

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 10TH DAY OF APRIL, 2026

PRESENT

THE HON'BLE MRS. JUSTICE ANU SIVARAMAN

AND

THE HON'BLE MR. JUSTICE T.M.NADAF

WRIT APPEAL NO. 644 OF 2023 (S-RES)
C/W

WRIT APPEAL NO. 773 OF 2023 (S-RES)

WRIT APPEAL NO. 788 OF 2023 (S-RES)

IN WA No. 644/2023:

BETWEEN:

DR. MAMTHA SHRI V.
W/O DR. NARENDRA
AGED ABOUT 46 YEARS
WORKING AS ASSOCIATE PROFESSOR
DEPARTMENT OF ORAL SURGERY
GOVERNMENT DENTAL COLLEGE
AND RESEARCH INSTITUTE
BANGALORE-560 002.

RESIDING AT:
NO.112, SOMESHWARA ARCADE
MOODALAPALYA CIRCLE
VIJAYANAGAR
BANGALORE-560 072.

...APPELLANT

(BY SRI. RAGHAVENDRA G. GAYATRI., ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
REPRESENTED BY THE PRINCIPAL SECRETARY
DEPARTMENT OF HEALTH AND FAMILY
WELFARE SERVICES

VIKASA SOUDHA
BENGALURU-560 001.

2. THE DEAN CUM DIRECTOR
GOVERNMENT DENTAL COLLEGE
AND RESEARCH INSTITUTE
FORT, VICTORIA HOSPITAL CAMPUS
BANGALORE-560 002.
3. DR. P. HEMA MYTHILY
D/O SRI B. PADMANABHAN
AGED ABOUT 51 YEARS
WORKING AS ASSOCIATE
PROFESSOR IN ORAL SURGERY
GOVERNMENT DENTAL COLLEGE
AND RESEARCH INSTITUTE
BANGALORE-560 002.

...RESPONDENTS

(BY SMT. SAVITHRAMMA, AGA FOR R1;
MS. SUMANA BALIGA, ADVOCATE FOR R2;
SRI. VIJAYKUMAR BAJENTRI, ADVOCATE FOR R3)

THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF THE KARNATAKA HIGH COURT ACT, PRAYING TO ALLOW THIS WRIT APPEAL AND SET ASIDE THE ORDER DATED 07.03.2023 PASSED IN WRIT PETITION No.39476/2012 PASSED BY THE LEARNED SINGLE JUDGE OF THIS COURT AND ALLOW THE SAID WRIT PETITION AS PRAYED FOR.

IN WA NO. 773/2023:

BETWEEN:

DR. MAMTHA SHRI V
W/O DR. NARENDRA
AGED ABOUT 46 YEARS
WORKING AS ASSOCIATE PROFESSOR
DEPARTMENT OF ORAL SURGERY
GOVERNMENT DENTAL COLLEGE
AND RESEARCH INSTITUTE

BANGALORE-560 002.

RESIDING AT:
NO.112, SOMESHWARA ARCADE
MOODALAPALYA CIRCLE
VIJAYANAGAR
BANGALORE-560 072.

...APPELLANT

(BY SRI. RAGHAVENDRA G. GAYATRI., ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
REPRESENTED BY THE PRINCIPAL SECRETARY
DEPARTMENT OF HEALTH AND FAMILY
WELFARE SERVICES, VIKASA SOUDHA
BENGALURU-560 001.
2. THE DEAN CUM DIRECTOR
GOVERNMENT DENTAL COLLEGE
AND RESEARCH INSTITUTE
FORT, VICTORIA HOSPITAL CAMPUS
BANGALORE - 560 002.
3. DR. P. HEMA MYTHILY
D/O SRI. B. PADMANABHAN
AGED ABOUT 51 YEARS
WORKING AS ASSOCIATE PROFESSOR
IN ORAL SURGERY
GOVERNMENT DENTAL COLLEGE
AND RESEARCH INSTITUTE
BANGALORE - 560 002.

...RESPONDENTS

(BY SMT. SAVITHRAMMA, AGA FOR R1;
MS. SUMANA BALIGA, ADVOCATE FOR R2;
SRI. VIJAYKUMAR BAJENTRI, ADVOCATE FOR R3)

THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF THE KARNATAKA HIGH COURT ACT, PRAYING TO ALLOW THIS WRIT APPEAL AND SET ASIDE THE ORDER DATED 07.03.2023 PASSED IN WRIT PETITION No.28905/2012 PASSED BY THE LEARNED SINGLE JUDGE OF THIS COURT AND DISMISS THE SAID WRIT PETITION AS PRAYED FOR.

IN WA NO. 788/2023:

BETWEEN:

DR. MAMTHA SHRI V.
W/O DR. NARENDRA
AGED ABOUT 46 YEARS
WORKING AS ASSOCIATE PROFESSOR
DEPARTMENT OF ORAL SURGERY
GOVERNMENT DENTAL COLLEGE
AND RESEARCH INSTITUTE
BANGALORE-560 002.

RESIDING AT:
NO.112, SOMESHWARA ARCADE
MOODALAPALYA CIRCLE
VIJAYANAGAR
BANGALORE-560 072.

...APPELLANT

(BY SRI. RAGHAVENDRA G. GAYATRI., ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
BY ITS SECRETARY
DEPARTMENT OF MEDICAL EDUCATION
M. S. BUILDING

BENGALURU - 560 001.

2. THE STATE OF KARNATAKA
REPRESENTED BY THE PRINCIPAL SECRETARY
DEPARTMENT OF HEALTH AND FAMILY
WELFARE SERVICES, VIKASA SOUDHA
BENGALURU-560 001.
3. THE DEAN CUM DIRECTOR
GOVERNMENT DENTAL COLLEGE
AND RESEARCH INSTITUTE
FORT, VICTORIA HOSPITAL CAMPUS
BANGALORE - 560 002.
4. DR. P. HEMA MYTHILY
D/O SRI. B. PADMANABHAN
AGED ABOUT 51 YEARS
WORKING AS ASSOCIATE PROFESSOR
IN ORAL SURGERY
GOVERNMENT DENTAL COLLEGE
AND RESEARCH INSTITUTE
BANGALORE - 560 002.
5. DR. S. JANITHA
W/O DR. K. SRIKUMAR PRABHU
AGED ABOUT 43 YEARS
WORKING AS LECTURER/
ASSISTANT PROFESSOR
DEPT. OF PERIODONTICS
GOVERNMENT DENTAL COLLEGE
BENGALURU-560 002

...RESPONDENTS

(BY SMT. SAVITHRAMMA, AGA FOR R1 & R2;
MS. SUMANA BALIGA, ADVOCATE FOR R3;
SRI. VIJAYKUMAR BAJENTRI, ADVOCATE FOR R4;
V/O/D 30.01.2024 NOTICE TO R5 IS DISPENSED WITH)

THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF THE KARNATAKA HIGH COURT ACT, PRAYING TO ALLOW THIS WRIT APPEAL AND SET ASIDE THE ORDER DATED 07.03.2023 PASSED IN WRIT PETITION No.22025/2013 PASSED BY THE LEARNED SINGLE JUDGE OF THIS COURT AND ALLOW THE SAID WRIT PETITION AS PRAYED FOR.

THESE WRIT APPEALS HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 04.03.2026 AND COMING ON FOR PRONOUNCEMENT OF JUDGMENT THIS DAY, **ANU SIVARAMAN J.**, PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MRS. JUSTICE ANU SIVARAMAN
and
HON'BLE MR. JUSTICE T.M.NADAF

CAV JUDGMENT**(PER: HON'BLE MRS. JUSTICE ANU SIVARAMAN)**

All these appeals arise from a common judgment of the learned Single Judge dated 07.03.2023 rendered in a batch of Writ Petitions. The controversy which led to the litigation was with regard to the relative seniority of lecturers absorbed in the Government Dental College and Research Institute, while on deputation from the Health and Family Welfare Department and Lecturers directly recruited by the Government Dental College and Research Institute.

2. The main contention urged by the learned counsel for the appellants herein, who is a Direct Recruit is that respondent No.3 was not a member of the Cadre of Lecturers in the Institute and was entitled to seniority only from the date of her permanent absorption as a staff of the Institute. It is contended that respondent No.3 was not appointed by way of deputation in the Institute and the deputation was only an *ad hoc* arrangement until regular appointments were made. It is therefore contended that it is only on the date of absorption that respondent No.3 could

be reckoned as being 'borne on the cadre' of Lecturers in the Institute and the reckoning of seniority on any earlier date would be illegal and erroneous.

3. We have heard Shri. Raghavendra G. Gayathri, learned counsel appearing for the appellant, Smt. Savithramma, learned Additional Government Advocate appearing for the State, Ms. Sumana Baliga, learned counsel appearing for respondent No.2 in Writ Appeals No.644/2023 and 773/2023 and for respondent No.3 in Writ Appeal No.788/2023 and Shri. Vijaykumar Bajentri, learned counsel appearing for respondent No.3 in Writ Appeals No.644/2023 and 773/2023 and for respondent No.4 in Writ Appeal No.788/2023.

4. The brief facts of the case are as follows:-

Respondent No.3 was appointed as Dental Health Officer in the Department of Health and Family Welfare Services, Government of Karnataka, by Notification dated 12.01.2005. Thereafter, by Order dated 21.09.2005 issued by the Health and Family Welfare Department, respondent No.3 was sent on deputation before completion of her

probationary period to Government Dental College to work as a Lecturer, in her own pay scale until further orders.

By Government Order dated 16.11.2006, the Government Dental College became an autonomous Institute under the Government of Karnataka as Government Dental College and Research Institute. Thereafter, on 16.01.2007 the Institute was registered under the Societies Registration Act and the Society framed Rules and Regulations, 2005.

The learned counsel for the appellant contends that after formation of the Society, respondent No.2 - Institute issued a Notification dated 19.11.2007 inviting applications to fill vacant teaching posts through walk-in interviews for two Professors, eleven Assistant Professors and nine Lecturers. The Selection Committee conducted interviews on 07.01.2008. Though respondent No.3 also participated in the walk-in interview, the appellant was selected for the post of Lecturer in Oral and Maxillo Facial Surgery through the said selection process.

Consequent to the grant of Autonomous Status to respondent No.2 - Institute, options were invited for permanent absorption in the Institute. Respondent No.3 sent a consent letter to the State Government for absorption in the respondent No.2 - Institute on 01.08.2008.

The Department of Medical Education by Order dated 26.08.2008, accorded sanction for permanent absorption of teaching staff of the Department of Medical Education working in the Government Dental College and the name of respondent No.3 was not included in the said Order. Respondent No.2 - Institute through letters dated 25.10.2007 had stated that absorption of deputationists was required. The Director of respondent No.2 - Institute again sent a communication dated 10.10.2009 stating that out of 26 posts of Lecturers, 9 were appointed through direct recruitment and 15 posts were reserved for deputationists in view to absorb them against the Government Notification. The Director also requested that lecturers on deputation from the Department of Health and Family Welfare be absorbed permanently into the Institute as Lecturers by

changing them to the lecturer cadre. The Director, by another communication dated 05.12.2009 stated that vacant posts could not be filled by walk-in interview and suggested that the Institute would be decrogonised if the services of the deputationists were withdrawn.

On 27.07.2010 the Government decided to absorb doctors who were on deputation in respondent No.2 - Institute. However, it was not mentioned that the absorption was in public interest. The deputationists through letter dated 31.03.2011 sought inclusion of the words 'public interest' in the Order of absorption. Thereafter, the State Government issued a Corrigendum inserting 'public interest' into the 27.07.2010 Order on 27.04.2011. The Corrigendum protected the seniority of respondent No.3. A provisional seniority list of Lecturers was issued on 29.08.2011, wherein respondent No.3 was placed at Sl.No.3 and the appellant at Sl.No.4. A subsequent seniority list was issued on 06.07.2012 wherein the name of the appellant was placed before respondent No.3.

Thereafter, respondent No.3 submitted objections, contending that respondent No.3 ought to have been placed before the appellant, since her absorption was in public interest and her date of eligibility should be reckoned from 26.09.2005. The final seniority list was published on 03.08.2012 placing the appellant above respondent No.3.

Thereafter, respondent No.3 filed W.P.No.28905/2012 seeking to quash the ranking assigned in the final gradation list of Lecturers of respondent No.2 - Institute wherein respondent No.3 was placed below the appellant herein. W.P.No.39476/2012 was filed by the appellant challenging the Order dated 27.07.2010 and the corrigendum dated 27.04.2011 issued by respondent No.1 herein, whereby the services of respondent No.3 were absorbed in the respondent No.2 - Institute. Further, W.P.No.22025-22026/2013, were filed challenging the Order dated 09.04.2013 issued by respondent No.1 and Order dated 29.04.2013 issued by respondent No.2 - Institute whereby a decision was taken to absorb persons working in

Government Medical Institutions on deputation and to determine their seniority and ranking accordingly.

The writ petitions were heard together along with W.P.No.39341/2019 (S-RES) and the learned Single Judge quashed the Final Gradation List dated 03.08.2012 insofar as it placed respondent No.3 below the appellant. Further, respondent No.2 was directed to re-fix the seniority counting services of respondent No.3 as a Lecturer in the Department of Oral Surgery from 26.09.2005 and to grant consequential revisions/benefits. Writ petitions No.46022/2012 and 39341/2019 were dismissed. Aggrieved by the said Order, the appellant is in appeal.

5. The learned counsel appearing for the appellant contends that respondent No.3 was not absorbed on public interest but on her personal request. Therefore, the Corrigendum dated 27.04.2011 is untenable. It is contended that merely because certain letters were written on behalf of the Director of the Institute, it cannot be treated as deputation in public interest.

6. It is further contended that respondent No.3 was not an employee of the erstwhile Government Dental College which was under the control of the Department of Medical Education. Respondent No.3 was an employee of the Health and Family Welfare Department and Clause 14 of the Rules and Regulations, 2005 regarding the absorption of the staff is not applicable to a person on deputation to the Government Dental College. It is further contended that respondent No.3 was not holding a post equivalent to that of Lecturer but was working in a non-teaching post of Dental Health Officer with a different pay scale.

7. It is further contended that respondent No.3 participated in walk-in interview but was not selected. The appellant was selected by the Selection Committee through direct recruitment after interview and was appointed on 19.05.2008. The appellant's appointment was therefore earlier than the absorption of the respondent No.3 on 27.07.2010. Consequently, in the final seniority list dated 03.08.2012, respondent No.3 was placed below the appellant in accordance with the decision of the Governing

Council dated 05.05.2012, the Bye-laws of respondent No.2 - Institute and the Karnataka Government Servants (Seniority) Rules, 1957. The Governing Council meeting held on 22.02.2012 also decided that absorbed deputationists were to be placed below the existing staff of the Institute.

8. It is further contended that there is no provision under the Karnataka Government Servants (Seniority) Rules, 1957 to count service for the purpose of seniority while on deputation to a higher post carrying a different pay scale under a different employer, in the absence of a cadre change. As per Rule 8(7) of the Karnataka Civil Services Rules, the term 'cadre' refers to the strength of a service or part of a service sanctioned as a separate unit. In the instant case, the date of absorption can be reckoned as the date of change of cadre.

9. It is also contended that, as per Clause 11 of the Bye-laws of respondent No.2-Institute, though deputation is one of the modes of appointment, respondent No.3 was not 'appointed on deputation' by the Governing Council, which is the appointing authority. Respondent No.3 was sent on

deputation by the Health and Family Welfare Department only till further orders, and such deputation was subsequently withdrawn by orders dated 24.11.2009 and 28.01.2010.

10. It is further contended that although deputation is a recognized method of recruitment, in the instant case the appointing authority-Governing Council did not adopt recruitment by deputation for respondent No.3. Therefore, when the final seniority list dated 03.08.2012 was published by respondent No.2, the appellant was placed at Sl.No.2 and respondent No.3 at Sl.No.3, which became the subject matter of dispute in W.P.No.28905/2012.

11. The learned counsel appearing for the appellant places reliance on the following decisions:-

- ***Indu Shekhar Singh v. State of U.P.***, reported in **(2006) 8 SCC 129**;
- ***Mrigank Johri v. Union of India***, reported in **(2017) 8 SCC 256**;
- ***Govinda Chandra Tiria v. Sibaji Charan Panda***, reported in **(2020) 3 SCC 803**;

- ***C. Renukaprasad (Dr.) v. State of Karnataka***, reported in **2000 SCC OnLine Kar 280**;
- ***State of Bihar v. Arbind Jee***, reported in **(2021) 14 SCC 38**;
- ***Leelavathi v. Jawaid Akhtar & Anr.***, reported in **Civil Appeal No.2805/2025 dated 28.02.2025**.
- ***Ashok Kumar Ratilal Patel v. Union of India***, reported in **(2012) 7 SCC 757**;
- ***Union of India v. S.N.Maity*** reported in **(2015) 4 SCC 164**;
- ***Vinod Kumar Singh v. State of U.P.***, reported in **2018 SCC OnLine All 7099**; and
- ***Arun Kumar v. Union of India***, reported in **2018 (2007) 5 SCC 580**.

12. The learned counsel appearing for respondent No.2 - Institute contended that when respondent No.3 was absorbed into respondent No.2 - Institute in the year 2010, the Order did not specify that such absorption was in public interest or on personal request. Thereafter, Corrigendum dated 27.04.2011 issued by the Government specified that the absorption of 15 Dental Health Officers was in public

interest and their service would be counted only from the date of absorption.

13. It is further contended that respondent No.3 is not entitled to claim seniority from the date of deputation. Her seniority can only be counted from the date of her absorption in the institution. Therefore, it is further contended that the fixation of seniority by respondent No.2 is valid and justified according to the Government Orders, Karnataka Civil Services rules and the Bye-laws of the Institute.

14. The learned counsel appearing for respondent No.3 contends that a perusal of the communication produced by the Institute and Government would clearly show that the absorption of respondent No.3 was in public interest, and since respondent No.3 possessed the prescribed qualifications for the post of Lecturer to which she had been deputed, the question of change of cadre would not arise. Respondent No.3 had exercised the option to be permanently absorbed in respondent No.2 - Institute in terms of Clause 14 of the Rules and Regulations, 2005. It

is further contended that Clause 6 of the Bye-laws of the respondent No.2 - Institute recognizes deputation as one of the valid modes of recruitment. Consequently, the absorption of respondent No.3 pursuant to the option exercised by her cannot be treated as a voluntary request that would deprive her of the benefit of past service.

15. It is further contended that the contention that deputation of respondent No.3 to a higher pay scale, is factually incorrect. At the time of deputation, respondent No.3 was working on her own pay scale. Respondent No.3 had exercised the option seeking permanent absorption in the pay scale applicable to the post of Dental Health Officer. The AICTE pay scales were extended to respondent No.3 only in the year 2013, after the necessary additional qualifications were acquired for such scales. Therefore, the contention that her deputation was to a higher pay scale is misplaced.

16. It is further contended that since absorption of respondent No.3 was held to be in public interest and respondent No.3 possessed the prescribed qualifications for

the post, therefore, respondent No.3 is entitled to count her service from the date of deputation to the institution, that is, 26.09.2005, for the purpose of seniority.

17. We have considered the contentions advanced. We notice that the contesting respondent was appointed as Dental Health Officer in the Department of Health and Family Welfare on 12.01.2005. While so, she was deputed as Lecturer to the Dental College on 21.09.2005. The contention of the appellant is that the said deputation was on her own scale of pay. However, we notice that the deputation was specifically as Lecturer in respondent No.2-Institute. It is not in dispute that she was fully qualified for appointment to the said post. It is only thereafter that the appellant herein was appointed as Lecturer on the basis of a walk-in interview conducted by respondent No.2-Institute. It is also not in dispute that the Regulations and Bye-Laws of the Institute were framed on 16.01.2007, which are available as Annexure-O in W.A.No.644/2023.

18. Bye-law 2(g) defines 'employee' to mean any person in the service of the Institute, working in any cadre or any post.

Bye-law 3 provides that unless otherwise provided, an employee of the Institute shall be treated as a whole time employee of the Institute and will have to attend the duties as and when called for and required by the authority concerned.

Bye-law 9 provides that age, experience and educational qualifications for appointment to all posts shall be prescribed in the Cadre and Recruitment Rules issued by the Governing Council.

Bye-law 11 provides as follows:-

- (a) The post may be filled up by eligible persons by inviting applications directly or by promotion or by deputation of officers working under the State Government by the Appointing Authority as deemed fit.

Bye-law 13 provides that all appointments shall take effect on the day the officials report for duty.

Annexure-I to the Bye-laws are the Pay and Recruitment Rules, which are to be in force until separate

rule for Cadre and Recruitment is framed. In the said Pay and Recruitment Rules also, Rule 6 provides that the posts in the Institute may be filled up by promotion, deputation, invitation or advertisement as the Appointing Authority may deem fit in the interest of the Institute.

19. We notice that the teachers from the Health and Family Welfare Department had initially been appointed by deputation as lecturers in respondent No.2 - Institute. They were discharging the duties in the Institute on deputation. The official respondent specifically sought an option from the Government employees working in the Institute to be absorbed in the services of the Institute. Respondent No.3 had submitted an option on 01.08.2008 to be so absorbed. An order was initially passed on 26.08.2008 directing the permanent absorption of 21 teachers. However, in the said order, respondent No.3's name was not included. Thereafter, the Institute had sent letters requesting for the continuation of deputation of the remaining lecturers. An Order was passed on 27.07.2010, accepting the options of the teachers, including respondent No.3 who had chosen to

remain in the Institute. The conditions of absorption read as follows:-

"Conditions:-

- (1) The proposed Dental Health Officers must have been duly appointed in accordance with the cadre and recruitment rules of the Department of Health and Family Welfare.*
- (2) The Dental Health Officers must be qualified to be appointed as a lecturer as per the regulations of the Indian Dental Council Regulations by obtained the prescribed masters degree.*
- (3) The Dental Health Officers must has have satisfactorily completed the probation period.*
- (4) There should be no departmental enquiry or criminal proceedings pending against them.*
- (5) Once the Dental Health Officers are absorbed into the services of the autonomous Institution, they shall not have the option to return to the state civil service.*
- (6) The concerned employees must submit written consent for being absorbed into the autonomous institution.*
- (7) A separate order will be issued regarding the prorata pension of the said employees as per the Government Order No.MD 70 SRS 77, dated 27.10.1977."*

20. Thereafter, the teachers submitted representations seeking that their absorption be clarified to

have been made in public interest. They pointed out that the Institute had submitted requests to the Government requesting the appointments of the deputationists be continued in the Institute. Thereafter, based on the request made by the officers as well as the Institute, a corrigendum was issued on 27.04.2011, clarifying that the permanent absorption of the 14 teachers is to be treated as in public interest. The corrigendum was sought to be withdrawn by a Notification dated 13.05.2019. The said Notification was also under challenge before the learned Single Judge. It was considering the facts and specifically the provisions of the Regulations, Bye-laws and the Pay and Recruitment Rules of the Institute that the learned Single Judge came to the conclusion that the withdrawal of the corrigendum was not proper.

21. In the instant case, it is clear that deputation is a specific method of appointment to the posts in the Institute. The private respondent, who was appointed by deputation as a Lecturer in the Institute was thereafter absorbed into the services of the Institute by Order dated 27.07.2010.

Thereafter, by a subsequent order it was clarified that the said absorption was in public interest and that the employee would be entitled for seniority from the date of her initial deputation to the Institute. The stand of the State Government and the Institute has been specifically recorded by the learned Single Judge at paragraphs No.18 and 19 of the judgment under appeal, which read as under:-

"18. The statement of objections filed on behalf of the State on 13.08.2015.

18.1 This statement of objections is filed before the corrigendum is issued on 13.05.2019 withdrawing the incorporation of the expression, 'public interest' in the Corrigendum. It is stated at the very first instance, that the absorption of Dr Kalavati and Dr. P Hema Mythily (as also other Dental Health Officers on deputation with GDC) was because of the request made by GDC, and the absorption is after taking their willingness and undertaking for absorption.

18.2 With reference to Rule 6 of the Seniority Rules 1957, it is stated that when a person is transferred in 'public interest' from one class, or grade, of service to another but carrying the same pay or pay scale, the seniority of such person shall be determined with reference to the date of the first appointment to the class/grade from which the person is transferred. In the circumstances of the Dental Health Officers on deputation, and because several similarly placed officers were

absorbed, the seniority of the absorbed officers is reckoned from the date of deputation. Presently, Sri T P Srinivas, the learned Principal Government has just made over the original files

19. The submissions by Smt. Sumana Baliga, the learned counsel for GDC

19.1 Dr M Kalavathi, as of the date when the concerned were directly recruited, was on deputation from the Department of Health and Family Welfare and was drawing salary in the pay scale of Rs.7400-Rs.13,120/-. Dr M Kalavathi, prior to deputation, was working as a Dental Health Officer and only possessed graduation in dental science. These circumstances show that Dr Kalavathi was in a different cadre until her absorption. Therefore, those who are subsequently appointed by direct recruitment have been placed above in the impugned Senior List.

19.2 Though the order of absorption dated 27.07.2010 did not specify that the absorption of the Dental Health Officers was in public interest, it is later classified so by the corrigendum/erratum dated 27.04.2011, and this is also one of the reasons why the services of Dr Kalavathi from the date of absorption is reckoned for the purposes of seniority."

22. After considering the contentions advanced, the learned Single Judge came to the conclusion that deputation was a method of recruitment in the Institute and all that has been done is to grant the depositions the benefit of seniority

from the date when they were appointed on deputation in the Institute. Though, the learned counsel appearing for the appellant has relied on several decisions of the Apex Court on the question of consideration of seniority of deputationists, we notice that those are cases where the appointments were to be made only by way of Direct Recruitment or by Promotion and Deputation was not a method of appointment.

23. It is clear from a reading of the Bye-laws, Regulations and the Pay and Recruitment Rules, that as regards matters for which provision is made by the said Bye-laws, Regulations and Rules, the employees of the Government Dental College and Research Institute would be specifically governed by the said Rules. It is only in matters where the rules are silent that the provisions of the General Rules would apply to employees of the Institute.

24. In the instant case, Deputation being specifically a method of appointment, in terms of the Bye-laws, Regulations and the Pay and Recruitment Rules, we are of

the opinion that the contentions raised by the appellant cannot be accepted. The learned counsel appearing for the appellant then contended that the private respondent was a person who had participated in the direct selection along with her and was not selected for the post. We are of the opinion that the said contention is irrelevant in view of the fact that the private respondent was appointed as lecturer on Deputation far prior to the date of appointment of the appellant herein. Thereafter, the service regulations were framed by which Deputation was specified as a method of appointment.

25. We notice that respondent No.3 was a person, whose services were transferred to the Autonomous Dental College on deputation from Health and Family Welfare Department. The deputation was as lecturer, but in her own pay scale. She continued in service in the College. It is clear that services of adequate number of teaching staff were absolutely essential for maintaining the recognition of the College. Request was therefore made for absorption of the teachers working on deputation. In the meanwhile, regular

appointments by direct recruitments had also been made. Initially, when the services of respondent No.3 were absorbed in the College, the absorption was considered as on her request and on loss of seniority. However, the corrigendum came to be issued on 27.04.2011, clarifying that the absorption of respondent No.3 in the College was also on public interest. The State as well as the Institution had specifically taken a stand that the absorption of the deputationist was required by the College for the purpose of maintaining the adequate number of teaching staff for maintaining the recognition of the College. This was specifically the stand taken before the learned Single Judge as well. It was in the above circumstances that the learned Single Judge came to the conclusion that the withdrawal of the corrigendum by Order dated 13.05.2019, was unwarranted.

26. Having considered the contentions advanced and the materials placed on record by the parties, we find absolutely no material to differ from the findings of the learned Single Judge. Since the retention and absorption of

the teachers sent on deputation was necessary for the Institution, the Corrigendum dated 27.04.2011, providing that their absorption is in public interest cannot be said to be erroneous. Consequently, the withdrawal of the corrigendum long thereafter by Notification dated 13.05.2019 was therefore completely unjustified.

27. In the said factual situation, we are of the opinion that the finding of the learned Single Judge requires no interference. The appeals are devoid of merits. The appeals accordingly fail and the same are ***dismissed***.

All pending interlocutory applications shall stand *disposed of*.

**Sd/-
(ANU SIVARAMAN)
JUDGE**

**Sd/-
(T.M.NADAF)
JUDGE**

cp*