

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

WP(C) No.3242/2025

c/w

WP(C) No.3230/2025

WP(C) No.3666/2025

WP(C) No.3673/2025

WP(C) No.279/2026

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WP(C) No.3242/2025

1. UT of Jammu & Kashmir through Commissioner/Secretary to the Government, Health & Medical Education Department, J&K Government, Civil Secretariat, Jammu.
2. Principal, Indira Gandhi Government Dental College, Jammu
Pin Code-180001

...Petitioners(s)

Through:-

Mr. Raman Sharma, Sr. Advocate (AAG)
with Ms. Saliqa Sheikh, Advocate
Mr. Jattan Singh Gill, Advocate in CM
No.8402/2025

Versus

Dr. Jyoti Gupta D/o Sh. Subash Gupta R/o House NO.355,
Vikas Lane No.3, Talab Tillo, Jammu, Pin code-180002

...Respondent(s)

Through:- Mr. D.S.Chouhan, Advocate with
Ms. Damini Chouhan, Advocate

WP(C) No.3230/2025

1. UT of Jammu & Kashmir through Commissioner/Secretary to the Government, Health & Medical Education Department, J&K Government, Civil Secretariat, Jammu.
2. Principal, Indira Gandhi Government Dental College, Jammu
Pin Code-180005

...Petitioners(s)

Through:-

Mr. Raman Sharma, Sr. Advocate (AAG)
with Ms. Saliqa Sheikh, Advocate
Mr. Jattan Singh Gill, Advocate in CM
No.8403/2025

Versus

Dr. Etti Shree D/o Sh. Bansi Lal Sharma R/o H.No.2, Gurha Brahmina,
Bantalab, Jammu,181123

...Respondent(s)

Through:- Mr. Mr. Rahul Sharma, Advocate with
Ms. Rupali Sharma, Advocate

WP(C) No.3666/2025

1. UT of Jammu & Kashmir through Commissioner/Secretary to
the Government, Health & Medical Education Department, J&K
Government, Civil Secretariat, Jammu.
2. Principal, Indira Gandhi Government Dental College, Jammu
Pin Code-180005

...Petitioners(s)

Through:-

Mr. Raman Sharma, Sr. Advocate (AAG)
with Ms. Saliqa Sheikh, Advocate
Mr. Jattan Singh Gill, Advocate in CM
No.8402/2025

Versus

Dr. Etti Shree D/o Sh. Bansi Lal Sharma R/o H.No.2, Gurha Brahmina,
Bantalab, Jammu,181123

...Respondent(s)

Through:- Mr. Mr. Rahul Sharma, Advocate with
Ms. Rupali Sharma, Advocate

WP(C) No.3673/2025

1. UT of Jammu & Kashmir through Commissioner/Secretary to
the Government, Health & Medical Education Department, J&K
Government, Civil Secretariat, Jammu.
2. Principal, Government Medical College, Doda

...Petitioners(s)

Through:-

Mr. Raman Sharma, Sr. Advocate (AAG)
with Ms. Saliqa Sheikh, Advocate

Versus

Dr. Atoofa Zargar D/o Mr. Mohd. Iqbal Zargar R/o Doda
C/o Gold Medical Corner, Doda-182202

...Respondent(s)

Through:- Mr. D.S.Chouhan, Advocate with
Ms. Damini Chouhan, Advocate

WP(C) No.279/2026

1. UT of Jammu & Kashmir through Commissioner/Secretary to the Government, Health & Medical Education Department, J&K Government, Civil Secretariat, Jammu.
2. Principal, Government Medical College, Doda

...Petitioners(s)

Through:-

Mr. Raman Sharma, Sr. Advocate (AAG)
with Ms. Saliqa Sheikh, Advocate

Versus

Dr. Dheeraj Sharma S/o Mr. Tilak Raj Sharma R/o Ward No.2,
Krishna Colony, Kathua-184101

...Respondent(s)

Through:- Mr. D.S.Chouhan, Advocate with
Ms. Damini Chouhan, Advocate

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

JUDGMENT

Sanjeev Kumar 'J'

1. A common judgment dated 1st August, 2025 passed by the Central Administrative Tribunal, Jammu Bench, Jammu ["the Tribunal"] in OA No.452/2024 titled Dr. Jyoti Gupta v. Union Territory of J&K and another, OA No.473/2025 titled Dr. Dheeraj Sharma v. Union Territory of J&K and another, OA No.497/2025 titled Dr. Atoofa Zargar v. Union Territory of J&K

and another, OA No.403/2025 titled Dr. Etti Shree v. UT of J&K and another and OA No.615/2025 titled Dr. Etti Shree v. Union Territory of J& K and another, is subject matter of challenge in these five writ petitions filed by the Union Territory of J&K and another, under Article 226 of the Constitution of India.

2. Before we advert to the common questions of law involved for determination in these petitions, it would be apposite to narrate individual facts of each case.

WP(C) No.3242/2025

3. The respondent-Dr. Jyoti Gupta was appointed as Registrar in the discipline of Periodontology at Indira Gandhi Government Dental College, Jammu [“IGGDCJ”] vide order dated 24.04.2021 issued by the Principal, IGGDCJ, initially for a period of one year further extendable upto a maximum of three years subject to satisfactory work and conduct certificate from the concerned Head of the Department. On completion of three years’ tenure, the respondent was relieved vide order dated 22.04.2024. Feeling aggrieved by denial of further extension, the respondent approached the Tribunal by way of OA No.452/2024, which has been decided in her favour by the Tribunal, in terms of the judgment impugned. The Tribunal has found the fresh advertisement notification dated 07.04.2025 issued by respondent No.2, contrary to the provisions of Jammu & Kashmir Medical and Dental Education (Appointment on

Academic Arrangement basis) Rules, 2020 [“the Academic Arrangement Rules of 2020”] and has, accordingly, quashed the same. The Tribunal has also issued directions to the petitioners herein to allow the respondent to continue as Registrar in terms of Rule 4 of the Academic Arrangement Rules of 2020 for a maximum period of six years or until regular selection/promotion is made, whichever is earlier.

WP(C) Nos.3230/2025 & 3666/2025

4. The respondent in this petition was appointed as Tutor in the discipline of Oral Pathology for a period of one year in the first instance further extendable on year-to-year basis up to maximum of three years in terms of order dated 01.06.2022 issued by the petitioner No.2. The respondent was allowed to continue for three years and before she could be relieved on 01.06.2025, on completion of her tenure, she approached the Tribunal by way of OA No.403/2025. During the pendency of OA No.403/2025, respondent No.2 issued fresh advertisement notice dated 07.04.2025, for making fresh tenure appointment of Tutor, which came to be challenged by the respondent by way of OA No.615/2025 and a direction was also sought to the petitioners herein to allow her to continue up to a maximum of six years or until regular selection/promotion is made, whichever is earlier, as provided under Rule 4 of the Academic Arrangement Rules of 2020.

WP(C) No.3673/2025

5. The respondent, Dr. Atoofa Zargar came to be appointed as Registrar in the Department of Dentistry of Government Medical College, Doda vide order dated 06.05.2022 issued by the Principal Government Medical College, Doda, the petitioner No.2, initially for a period of one year further extendable up to maximum three years subject to satisfactory work and conduct certificate from the concerned HOD. When she was not granted extension beyond the period of three years, respondent filed OA No.497/2025, which has been disposed of by the Tribunal, in terms of the common judgment, impugned in these petitions. The Tribunal has directed the petitioners herein to allow the respondent to work as Registrar in the discipline of Dentistry in Government Medical College, Doda, on contractual basis, in compliance with Rule 4 of the Academic Arrangement Rules of 2020 for a full term of six years.

WP(C) No.279/2026

6. The respondent, Dr. Dheeraj Sharma was appointed against the post of Registrar in the discipline of Dentistry in Government Medical College, Doda vide order dated 06.07.2022, issued by petitioner No.2. The respondent was initially engaged for a period of one year, further extendable on year to year basis up to maximum of three years. The extensions were subject to satisfactory work and conduct certificate from the concerned

HOD. The respondent continued for a period of three years, as envisaged in the order of his engagement but was not granted further extension. He, therefore, approached the Tribunal by way of OA No.473/2025, which, too, has been disposed of by the Tribunal in terms of the common judgment, impugned in this petition.

7. From the factual narration, which we have given herein above, it can be seen that so far as respondent in WP(C) No.3242/2025, namely, Dr. Jyoti Gupta, & Dr. Etti Shree, respondent in WP(C) Nos. 3666/2025 & 3230/2025, are concerned, they have been engaged as Registrar in Periodontology and Tutor in the discipline of Oral Pathology in IGGDC, Jammu respectively, whereas Dr. Atoofa Zargar, respondent in WP(C) No.3673/2025 and Dr. Dheeraj Sharma, respondent in WP(C) NO.279/2026 were engaged as Senior Residents in the Department of Dentistry in Government Medical College, Doda.
8. The short grievance that was projected by the respondents in their OAs before the Tribunal was that, in terms of Rule 4 of the Academic Arrangement Rules of 2020, all of them were entitled to function on their respective posts/positions upto a period of six years. It was argued before the Tribunal that in the face of clear stipulation contained in Rule 4, the **petitioners** could not have brought their services to an end prematurely, when their performance and conduct was exemplary and it was so certified

by the concerned Head of the Department. It is submitted that good performance and conduct certificate by the HOD concerned was the only requirement for seeking further extension. It was also pleaded before the Tribunal that the appointment of the respondent(s) under the Academic Arrangement Rules of 2020 was in the nature of an *ad hoc* appointment and, therefore, the petitioners could not have issued fresh advertisement notification for making similar arrangement to replace them. It was, however, the plea of the petitioners herein before the Tribunal that the posts of Tutor, Registrar or Senior Residents are fixed tenure posts and, therefore, no person can claim to work against such tenure posts for a period beyond the tenure of such posts.

9. The Tribunal, having considered the rival contentions of the parties, seems to have accepted the contention of the respondents and having regard to the provisions of Rule 4 of the Academic Arrangement Rules of 2020, has come to the conclusion that the respondents are entitled to work on the academic arrangement, which they were appointed against, for a maximum period of six years (one year at a time and subject to good performance) or till selection/promotion is made in accordance with the Recruitment Rules. The plea of the petitioners herein that the post of Registrar/Tutor is a fixed tenure position of three years as laid down by Govt. Order No.296-HME of 2010 dated 10.05.2010 read with Govt. Order No.383-JK(HME) of 2024 dated

20.06.2024 has been rejected on the ground that the Government Orders are in the shape of executive instructions and, therefore, cannot substitute or override the statutory provisions of Rule 4 of the Academic Arrangement Rules of 2020.

10. The Tribunal seems to have entered into discussion about the ambit and scope of Article 14 of the Constitution of India to reiterate that the State in the matter of employment cannot act arbitrarily and subject its citizens to hostile discrimination.
11. The judgment impugned passed by the Tribunal is assailed by the petitioners, *inter alia*, on the following grounds:
 - i) That the post of Registrar/Tutor is a tenure post and the maximum tenure whereof is three years. The Tribunal failed to appreciate that any academic arrangement made against a tenure post cannot exceed the maximum tenure of the post.
 - ii) That the Tribunal also did not appreciate that at the time of giving appointment to the respondents a clear representation was given that their appointment shall be for a maximum period of three years and that in acknowledgement thereof, all the respondents individually submitted an undertaking in the prescribed format. They were, thus, estopped by their conduct to contend that they were entitled to remain in academic arrangement for another three years contrary to the stipulation in the

advertisement notification, their appointment orders and the undertaking, which they had submitted at the time of their initial appointment.

- iii) That Article 14, which was debated at some length by the Tribunal, was not attracted at all in this case for the reason that the petitioners treated all the tenure post holders uniformly and denied everyone extension beyond the tenure of the post i.e. maximum of three years. This aspect, though noticed by the Tribunal, has not been correctly appreciated and an erroneous finding has been returned with regard to the discrimination meted out to the respondents.

12. *Per contra*, learned counsel appearing for the respondents would argue that the Academic Arrangement Rules of 2020 are statutory in nature and fix a maximum tenure of six years of such academic arrangement, subject of course to the yearly extension based upon good conduct and performance. The learned counsel for the respondents would argue that the Academic Arrangement Rules of 2020 do not make any distinction between the appointment against faculty positions and the appointment against so called tenure posts. The Government Orders, if any, issued by the Government fixing the tenure of Registrar/Tutor in the Health and Medical Education Service, are in the shape of executive instructions and, therefore, cannot override or whittle

down the effect of statutory Rules like the Academic Arrangement Rules of 2020.

13. Having heard learned counsel for the parties and perused the material on record, we are of the view that the decision of these petitions would turn on the determination of following questions:-

- i) Whether the post of Registrar, Demonstrator or Tutor in the Department of Dentistry borne on the Jammu & Kashmir Dental Education (Dental College) Gazetted Service Recruitment Rules, 1993 [“the Rules of 1993”] issued vide SRO 75 dated 15.04.1993 is a tenure post for a maximum period of three years and, therefore, no appointment against the said post either regular or academic arrangement can be made beyond such tenure?
- ii) Whether a person appointed on academic arrangement against the tenure post of Registrar/Tutor under Academic Arrangement Rules of 2020 is entitled to work against such tenure post beyond the period of three years and upto maximum period of six years?

14. There is no dispute with regard to the fact that the post of Registrar/Tutor/Demonstrator or Senior Resident is a tenure post. Schedule II (Clinical and Non-Clinical Wing) of the Rules of 1993, as amended, clearly provides that these posts shall have a fixed tenure to be determined by the Government. In exercise

of the power conferred upon the Government, the tenure of Registrar/Demonstrator/Tutor, which was earlier two years, was fixed as three years in Government Medical/Dental College, Jammu/Srinagar vide Government Order No.296-HME of 2010 dated 10.05.2010. It is, therefore, not disputed before us that a Registrar/Tutor/Demonstrator in the Government Medical /Dental Colleges of the Union Territory of J&K is appointed for a maximum period of three years. Prescription of tenure of three years by the Government is not by way of issuance of any executive instructions but in the exercise of the powers delegated to it under the statutory Rules of 1993.

15. With a view to better understand, the relevant entry in the Schedule of Rules of 1993, as amended from time to time, is reproduced hereunder;

Class	Subject	Designation of the post	Grade	Minimum qualification	Minimum teaching/research experience	Method of recruitment
I	Registrar/ Demonstrator/ Tutor	(i)Clinical	2200-4000	..	..	(i) By selection from the Jammu and Kashmir Health and Family Welfare (Gazetted) Service, for a specified period, on merit based selection made by selection committee of the concerned Medical College; Or (ii) from amongst the candidates, not in Government Service, having

						requisite qualification as recognized by the Dental Council of India by engagement, for a specified period, on consolidated pay equal to basic pay for the post of Dental Surgeon in the Health Department as per SRO 93 of 2009 plus the dearness allowance].
I	Registrar/ Demonstrator/ Tutor	(i) Non-Clinical	2200-4000			(ii) By selection from the Jammu and Kashmir Halth and Family Welfare (Gazetted) Service, for a specified period, on merit based selection made by selection committee of the concerned Medical College Or (ii) from amongst the candidates, not in Government Service, having requisite qualification as recognized by the Dental Council of India by engagement, for a specified period, on consolidated pay equal to basic pay for the post of Dental Surgeon in the Health Department as per SRO 93 of 2009 plus the dearness allowance].

16. The Government Order of 2010, which has been issued in supersession of earlier order, fixes maximum tenure of such

posts as ‘three years’. The Government Order of 2010 (supra) is also set out below for better appreciation of the issue:-

“Government Order No.296-HME of 2010

D a t e d: 10.05.2010

Sanction is hereby accorded to the fixation of tenure of Registrar/Demonstrator/Tutor as 3 years instead of 2 years in Government Medical/Dental College, Jammu/Srinagar.

By Order of the Government of Jammu and Kashmir”

17. Once it is conceded on the basis of the Rule position, which, in any case, is the position of statutory rules, that a person appointed on regular basis against the post of Registrar/Tutor/Demonstrator cannot work against such post for more than the maximum period of three years, which is a tenure of the post, it cannot be gainsaid that a temporary arrangement against these tenure posts can also not extend beyond the tenure of such post(s).
18. Even the Teachers Eligibility Qualification in Medical Institutions Regulations, 2022, issued by the National Medical Commission under Section 57 of the National Medical Commission Act, 2019, clearly and unequivocally lay down and prescribe that the posts of ‘Registrars/Tutors’, now designated as ‘Senior Residents’ are tenure positions not exceeding three years and cannot be termed as faculty positions. The Relevant entries in the Regulations is set out below:

Table 1A. Norms for Faculty Appointment and Promotion in Broad Specialties (MD/MS) which are in existence for more than 10 years

Senior	Resident	Senior Resident is one who is doing his residency in the concerned
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(Medical Postgraduates) Tutors (Non-Medical Postgraduates)	department after obtaining Medical Postgraduate degree (MD/MS/DNB). Non-medical Postgraduates with MSc (Medical) degree shall be called Tutors in whichever departments they are working. The posts of Senior Resident and Tutor are tenure positions not exceeding 3 years. The graduate must be below 45 years of age at the time of initial appointment. The post of tenured Senior Residents and Tutors are not faculty positions. All other designations practiced earlier stands deleted. However, existing Tutors/Demonstrators/Registrars appointed on permanent basis shall be renamed as Senior Residents and Tutors, as the case may be, and continue to work till superannuation. The conditions mentioned above shall not be applicable to Senior Residents/Tutors/Demonstrators/Registrars who are appointed on permanent basis before the notification of these Regulations.
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Table 2. Norms for Faculty Appointment and Promotion in the Department of Dentistry in Medical College

Senior Resident	Senior Resident is one who is doing his residency in Dentistry after obtaining MDS degree. The post of senior resident is a tenured position not exceeding 3 years. The graduate must be below 45 years of age at the time of initial appointment.
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19. It is a trite law after the judgment of **Preeti Srivastava v. State of Madhya Pradesh, (1999) 7 SCC 120**, wherein the Supreme Court has, in categoric terms, held that the Medical Council of India’s Regulations framed under the Indian Medical Council Act, 1956 in the matter of fixing the standards of medical education are supreme and override any contrary rule or regulation framed by the State Government. Para 35, 36, 37 and 38 of the judgment are relevant for our purposes and are, therefore, set out below:-

“35.The legislative competence of the Parliament and the legislatures of the States to make laws under Article 246 is regulated by the VIIth Schedule to the Constitution. In the VIIth Schedule as originally in force, Entry 11 of List-II gave to the States an exclusive power to legislate on "Education including universities subject to the provisions of Entries 63, 64, 65 and 66 of List-I and Entry 25 of List-III." Entry 11 of List-II was

deleted and Entry 25 of List-III was amended with effect from 3.1.1976 as a result of the Constitution 42nd Amendment Act of 1976. The present Entry 25 in the Concurrent List is as follows:

"Entry 25, List III: Education, including technical education, medical education and universities, subject to the provisions of entries 63, 64, 65 and 66 of List I: vocational and technical training of labour."

Entry 25 is subject, inter alia, to Entry 66 of List-I. Entry 66 of List-I is as follows:-

"Entry 66, List I: Co-ordination and determination of standards in institutions for higher education or research and scientific and technical institutions."

Both the Union as well as the States have the power to legislate on education including medical education, subject, inter alia, to Entry 66 of List-I which deals with laying down standards in institutions for higher education or research and scientific and technical institutions as also co-ordination of such standards. A State has, therefore, the right to control education including medical education so long as the field is not occupied by any Union Legislation. Secondly, the State cannot, while controlling education in the State, impinge on standards in institutions for higher education. Because this is exclusively within the purview of the Union Government. Therefore, while prescribing the criteria for admission to the institutions for higher education including higher medical education, the State cannot adversely affect the standards laid down by the Union of India under Entry 66 of List-I. Secondly, while considering the cases on the subject it is also necessary to remember that from 1977 education including, inter alia, medical and university education, is now in the Concurrent List so that the Union can legislate on admission criteria also. If it does so, the State will not be able to legislate in this field, except as provided in Article 254.

36. It would not be correct to say that the norms for admission have no connection with the standard of education, or that the rules for admission are covered only by Entry 25 of List III. Norms of admission can have a direct impact on the standards of education. Of course, there can be rules for admission which are consistent with or do not affect adversely the standards of education prescribed by the Union in exercise of powers under Entry 66 of List-I. For example, a State may, for admission to the post-graduate medical courses, lay down qualifications in addition to those prescribed under Entry 66 of List-I. This would be consistent with promoting higher standards for admission to the higher educational courses. But any lowering of the norms laid down can, and do have an adverse effect on the standards of education in the institutes of higher education. Standards of education in an institution or college depend on various factors. Some of these are:

- (1) The calibre of the teaching staff;
- (2) A proper syllabus designed to achieve a high level of education in the given span of time;
- (3) The student-teacher ratio;
- (4) The ratio between the students and the hospital beds available to each student;
- (5) The calibre of the students admitted to the institution;
- (6) Equipment and laboratory facilities, or hospital facilities for training in the case of medical colleges;

(7) Adequate accommodation for the college and the attached hospital; and

(8) The standard of examinations held including the manner in which the papers are set and examined and the clinical performance is judged.

37. While considering the standards of education in any college or institution, the calibre of students who are admitted to that institution or college cannot be ignored. If the students are of a high calibre, training programmes can be suitably moulded so that they can receive the maximum benefit out of a high level of teaching. If the calibre of the students is poor or they are unable to follow the instructions being imparted, the standard of teaching necessarily has to be lowered to make them understand the course which they have undertaken; and it may not be possible to reach the levels of education and training which can be attained with a bright group. Education involves a continuous interaction between the teachers and the students. The pace of teaching, the level to which teaching can rise and the benefit which the students ultimately receive, depend as much on the calibre of the students as on the calibre of the teachers and the availability of adequate infrastructural facilities. That is why a lower student-teacher ratio has been considered essential at the levels of higher university education, particularly when the training to be imparted is highly professional training requiring individual attention and on-hand training to the pupils who are already doctors and who are expected to treat patients in the course of doing their post-graduate courses.

38. The respondents rely upon some observations in some of the judgments of this Court in support of their stand that it is for the State to lay down the rules and norms for admission; and that these do not have any bearing on the standard of education. In *P. Rajendran v. State of Madras & Ors.* ([1968] 2 SCR 786), a Constitution Bench of this Court considered the validity under Articles 14 and 15(1), of district-wise reservations made for seats in the medical colleges. In that case, the Act in question prescribed eligibility and qualifications of candidates for admission to the medical colleges. The Court observed:

"So far as admission is concerned, it has to be made by those who are in control of the colleges - in this case, the Government. Because the medical colleges are Government colleges affiliated to the university. In these circumstances, the Government was entitled to frame rules for admission to medical colleges controlled by it, subject to the rules of the university as to eligibility and qualifications. This was what was done in these cases and, therefore, the selection cannot be challenged on the ground that it was not in accordance with the University Act and the rules framed thereunder."

This Court, therefore, upheld the additional criteria framed by the State for admission which were not inconsistent with the norms for admission laid down by the University Act. Since these additional qualifications did not diminish the eligibility norms under the University Act, this Court upheld the additional criteria laid down by the state as not affecting the standards laid down by the University Act. The question of diluting the standards laid down, did not arise."

20. In view of the prescription of three years tenure of the position of Registrar/Tutor by the Medical Council of India/ National

Medical Commission Regulations coupled with the Rules of 1993 read with Government Order of 2010 (supra), anything enlarging the tenure of position of Registrar/Tutor/Demonstrator has to be held bad and ignored.

21. We now turn to the Academic Arrangement Rules of 2020. Undoubtedly, Academic Arrangement Rules of 2020 have been framed by the Lieutenant Governor in the exercise of powers conferred upon him by proviso to Article 309 of the Constitution of India. These rules have been framed in the similar manner in which the Rules of 1993 have been framed. The only difference is that the Rules of 1993 deal with permanent and regular recruitment to various gazetted posts borne on the Dental Education (Gazetted) Service constituted by the Rules of 1993, whereas the Academic Arrangement Rules of 2020 are only to give statutory backing to the academic arrangements that may be required to be made in the Medical/Dental Colleges of the Union Territory till the regular faculty in such colleges is put in place. The Rules are applicable to teaching positions, medical officers and posts of Nurses/Para Medics/Paramedical/paradental /technical staff in the Government Medical Colleges, Government Dental Colleges, Government Ayurvedic College, Government Unani College, Government Nursing Colleges, ANM/GNM Schools, Medical Superintendents and Deputy Medical Superintendents, as is evident from reading of Rule 3 of

the Academic Arrangement Rules of 2020. The posts of Registrar/Tutor/Demonstrator are not per se included in the ambit of the Academic Arrangement Rules of 2020. This is so evident from the reading of Rule 3 in its entirety.

22. As discussed above, NMC Regulations, 2022 clearly declared the position of Registrar/Tutor/Demonstrator as non-faculty positions and, therefore, it cannot be said that the posts of Registrar/Demonstrator/Tutor etc are the teaching positions and, therefore, the Academic Arrangement Rules of 2020 are applicable to them. However, Academic Arrangement Rules of 2020 do refer to the post of Registrar and Demonstrator as part of teaching positions, though same is contrary to the position obtaining from the NMC Regulations, 2022.

23. Be that as it may, Rule 4 is at the helm of the controversy and, therefore, needs to be adverted to very carefully. Rule 4 reads thus:-

“4. Appointment under these Rules.----(1) Notwithstanding anything to the contrary contained in any rule or order for the time being in force relating to the method of recruitment and conditions of service for recruitment in any service, or to any post under the Government, the appointing authority may appoint persons to the posts mentioned under Rule 3 on academic arrangement basis initially for a period of one year extendable up to maximum of six years (one year at a time and subject to good performance and conduct) or till selection/promotion is made in accordance with the rules of recruitment governing the respective posts, whichever is earlier. The extension so granted under these rules shall not be beyond a period of six years under any circumstances and this shall be clearly indicated in the engagement order:

Provided that extension up to 3 years shall be made on year to year basis by the Principal of the College concerned. For engagement beyond 3 years, the case will be considered by the Government and once approved, Principal concerned shall be authorized to grant further extensions for another three years:

Provided further that in case of Professors and Associate Professors appointed in new Government Medical Colleges viz. Anantnag, Baramulla, Doda, Handwara, Kathua, Rajouri and Udhampur, the appointing authority may appoint the persons on academic arrangement basis initially for a period of 3 years extendable up to maximum six years (one year at a time and subject to good performance and conduct) or till selection/promotion is made in accordance with the rules of recruitment governing the respective posts, whichever is earlier:

Provided also that recruitment against the posts as may be made on academic arrangement basis in any of the Health and Medical Institutions, shall and shall always be on academic arrangement only without conferment of any preferential right on the engages for regular appointment against these posts, which shall be made strictly in accordance with the relevant recruitment rules:

Provided also that the appointment under these rules shall not entitle the appointee to any preferential claim for regular appointment under normal process of selection/appointment:

Provided also that the appointment on academic arrangement basis against the faculty posts in the Medical Colleges shall by itself stand terminated on the attainment of 70 years of age by the appointee except for the faculty posts of the Department of Dentistry in the new Medical Colleges, where it shall stand terminated on attainment of 65 years of age by the appointee. Also in respect of faculty posts of the Dental Colleges and the Ayurvedic and Unani Medical Colleges, it shall stand terminated on attainment of 65 years of age by the appointee.

(2) The services of an appointee under these rules shall be terminable before the expiry of the tenure of appointment with one month's notice, from either side, or on payment of one month's salary in lieu of notice by the appointing authority.

(3) The appointee under these rules shall have to execute an agreement with the Government on the prescribed form appended as Form "A" to these rules.

(4) The appointment on academic arrangement basis against a post shall be made only when filling up of the post according to relevant recruitment rules is likely to be time consuming.”

24. From a reading of Rule 4, reproduced above, which begins with non obstante clause, empowers the appointing authority, which is competent to make appointment to the posts under the relevant recruitment rules, to appoint persons to the posts mentioned under Rule 3 on academic arrangement basis initially for a period of one year extendable up to maximum of six years (one

year at a time and subject to good performance and conduct) or till selection/promotion is made in accordance with the rules of recruitment governing the respective posts, whichever is earlier. The Rule further makes it clear that nobody shall be entitled to hold any post on academic arrangement basis for a period beyond six years under any circumstances. The competent authority to extend the academic arrangement up to three years is the Principal of the College concerned, whereas the engagement beyond three years has to be done by the Principal only after it is approved by the Government in the Department of Health and Medical Education.

25. There are further stipulations in the Rule, which provide that a candidate holding such position shall not claim any preferential right for regular appointment on the basis of his/her officiation against the post on academic arrangement basis etc etc. It is on the strength of this Rule, it is contended on behalf of the respondents, a person appointed against the post of Tutor/Registrar/Demonstrator is entitled to continue for a maximum period of six years. However, the first appointment shall be for a period of one year and that the same shall be extendable only subject to the good conduct and performance certificate by the Head of the Department concerned. It is the plea of all the respondents that they all were given extension up to the period of three years having regard to their performance

and good conduct and were also entitled to further extension for a period of three years more (one year at a time) as their work and conduct and performance, as certified by their HODs, was exemplary. While the petitioners do not dispute the performance and conduct of the respondents, yett they would submit that extension beyond three years is not permissible as the appointment of the respondents is against a tenure post of Registrar/Tutor.

26. We have given our thoughtful consideration to this aspect of the matter. Although, there is no specific stipulation in Academic Arrangement Rules of 2020, in particular Rule 4 thereof, that in the case of tenure post of Registrar/Tutor, the maximum period for which academic arrangement can be made shall not be exceeding three years, yet on the reading of the Rules in their entirety, particularly in light of the Recruitment Rules of 1993 read with National Medical Commission Regulations of 2022 and the earlier Regulations framed by the Medical Council of India prescribing eligibility for Teachers etc, we are of the considered opinion that as against the posts of Registrar/Tutor, extension beyond three years, which is the tenure of such post, is impermissible in law.

27. We are conscious of the fact that the Jammu & Kashmir Medical and Dental Education (Appointment on Academic Arrangement Basis) Rules, 2009 [“Academic Arrangement Rules of 2009”],

which were later repealed by the Academic Arrangement Rules of 2020, had in Rule 4 clearly provided that the appointment on academic arrangement basis against a tenure of Registrar/Demonstrator /Tutor should not exceed the tenure of these posts. However, such stipulation is conspicuously missing in the Academic Arrangement Rules of 2020.

28. In the light of discussion we have made above, we hold that the aforesaid aspect does not change the legal position. It seems that the aforesaid stipulation was not specifically embodied in Rule 4 of the Academic Arrangement Rules of 2020. As per Rule 3, these posts, which are tenure posts were not contemplated to be brought within the purview of the Academic Arrangement Rules of 2020 and it is because of this reason, Rule 3 does not make any mention of the post of Registrar/Tutor/Demonstrator. Though, there is clear reference to the post of Medical Officers, Medical Superintendents and Deputy Medical Superintendents etc. Simply because the Academic Arrangement Rules of 2020 are loosely drafted cannot take away the effect of National Medical Commission Regulations, 2022 and the Recruitment Rules of 1993.

29. Once it is not in dispute that the posts of Registrar, Tutor and Demonstrator are a fixed tenure posts, there could be no argument that a person appointed against these posts can continue even beyond the tenure of such post. If a person, who is

appointed against such tenure post on regular basis, cannot work against such post beyond the tenure, it is difficult to comprehend that a person, who is appointed against such post on academic arrangement basis has a better right and can continue beyond the tenure of such post. It needs no emphasis to say that the doctors drawn from the Directorate of Health Services or even medicos drawn from the open market, on the basis of competition are appointed against the tenure post of Registrar/Demonstrator/Tutor so as to enable them to acquire minimum eligibility to be appointed to the teaching faculty like Lecturer/Assistant Professor.

30. As per the Rules of 1993 as also NMC Regulations, 2022, apart from the other eligibility conditions, a candidate seeking to be appointed as Lecturer/Assistant Professor in any of the discipline must possess three years teaching experience as Registrar/Tutor/Demonstrator. It is because of this reason, these positions are made tenure posts having a fixed tenure so that maximum people are given opportunity to acquire experience and attain eligibility to compete for recruitment to the post of Lecturer/Assistant Professor.

31. We are also not in full agreement with the Tribunal that the Government Orders prescribing tenure of three years for the post of Registrar/Tutor/Demonstrator is an executive instructions simpliciter and, therefore, cannot override the statutory rules.

We, as explained above, reiterate that the Government Order of 2010 (supra) fixing the tenure of the post of Registrar/Tutor/Demonstrator is not merely an executive instruction but is an order issued in exercise of delegated powers conferred upon the Government by the Rules of 1993, which, in any case, are statutory rules. The appointment as Registrar/Tutor shall be for a specified period as prescribed in the Statutory Rules i.e. the Rules of 1993. The Government Order only specifies the period.

32. Non obstante clause used in Section 4 of the Academic Arrangement Rules of 2020 gives Rule 4 an overriding effect on any other rule or order relating only to the method of recruitment and conditions of service for recruitment in any service or to any post under the Government. It would simply mean that notwithstanding that the posts named in Rule 3 are required to be filled up through a regular selection process to be conducted by the PSC, the appointment on academic arrangement shall be made by following the selection procedure prescribed under the Academic Arrangement Rules of 2020. Overriding effect is, therefore, limited to the extent of method of recruitment. The Academic Arrangement Rules of 2020, in particular Rule 4 thereof, cannot be construed to mean that it has the effect of even extending the tenure of a post beyond the one fixed by the Government under the statutory recruitment rules made for

making regular selection and appointment to the Gazetted services in the Medical/Dental Education.

33. Viewed thus, we find merit in these petitions. Consequently, the petitions are allowed holding that no person appointed against the post of Registrar/Tutor/Demonstrator either in the medical education or dental education shall be entitled to continue beyond a maximum period of three years, which is the tenure of such posts notwithstanding anything to the contrary provided in the Academic Arrangement Rules of 2020, in particular Rules 4 thereof. We also hold that the position of the respondents, who were engaged as Registrar in Government Medical College, Doda, is in no manner different.
34. In the premises, the judgment impugned passed by the Tribunal is set aside and the OAs filed by the respondents are dismissed. The applications, if any, pending shall also stand disposed of.

(Sanjay Parihar)
Judge

(Sanjeev Kumar)
Judge

JAMMU
12.03.2026
Vinod, Secy

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