

IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

WP (C) No. 2963/2025

Reserved on: 05.05.2026
Pronounced on: 14.05.2026
Uploaded on: 14.05.2026
Whether the operative part or full
judgment is pronounced: Full

Aarif Sidiq Rah Aged 43 Years
S/o Mohammad Sidiq Rah
R/o Kanimazar, Nawakadal, Sgr. ...Petitioner(s)/Appellant(s)

Through: Mr. M. M. Dar, Adv.

Vs.

- 1. Union Territory of J&K through**
Commissioner/Secretary to Government, ...Respondent(s)
Health and Medical Education Department,
Civil Secretariat, Srinagar/Jammu.
- 2. Principal**
Government Dental College & Associated
Hospitals, Srinagar.
- 3. Medical Superintendent,**
Government Dental College & Associated
Hospitals, Srinagar

Through: None

CORAM:

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

J U D G M E N T

Per Sanjeev Kumar:- J

1. The petitioner invokes the extraordinary writ jurisdiction of this court to throw challenge to an order and judgment dated 23rd of May 2025 passed by Central Administrative Tribunal, Srinagar Bench, Srinagar [“the Tribunal”] in OA No. 852 of 2023 titled Aarif Sidiq Rah vs Union Territory of Jammu and Kashmir and Ors. whereby the OA filed by the writ petitioner

has been dismissed by placing reliance upon the judgment dated 4th of September 2023 passed by the Tribunal in Syed Younis vs. Union Territory of Jammu and Kashmir (T.A No.204/2021).

2. Briefly stated the facts leading to the filing of this petition are that the petitioner was initially engaged as a Dental Lab Assistant along with other candidates on academic arrangement basis vide order No 35-GDC of 2014 dated 1st of February 2014 issued by the Principal, Government Dental College and Hospital, Srinagar. This engagement of the petitioner was pursuant to a selection process carried out as per SRO 384 of 2009 read with SRO 409 of 2013. The services of the petitioner were thereafter extended from time to time.

3. Vide order No. ME/NG/187/2016 dated 13th of February 2017, the academic arrangement of the petitioner against the post of Dental Lab Assistant was extended subject to terms and conditions of SRO 384 of 2009 read with SRO 409 of 2013. In the year 2018, the Principal Government Dental College Srinagar issued order No. 54-GDC of 2018 dated 3rd of February 2018 and extended the period of academic arrangement of the petitioner for a further period of one year from the date of expiry of previous order or till the post were filled up by competent authority on regular basis whichever was earlier. This was subject to execution of a fresh agreement as envisaged under rules.

4. Vide order No. 98-GDC of 2019 dated 22nd of March 2019, one more extension for a period of one year which was the last and the sixth extension was granted to the petitioner w.e.f. 1st of February 2019.

5. On completion of the maximum period of six years on academic arrangement, the petitioner was disengaged vide order dated 23rd of January 2020. Anticipating that his service would be brought to an end after the expiry of last extension, petitioner filed SWP No. 126/2020 seeking *inter alia* a direction to the respondents to regularise his services. This Court vide interim order passed on 23rd of January 2020 directed the maintenance of status quo with regard to the services of the petitioner. It seems that before this order could be served upon the respondents, the respondent had already issued the order on the same date i.e., 23rd of January 2020 dispensing with the services of the petitioner.

6. While the interim order dated 23rd of January 2020 passed in WP(C) No. 126/2020 (TA No. 3568/2021) was continuing, the respondents vide order No. 559-GDC of 2023 dated 4th October 2023 disengaged the petitioner from the services with immediate effect. This order of disengagement dated 4th October 2023 was challenged by the petitioner in OA No. 852 of 2023 which has been dismissed by the Tribunal in terms of the order and judgment impugned in this petition.

7. As stated above, the Tribunal placed reliance upon the judgment of **Syed Yunis** (supra) and held that the petitioner had no right to continue on academic arrangement beyond a maximum period of six years. The impugned judgment passed by the Tribunal is assailed by the petitioner primarily on the ground that the Tribunal has not appreciated that the petitioner was entitled to continue to remain in service on academic arrangement till the post held by him was filled up on regular basis in accordance with rules. It was argued by Mr. Dar that the judgment passed by the Tribunal in **Syed Yunis** case was subsequently modified and merged in

the judgment passed by the Hon'ble Supreme Court in SLP No. 5108 of 2023 titled **Abhishek Sharma vs State of Jammu and Kashmir and Ors.** decided on 9th of March 2026.

8. It is argued by Mr. Dar that in view of the judgment of the Hon'ble Supreme Court in the case of **Abhishek Sharma** wherein Section 3(b) of the Jammu and Kashmir Civil Services (Special Provisions) Act, 2010 [‘the Act of 2010’] has been declared *ultra vires* the Constitution, the petitioner is entitled to regularization of his services under the Act of 2010. He would further argue that the services of the petitioner though engaged on academic arrangement in terms of SRO 384 of 2009 read with SRO 409 of 2013 is entitled to continue in service till the post held by him is filled up by regular appointment.

9. *Per contra*, learned counsel appearing for the respondents would argue that the judgment passed by the Tribunal is perfectly legal and does not call for any interference. The petitioner having been engaged in the year 2014 is not entitled to the benefit of regularization envisaged under the Act of 2010. He would argue that the benefit of regularization under the Act of 2010 is subject to fulfilment of certain conditions which *inter alia* include that the person must have been in position on the appointed day, i.e., the date on which the Act of 2010 came into operation and that his engagement is against a clear vacancy and he fulfils other eligibility requirements to hold the post etc.

10. With regard to continuation, it is submitted by the learned counsel for the respondents that as per Rule 4 of the J&K Medical and Dental Education (Appointment on Academic Arrangement Basis) Rules 2020. [“The Rules of

2020”], the extension to the academic arrangements made under the rules cannot be beyond a period of six years under any circumstances. The petitioner having served for six years was not entitled to continue.

11. Having heard learned counsel for the parties and perused the material on record, it is seen that appointments on academic arrangement basis in the Jammu and Kashmir Medical and Dental Education Department are regulated by a statutory regime, in that, the then Governor of the State of Jammu and Kashmir in the exercise of powers conferred by proviso to Section 124 of Constitution of Jammu and Kashmir issued the Jammu and Kashmir Medical and Dental Education (Appointment on Academic Arrangement Basis) Rules, 2009. These rules were subsequently amended vide SRO 409 dated 19th of September 2013. Eventually these rules were reframed and fresh rules were issued by the respondents in the year 2020, i.e., the Rules of 2020.

12. It is true that when the petitioner was engaged in the year 2014, there was no capping of the maximum period for which the services of academic arrangements could be utilized. However, with the promulgation of Rules of 2020, in particular, Rule 4 thereof, it was specifically provided that appointments made on academic arrangement basis shall in no case be extended beyond a period of six years.

13. It is not in dispute that the petitioner had completed the aforesaid tenure of six years and was, therefore, disengaged. The order of disengagement made by the respondents impugned in the OA was thus strictly in consonance with Rule 4 of the Rules of 2020.

14. The plea of learned counsel for the petitioner that the petitioner is entitled to continue on academic arrangement even beyond the period of six years is not supported by any statutory provisions. Rule 4 of the Rules of 2020 was not a subject matter of challenge in the OA nor is there any challenge thrown to it by the petitioner in this petition. Even the Hon'ble Supreme Court in the case of **Abhishek Sharma** has not dealt with Rule 4 of the Rules of 2020. For facility of reference, Rule 4 of the Rules of 2020 is reproduced hereunder:-

“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 upto 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 upto 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 upto

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 engagees 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 & 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."

15. In the absence of any challenge to Rule 4 of the Rules of 2020, which prescribes a maximum period for which academic arrangement could be made as six years, it cannot be claimed by the petitioner that he is entitled to

continue indefinitely, more particularly when he has not acquired right of regularization under the Act of 2010.

16. We would appreciate a situation where in view of the judgment of the Hon'ble Supreme Court in the case of **Abhishek Sharma**, a person is entitled to continue in service till he completes seven years and is regularized on completion of requisite formalities.

17. Before we proceed further, we deem it appropriate to set out Section 5 of the Act of 2010 hereinbelow:

“5. Regularization of *ad hoc* or contractual or consolidated appointees:- Notwithstanding anything to the contrary contained in any law for the time being in force or any judgment or order of any court or tribunal, the *ad hoc* or contractual or consolidated appointees referred to in section 3 shall be regularized on fulfilment of the following conditions, namely: -

(i) that he has been appointed against a clear vacancy or post;

(ii) that he continues as such on the appointed day;

(iii) that he possessed the requisite qualification and eligibility for the post on the date of his initial appointment on *ad hoc* or contractual or consolidated basis as prescribed under the recruitment rules governing the service or post;

(iv) that no disciplinary or criminal proceedings are pending against him on the appointed day; and

(v) that he has completed seven years of service as such on the appointed day:

Provided that the regularization of the eligible *ad hoc* or contractual or consolidated appointees under this Act shall have effect only from the date of such regularization, irrespective of the fact that such appointees have completed more than seven years of service on the appointed date or thereafter but before such regularization:

Provided further that any ad hoc or contractual or consolidated appointee who has not completed seven years' service on the appointed day shall continue as such till completion of seven years and shall thereafter be entitled to regularization under this Act.”

18. From reading of the Section carefully, it clearly transpires that amongst other, one of the essential conditions to be fulfilled by a candidate seeking regularization is to show and demonstrate that he was in service whether as a contractual, consolidated or ad-hoc basis on the appointed day. Section 2(c) defines the “appointed day” to mean the date of commencement of the Act of 2010. The Act of 2010 came into operation w.e.f. 28th of April 2010.

19. The petitioner having been appointed in the year 2014 cannot claim to be in position on the appointed day. The petitioner is, therefore, not entitled to the benefit of regularization envisaged under the Act of 2010. Hon'ble Supreme Court in **Abhishek Sharma** (supra) has issued the following directions:

“13. Accordingly, the judgments dated 22nd February, 2023 and 27th December, 2024, passed by the High Court of Jammu & Kashmir and Ladakh at Jammu in Letter Patent Appeal No. 81 of 2018 (along-with other connected and analogous appeals) and in Writ Petition (C) No. 2535 of 2023, respectively, are hereby set aside.

13.1. It is declared that Section 3(b) of the Jammu and Kashmir Civil Services (Special Provisions) Act, 2010, insofar as it excludes employees appointed on an academic arrangement basis from consideration for regularisation despite fulfilment of conditions under Section 5 of the Act, is unconstitutional and violative of Article 14 of the Constitution.

13.2. The respondent-State is directed to consider the cases of the appellants for regularisation in accordance with Section 5 of the 2010 Act, without reference to the nomenclature of their initial appointment, within a period of 4 weeks from the date of this judgment.

13.3. The benefit of this judgment shall extend to all similarly situated employees appointed on an academic arrangement basis who satisfy the statutory requirements under the 2010 Act.”

20. The Hon'ble Supreme Court has declared Section 3(b) of the Act of 2010 in so far as it excludes employees appointed on an academic arrangement basis from consideration for regularization despite fulfilling the conditions under Section 5 of the Act as *ultra vires* the Constitution. A direction has been issued to the respondents to consider the cases of all the candidates engaged on academic arrangement basis who satisfy the statutory requirements of the Act of 2010. That being the clear position emerging from the directions of the Hon'ble Supreme Court, the petitioner who does not fulfil the requirements of the Act of 2010 as stated-above is not entitled to the benefit of regularization. He cannot claim his continuation beyond a period of six years in view of the clear prohibition contained in Rule 4 of the Rules of 2020.

21. Since the petitioner was not in service on the appointed day indicated in the Act of 2010, as such he was also not entitled to the benefit of second proviso to Section 5 of the Act of 2010 which would have put an obligation on the respondents to allow the petitioner to continue for seven years and then regularize his services subject to fulfilment of educational and other pre-requisites.

22. Viewed from any angle, we find no merit in this petition, the same is accordingly dismissed.

(SANJAY PARIHAR)
JUDGE

(SANJEEV KUMAR)
JUDGE

SRINAGAR:
14.05.2026
Altaf

Whether approved for reporting? Yes

