

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

Reserved on: 13.08.2025

Pronounced on: 19.08.2025

WP(C) No.2205/2025

1. Union Territory of Jammu & Kashmir through Chief Secretary, Government of Union Territory of Jammu and Kashmir, Civil Secretariat, Jammu/Srinagar-180001.
2. Commissioner/Secretary to Government, Health & Medical Education Department, Civil Secretariat, Jammu/Srinagar-180001

...Petitioners(s)

Through:- Mr. Raman Sharma, AAG

Versus

Dr. Ganshyam Dev, aged 62 years

S/o Late Sh. T.R.Gupta

R/o House No.3, Tara Vihar, Paloura, Jammu-181121

...Respondent(s)

Through:- Mr. Prem N. Sadotra, Advocate

Coram: HON'BLE MR. JUSTICE SANJEEV KUMAR, JUDGE
HON'BLE MR. JUSTICE SANJAY PARIHAR, JUDGE

JUDGMENT

Sanjeev Kumar “J”

1. Instant petition filed by the Union Territory of Jammu & Kashmir and one another under Article 226 of the Constitution of India is directed against an order and judgment dated 7th March, 2025 passed by the Central Administrative Tribunal, Jammu Bench, Jammu [“the Tribunal”] in OA No.1383/2021 titled Dr. Ganshyam Dev v. UT of J&K and another, whereby the Tribunal has, while allowing the OA, directed the petitioner to regularize the services of the respondent as

Principal Government Medical College, Jammu and release the pay scale attached to the post from the date he was given the charge till the date of his superannuation with all consequential benefits.

2. Before we advert to the grounds of challenge urged before us by Mr. Raman Sharma, learned AAG appearing for the petitioners, we deem it appropriate to give brief resume of the factual antecedents leading to the filing of this petition.

3. The respondent, who was recruited in the Government Medical College, Jammu as Lecturer in Radio Diagnosis, was promoted from time to time and reached to the level of Professor on 27th June, 2004. While he was serving as Professor-cum Head of the Department in the year 2012, process to fill up the post of Principal, Government Medical College, Jammu came to be initiated on the retirement of the then incumbent with effect from 30th June, 2012. Accordingly, a proposal consisting of five senior most Professors including the respondent was prepared for consideration of the competent authority. However, pending selection process, Dr. Aniece Chowdhary, the then Head of the ENT Department was assigned the charge of the Principal, Government Medical College, Jammu on 12th July, 2012. The Establishment-cum-Selection Committee, which met on 18.10.2012, approved the name of the respondent for substantive appointment as Principal, Government Medical College, Jammu. Feeling aggrieved, Dr. Aniece Chowdhary, challenged the

recommendation of the Establishment-cum-Selection Committee approving the name of the respondent for the post of Principal, Government Medical College, Jammu by filing a writ petition before this Court. Pursuant to the interim directions passed in the writ petition filed by Dr. Aniece Chowdhary, the recommendation made in favour of the respondent could not be acted upon and Dr. Aniece Chowdhary continued to function as officiating Principal until his retirement on 30.04.2013. On the retirement of Dr. Aniece Chowdhary, Dr. Shashi Gupta was given charge of the post despite the fact that the respondent stood cleared by the Establishment-cum-Selection Committee for substantive promotion/appointment.

4. On the exit of Dr. Shashi Gupta, the respondent, who, at the relevant point of time, was the senior most Professor in Government Medical College, Jammu, was made the officiating Principal on 23rd April, 2014 and continued to perform the duties in that capacity till 2nd December, 2015. In the meanwhile, the writ petition filed by Dr. Aniece Chowdhary was disposed of on 01.02.2018 directing the petitioners herein to consider one of the APRs of Dr. Aniece Chowdhary as 'very good' instead of 'good'.

5. In compliance with the judgment passed by this Court, the petitioners vide Government order No.203-JK(HME) of 2020 dated 25.02.2020 regularized the services of Dr. Aniece Chowdhary as Principal, Government Medical College, Jammu with effect from the

date he was given the charge of the post till his retirement. So far as the respondent is concerned, on 02.12.2015, he was unceremoniously removed from the post of officiating Principal to accommodate Dr. Zahid Hussain Gilani, Professor-HOD Pharmacology as new officiating Principal of the Government Medical College, Jammu. The respondent was relieved of the assignment and asked to work as Professor and Head of the Department of Radio Diagnostics. On superannuation of Dr. Zahid Hussain Gilani, Dr. Sunanda Raina was appointed as officiating Principal, GMC, Jammu.

6. Indisputably, Dr. Zahid Hussain Gilani and Dr. Sunanda Raina, both were junior to the respondent. Dr. Zahid Hussain Gilani and Dr. Suananda Raina, who had officiated as Principal, were, later on, regularized and pay scale of the post of principal was released in their favour. The respondent, who was senior, was not given either substantive or officiating appointment as Principal, after 2nd December, 2015 till he retired on superannuation on 30th September, 2019. While in service, the respondent had moved a representation on 6th June, 2018 and thereafter in November, 2018 for his appointment as Principal, Government Medical College, Jammu on substantive basis. When representations were not considered by the petitioners and the respondent in the meanwhile superannuated on 30th September, 2019, he filed OA No.1381/2021 before the Tribunal seeking *inter alia* a direction to the petitioners to regularize his services as Principal, Government Medical College, Jammu and release the pay scale

attached to the post from the date he was given charge of the post till his superannuation.

7. The OA was contested by the petitioners herein and in the reply affidavit filed by petitioner No.1, claim of the respondent was resisted on the ground that the case of the respondent for his substantive appointment as Principal, as approved by the Establishment-cum-Selection Committee, could not be given effect due to the litigation initiated by Dr. Aniece Chowdhary, who was, at the relevant point of time, senior most Professor in the Government Medical College, Jammu.

8. Having considered the rival contentions of both the sides and gone through the material on record, the Tribunal came to the conclusion that the respondent could not have been discriminated viz-a-viz Dr. Aniece Chowdhary, Dr. Zahid Hussain Gilani and Dr. Sunanda Raina, whose officiating appointment as Principal, was later regularized and the pay scale of the Principal released in their favour. Vide judgment impugned, the Tribunal allowed the OA and the directions, which we have referred to herein above, were issued to the petitioners.

9. It is this order of the Tribunal, which is called in question before us on the ground that the Tribunal has failed to appreciate that the OA filed by the respondent was belated and hit by delay and laches. The Tribunal has also not appreciated that the services of the respondent

could not have been regularized that too, for a period for which the services of Dr. Zahid Hussain Gilani and Dr. Sunanda Raina also stood regularized without any challenge from anyone including the respondent.

10. Having heard learned counsel for the parties and perused the material on record, we are of the considered opinion that the view taken by the Tribunal, both on facts and law, is correct and may only call for some modification to set the record straight and to introduce clarity.

11. Indisputably, the respondent officiated as Principal, Government Medical College, Jammu between 23rd April, 2014 till 2nd December, 2015. This officiating appointment as Principal was offered to the respondent on the ground that at that point of time he was the senior most Professor available for such appointment. The respondent was given the officiating appointment despite the fact that he stood cleared and approved by the Establishment-cum-Selection Committee for substantive appointment which, of course, was stalled by the litigation launched by Dr. Aniece Chowdhary, who officiated as Principal, Government Medical College, Jammu w.e.f. 01.07.2012 till 30.04.2013, when he retired on superannuation. It is true that when the respondent was removed from officiating position of Principal, GMC, Jammu on 02.12.2015 and reverted to his position as Professor/HOD of Radio Diagnostics to accommodate Dr. Zahid Hussain Gilani, who was

admittedly junior to the respondent, the respondent kept quiet and did not agitate the matter. The respondent did not agitate even the appointment of Dr. Sunanda Raina, another Professor junior to him as officiating Principal after superannuation of Dr. Zahid Hussain Gilani. It seems that the respondent accepted his fate and could not gather courage to call in question the action of the petitioners for making two Professors, junior to him, as officiating Principal.

12. Be that as it may, finally on 30th September, 2019, the respondent retired on superannuation as Professor and HOD Radio Diagnostics. So far as two Professors junior to him i.e. Dr. Zahid Hussain Gilani and Dr. Sunanda Raina, who had officiated as Principal of the Government Medical College, Jammu, were given regular appointments as Principal with the benefit of pay grade. Dr. Sunanda Raina was regularized as Principal, GMC, Jammu vide Government Order No.952-HME of 2019 dated 24.10.2019, whereas pay scale of the post of Principal was released in favour of Dr. Zahid Hussain Gilani vide Government order No.232-JK(HME) of 2020 dated 10.03.2020. Unfortunately and for no discernible reasons, the respondent was retired in the lower pay scale of Professor and HOD, though he was senior to both the aforesaid doctors and had officiated as Incharge Principal, Government Medical College, Jammu before them.

13. At this stage, we deem it appropriate to refer to Government order No.113-HME of 2003 dated 07.02.2003, whereby

the Government while appointing Dr. G.R.Mir, Professor and HoD Orthopedics as Principal, Government Medical College, Srinagar also placed four doctors senior to him in the pay scale of Principal, Government Medical College. This was done to compensate the seniors, who had been ignored for the post of Principal. The respondent had also sought the same analogy and prayed for grant of the pay scale of Principal, Government Medical College, particularly when the same already stood released in favour of his two juniors Dr. Zahid Hussain Gilani and Dr. Sunanda Raina.

14. The Tribunal has rightly appreciated the matter and come to the rescue of the respondent. We are also of the view that the respondent is entitled to have his services as officiating Principal regularized with effect from 23rd April, 2014 till 2nd December, 2015. We are also of the considered opinion that the respondent is entitled to the release of pay scale of the Principal w.e.f. 02.12.2015 till his superannuation on the ground that his juniors, Dr. Zahid Hussain Gilani and Dr. Sunanda Raina, have retired in that pay scale. We cannot digest the fact that two doctors junior to the respondent have retired as principal and getting the pension in the pay scale attached to the post and the respondent, who was admittedly senior to them, has been retired as Professor and HOD.

15. For the foregoing reasons, we disposed of this petition by directing as under:

- i) To regularize the services of the respondent as Principal, Government Medical College, Jammu w.e.f. 23rd April, 2014 till 2nd December, 2015 i.e. the period during which the respondent actually performed the duties of officiating Principal, Government Medical College, Jammu.
- ii) To release the pay scale of the post of Principal, Government Medical College in favour of the respondent w.e.f. 3rd December, 2015 till his superannuation i.e. 30th September, 2019.
- iii) We also hold the respondent entitled to all consequential benefits accruing from the above including arrears of salary and revision of pensionary benefits with retrospective effect.

16. The judgment of the Tribunal is, thus, modified only to the aforesaid extent. Let the exercise, as directed above, be undertaken and completed by the petitioners within a period of three months from the date copy of this judgment is served upon the petitioners.

17. The writ petition shall stand disposed of in the above terms.

(Sanjay Parihar)
Judge

(Sanjeev Kumar)
Judge

JAMMU
19.08.2025
Vinod, PS

Whether the order is speaking : Yes
Whether the order is reportable: Yes