

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

WP (C) No. 2791/2025
CAV No. 1639/2025

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1. University of Jammu through its
Registrar, Baba Sahib Ambedkar Road,
Jammu
2. Vice Chancellor, University of Jammu,
Baba Sahib Ambedkar Road, Jammu.
3. Registrar, University of Jammu, Baba
Sahib Ambedkar Road, Jammu.
4. Assistant Registrar (Adm/TW)
University of Jammu, Baba Sahib
Ambedkar Road, Jammu.

....Applicant(s)/Petitioner(s)

Through :- Mr. Ajay Abrol, Advocate

v/s

1. Dr. Bharti Prabhakar, age 43 years D/o
Sh. Nirmal Kumar Prabhakar R/o 33-A,
Hari Nagar, Jammu.
2. Dr. Vivek Sharma, Coordinator, Kathua
Campus of University of Jammu.

.....Respondent(s)

....Proforma Respondent(s)

Through :- Mr. Abhinav Sharma, Sr. Advocate with
Mr. Abhirash Sharma, Advocate
Mr. Muddassir Maqbool, Advocate

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

**ORDER(ORAL)
08.10.2025**

Sanjeev Kumar J

CAV No. 1639/2025

1. Heard learned counsel for the caveator.
2. Caveat stands discharged.

1. Impugned in this petition, filed by the University of Jammu under Article 226 of the Constitution of India, is an order and judgment dated 09.04.2025 passed by the Central Administrative Tribunal, Jammu Bench, Jammu [**“the Tribunal”**] in TA No. 190/2024 titled “Dr. Bharti Prabhakar vs. University of Jammu and others”, whereby the Tribunal has, while allowing the TA, quashed the order dated 24.03.2016 passed by the petitioner and directed the University of Jammu to treat the respondent herein to have been absorbed on permanent basis with effect from 18.02.2009 with the benefit of release of arrears of salary in the pay band of Rs. 15600-39100 + AGP Rs. 6000/- w.e.f. 18.02.2009 to 14.02.2016. There is a further direction issued by the Tribunal to treat the respondent as per the pension scheme which was prevalent prior to 2010.
2. The impugned judgment is called in question by the petitioner on the ground that in the absence of challenge to the University Council decision, approving the regularization of the respondent notionally w.e.f. 18.02.2009 and prospectively w.e.f. 15.02.2016, the TA was not maintainable.
3. The claim of the respondent for retrospective regularization on the analogy of one Vivek Sharma is disputed on the ground that the latter was appointed on consolidated basis against a different post and in different campus. There is some reflection about the work and conduct of the respondent post her regularization, in that, it is claimed by the

University that after her regularization w.e.f. 15.02.2016, the respondent has remained on leave of different kind for more than five years which speaks about her commitment to the service.

4. Before we advert to the grounds of challenge, urged by the learned counsel for the petitioner, we deem it appropriate to give brief factual background of the case.
5. Way back in the year 2006, the petitioner-University vide advertisement notification dated 24.10.2006 invited applications for filling up two posts of Project Officer in the open category in the Centre for Continuing Education and Extension. The post of Project Officer was indicated to carry the pay scale of Rs. 8000-275-13500. The respondent applied for the post of Project Officer and being eligible was allowed to participate in the selection process. After completion of selection process, the Selection Committee instead of recommending the appointment of the respondent and two others recommended the appointment of the respondent as Project Officer on contractual basis on payment of consolidated salary of Rs. 15,000/- per month initially for a period of one year instead of regular pay scale.
6. Similarly, recommendations were also made in favour of two other candidates including one Vivek Sharma as Academic Coordinator. So far as Vivek Sharma is concerned, his case was recommended by the Director Kathua Campus of the University for regularization in the year 2008 itself. The matter was placed before the University Syndicate in its meeting held on 08.09.2008. The University Syndicate recommended the permanent absorption of Mr. Vivek Sharma as

Academic Coordinator in Kathua campus w.e.f. 18.02.2009. Acting upon the recommendations of the University Syndicate, the University through its Registrar passed a formal order absorbing Mr. Vivek Sharma as Academic Coordinator on permanent basis w.e.f. 18.02.2009 and his pay was, accordingly, fixed and released. When the similar treatment was not accorded to the respondent, she filed SWP No. 1650 of 2009 in which the learned Single Judge of this Court vide its interim order dated 09.09.2009 directed the petitioner-University to consider the case of the respondent strictly under rules for permanent absorption on the analogy of Mr. Vivek Sharma.

7. It seems that during the pendency of the aforesaid petition, the University assured respondent that her case shall also be considered for regular absorption on the analogy of Mr. Vivek Sharma, provided she would withdraw her writ petition. This made the respondent to withdraw her writ petition which was dismissed by the learned Single Judge of this Court as withdrawn vide order dated 12.02.2016. True to their commitment, the case of the respondent along with one Dr. Pallavi Sachdeva was placed before the University Syndicate in its meeting held on 25.01.2016. The University Syndicate considered the case of the respondent on the analogy of Mr. Vivek Sharma and vide its Resolution No. 109.73 recommended the permanent absorption of the respondent and Dr. Pallavi Sachdeva against two available posts of Project Officer (now Assistant Professor) in the pay band of Rs. 15600-39100+ AGP Rs. 6000/- w.e.f. 18.02.2009 i.e. from the date when a similarly situated candidate, namely, Sh. Vivek Sharma was

permanently absorbed as Academic Coordinator in Kathua Campus of the University. On the recommendations of the University Syndicate, the University through its Registrar issued a formal order bearing no. ADM/TW/16/7709-19 dated 15.02.2016.

8. It seems that after giving benefit of regularization to the respondent w.e.f. 18.02.2009 on the analogy of similarly situated candidate, i.e., Sh. Vivek Sharma in terms of the order (supra) passed by the Registrar, the University took a U-turn and placed the matter before the University Council with a clear intent of depriving her of the benefit of arrears with effect from the date of her regularization, i.e., 18.02.2009. Before the University Council could take a decision, the petitioner-University refixed the pay and allowances of the respondent in the graded pay w.e.f. 15.02.2016, thus, denying her the benefit of release of pay scale retrospectively w.e.f. 18.02.2009. It is this order which was called in question by the respondent initially before this Court in SWP No. 1906/2018, which, on transfer to the Tribunal, came to be registered as TA No. 190/2024. The TA was contested by the University on the same grounds as are urged by Mr. Ajay Abrol, learned counsel for the petitioner before us today and which we have taken note of hereinabove.

9. The Tribunal having considered the rival contentions, in the light of pleadings of the parties and material on record, came to the conclusion that the respondent was similarly situated with Mr. Vivek Sharma, respondent no. 5 in the TA, and, therefore, could not have been discriminated. The Tribunal also took note of the fact that the benefit of

regular pay scale to the respondent w.e.f. 18.02.2009 was granted by the University on the recommendations of University Syndicate and, therefore, her salary ought to have been re-fixed in the graded pay scale w.e.f. 18.02.2009 with the benefit of arrears for the period w.e.f. 18.02.2009 to 14.02.2016.

10. Having heard learned counsel for the parties and perused the material on record, we are of the considered opinion that the judgment passed by the Tribunal is perfectly legal, both on facts and law, and, therefore, deserves to be maintained on all fours.
11. Indisputably, the respondent had participated in the selection process undertaken by the University for the post of Project Officer in terms of advertisement notification dated 24.10.2006. It is in response to the same selection process, Mr. Vivek Sharma had applied for appointment as Academic Coordinator, a post lying vacant in Kathua campus of the University. The selection process concluded in issuance of the select list in which the respondent was shown selected against one of the post of Project Officer in the open category in the Centre for Continuing Education and Extension. The respondent along with two others, i.e., Dr. Pallavi Sachdeva and Mr. Vivek Sharma, who were successful in the selection process were recommended by the Selection Committee for contractual appointment on consolidated basis instead of on regular basis. The recommendations of the Selection Committee were accepted by the University. The respondent, Dr. Pallavi Sachdeva and Mr. Vivek Sharma were appointed on contractual basis on payment of

consolidated salary of Rs. 15,000 against two posts of Project Officer and one post of Academic Coordinator, respectively.

12. So far as Mr. Vivek Sharma, the private respondent in the TA is concerned, he was regularly absorbed immediately on completion of one year of service. This was done by the University on the basis of recommendations made by the University Syndicate.
13. Feeling aggrieved by her appointment on contractual basis and payment of consolidated salary instead of regular pay scale, the respondent filed a petition before this Court in the year 2009 itself. As we have noted above, a Single Bench of this court issued interim directions calling upon the University to consider the case of the respondent herein also on the analogy of Mr. Vivek Sharma, who stood permanently absorbed immediately on completion of one year of contractual service as Academic Coordinator in Kathua Campus of the University.
14. With a view to complying with the aforesaid directions, the matter with regard to the regular absorption of the respondent, on the analogy of Mr. Vivek Sharma, was placed before the University Syndicate for making appropriate recommendations. The University Syndicate agreed with the contention of the respondent and recommended that she along with Dr. Pallavi Sachdeva be also absorbed w.e.f. 18.02.2009 on the analogy of Mr. Vivek Sharma. Consequently, a formal order in this regard was passed by the University. It is, however, intriguing to note that despite there being a formal order of absorption of the respondent in the graded pay scale w.e.f. 18.02.2009 passed by the University, an attempt was made to refix the salary in the graded pay scale only w.e.f.

15.02.2016 in terms of pay slip dated 24.03.2016 thereby denying the benefit of pay scale retrospectively w.e.f. 18.02.2009.

15. Feeling aggrieved by such fixation of salary prospectively w.e.f. 15.02.2016 in terms of pay slip dated 24.03.2016, the respondent filed petition before this Court which, on transfer to the Tribunal, was registered as TA No. 190/2024. It is true that, subsequently, the case of the respondent was placed before the University Council which approved the regular absorption of the respondent w.e.f. 18.02.2009, but provided that the benefit of the pay grade w.e.f. 18.02.2009 would be notional and monetarily only w.e.f. 15.02.2016.

16. We are also aware that this University Council's decision which did not culminate into passing of any formal order was not assailed by the respondent in the TA and it is the only objection which has been taken by Mr. Ajay Abrol, learned counsel for the petitioners. We have given our thoughtful consideration to this aspect of the matter and we are of the considered opinion that notwithstanding that there is no challenge to the University Council decision, the TA was maintainable and the reliefs which have been granted by the Tribunal could have been very well granted. We are saying so because the order dated 24.03.2016 passed by the University, on the recommendations of the University Syndicate, has neither been recalled nor modified by passing any fresh order pursuant to any decision taken by the University Council. Even the decision of the University Council, as indicated in the minutes dated 25.03.2016 item no. 80.37, does not indicate as to whether the University has modified the decision of the University Syndicate. It

only says that the action taken by the University Syndicate with regard to regular absorption of Dr. Pallavi Sachdeva and the respondent herein on permanent basis has been taken note of. The University Council decision in reference to aforesaid item indicates that the University council has understood the recommendations of the University Syndicate as giving the benefit of regular absorption to Dr. Pallavi Sachdeva and the respondent w.e.f. 18.02.2009, yet have provided that such benefit would be notional w.e.f. 18.02.2009 and monetarily w.e.f. 15.02.2016 only from order.

17. Ordinarily, pursuant to the decision of the University Council, a formal order ought to have been passed by the Registrar to modify or withdraw the earlier order, but no such order was passed and, therefore, there was no occasion for the respondent to challenge the University Council decision, which, by and large, is confidential and is not put on public domain.
18. Be that as it may, the University Council decision, as indicated in its 80th meeting held on 25.07.2016, is totally arbitrary and in violation of Article 14 of the Constitution of India. It does not indicate any reason for making departure from the recommendations of the University Syndicate that, too, after these recommendations stood implemented and the benefit of regular absorption to the respondent stood granted w.e.f. 18.02.2009 for all purposes.
19. That apart, the respondent has successfully demonstrated a clear case of discrimination between her and Mr. Vivek Sharma. Both participated in the selection process initiated by the University vide advertisement

notification dated 24.10.2006 and both came to be selected for their respective posts, but were offered the appointments on contractual basis and consolidated salary. So far as Mr. Vivek Sharma is concerned, he was considered and given the benefit of regularization immediately after completion of one year whereas the similar treatment was denied to the respondent for no ostensible reasons. It is in this background and in pursuant to the interim directions passed by a Single Bench of this Court in SWP No. 1650/2009, the University Syndicate conceded to the grievance of the respondent and accorded her the similar treatment as had been given to Mr. Vivek Sharma. She was also recommended to be promoted w.e.f. 18.02.2009 with all consequential benefits. This decision was accepted by the University and, accordingly, a formal order was issued by the Registrar of the competent authority.

20. It also needs to be noticed that the case of Sh. Vivek Sharma was settled on the recommendations of University Syndicate and never put before University Council. However, for oblique purpose of denying similar benefit to the respondent, the order passed on recommendation of University Syndicate was got modified by taking the matter to University Council. The entire exercise was aimed at punishing the respondent for approaching the Court against University and, therefore, totally unfair.

21. We, therefore, see no good reason or justification to take the matter to the University Council, that too, after implementing the recommendations of the University Syndicate and take a view contrary

to the one taken in the case of Mr. Vivek Sharma, that too, without indicating any reasons.

22. For all these reasons, we do not find it a fit case for interference by us in the exercise of extraordinary writ jurisdiction vested under Article 226 of the Constitution of India.

23. This petition is found devoid of any merit and the same is, accordingly, dismissed.

(Sanjay Parihar)
Judge

(Sanjeev Kumar)
Judge

JAMMU
08.10.2025
Manik

