohd Sadiq Nargal Vs State and others (1997) held that a Government employee can withdraw his resignation before accepted by the Competent Authority only where he remains in service functioning on the post held by him awaiting acceptance of the resignation. But where he, acting on his own violation unilaterally abandons the post and service, after putting in his resignation and does not subject himself to the administrative control of the appointing authority and stays away from duty and engages himself in a different occupation, be that employment or any higher study, his service and tenure stands terminated from the date, he resigns and his resignation becomes operative forthwith irrespective of when it is accepted by the Competent Authority. In such a case, subsequent acceptance of the resignation retrospectively would be in order.

The Government of India, Ministry of Personnel, Public Grievances and Pensions, Department of Personnel & Training vide Office Memorandum dated 10th June, 2019 notified the guidelines/ instructions in consultation with the Office of Comptroller & Auditor General of India regarding withdrawal of resignation of Central Government Servants appointed after 31.12.2003, cover under the National Pension Scheme (NPS) in which it is categorically mentioned that the provision for withdrawal of resignation shall not be applicable for temporary Government Servants and the request for withdrawal of resignation shall not be accepted by the appointing authority, where a Government servant resigns his service or post with a view to taking up an another appointment.

Department, as such, is advised to take an Administrative Decision in the matter in consultation with Revenue Department as the said incumbent is holding the post of Naib Tehsildar from 19.05.2020 in the said department.

5. Whereas, this department's vide letter No ASHF-SHOGAZ/37/2021 dated 08.11.2021 requested the Director, Sheep Husbandry, Kashmir to




intimate, whether the services of Dr. Shabir Ahmad Ganie, who have resigned from the post of Veterinary Assistant Surgeon and joined in the Revenue Department as Naib Tehsildar in the Kashmir Division, is required in the Directorate of Sheep Husbandry Department, Kashmir or otherwise.

6. Whereas, the case was also referred to the Revenue Department vide U.O No. ASHF-SHOGAZ/37/2021-03 dated 08.11.2021 for their opinion/NOC. The Revenue Department vide U.O No. REV-NG/110/2021(81212) dated 08.04.2022 conveyed the **"No Objection"** of the department for re-joining of Dr. Shabir Ahmed Ganie, Naib Tehsildar in the Sheep Husbandry Department as Veterinary Assistant Surgeon (VAS), subject to the following observations/views as stipulated by the Financial Commissioner, Revenue vide No. FCR/GAZ/78/2021(93830) dated 17.02.2022 with regards to the re-joining of said employees (Naib Tehsildar) back to Sheep Husbandry Department:

- i. **The employee was in probation as Veterinary Assistant Surgeon in the Animal/Sheep Husbandry Department and as far as Lien is concerned;**

"Lien means the title of Government servant to hold substantively either immediately or on the termination of a period or periods of absence, a permanent post, including a tenure post, to which he has been appointed substantively".

- ii. **Also, the concept of lien/technical resignation arises only when the employee applies through proper channel (in service) and the resignation needs to be accepted by the authority. And as per the documents provided, the employee did not apply to the post of Naib Tehsildar through proper channel construing that it must be considered as fresh service.**
- iii. **Importantly, the employee is being paid by the UT Government as NT and he had not applied through proper channel and if, in case he, is allowed to join as Veterinary Surgeon, has either to *refund the salary drawn* or the period shall be considered as *dies non* which will cause break in the service.**

7. Whereas, requested this department vide No.ASHF-SHOGAZ/37/2021-03 dated 04.05.2022, the Director, Sheep Husbandry Department, Kashmir to take fresh consent from Dr. Shabir Ahmad Ganie, as to whether, he is interested to serve in Sheep Husbandry Department or Revenue Department.

[Handwritten mark]

[Handwritten mark]

[Handwritten signature]

8. Whereas, the Director, Sheep Husbandry Department, Kashmir vide his letter No. DSHK/Gen-47/G/1548 dated 12.05.2022 has intimated that Dr. Shabir Ahmad Ganie has given a fresh consent to work/serve in Sheep Husbandry Department.

Therefore, interms of Rules-163 of J&K CSR Volume-I read with SRO.514 of 1999 dated 22.11.1999, sanction is hereby accorded in favour of Dr. Shabir Ahmad Ganie for re-joining of service as Veterinary Assistant Surgeon in the Sheep Husbandry Department, Kashmir, subject to the following conditions :-

- i. The VAS is allowed to join in the Department as afresh and his seniority shall be determined in terms of Rule 24 of J&K CC&A Rules 1956.
- ii. The period of the absence w.e.f 18.05.2020 to till the join in the department shall be treated as '**Dies Non**' in pursuance of SRO.514 of 1999 dated 22.11.1999.
- iii. His seniority shall be re-fixed at appropriate place, subject to confirmation of his probation period.
- iv. He shall not claim for his seniority above his juniors and shall be fixed by the Administrative Department.

By order of the Government of Jammu and Kashmir.

Sd/-

(Atal Dulloo), IAS

Financial Commissioner

(Additional Chief Secretary)

No: ASHF-SHOGAZ/37/2021-03

Dated: 30-05-2022

Copy to the:-

1. Principal Secretary to the Government, General Administration Department.
2. Joint Secretary, (J&K), Ministry of Home Affairs, Government of India, New Delhi.
3. Commissioner/Secretary to the Government, Revenue Department.
4. Director, Sheep Husbandry, Kashmir.
5. Director, Archives, Archaeology & Museums, J&K, Jammu.
6. Private Secretary to Financial Commissioner (Additional Chief Secretary), Agriculture Production Department, for information of Financial Commissioner.
7. Concerned officers.
8. I/C Website, Animal/Sheep Husbandry & Fisheries Department.
9. Government Order file (w.2.s.c) Stock File

(Rehana Hassan)

**Under Secretary to the Government
Animal/Sheep Husbandry & Fisheries Department**