



2026:DHC:3730-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Judgment reserved on: 18.03.2026
Judgment pronounced on: 04.05.2026
Judgment uploaded on: 04.05.2026

+ W.P.(C) 4705/2018 & CM APPL. 20533/2023, CM APPL.
47780/2023, CM APPL. 10838/2024, CM APPL. 16042/2024
GOVT OF NCT OF DELHI & ORSPetitioners

Through: Ms. Avnish Ahlawat, SC along
with Mr. Nitesh Kumar Singh,
Ms. Aliza Alam and Mr.
Mohnish Sehrawat, Advs.

versus

DR. H.C GUPTA

.....Respondent

Through: Mr. Kirtiman Singh, Sr. Adv.
along with Mr. Ritwik Saha,
Mr. Shaurya Shyam and Mr.
Maulik Khurana, Advs.

CORAM:

HON'BLE MR. JUSTICE ANIL KSHETARPAL
HON'BLE MR. JUSTICE AMIT MAHAJAN

J U D G M E N T

ANIL KSHETARPAL, J. :

1. Through the present Writ Petition, the Government of NCT of Delhi [hereinafter referred to as 'GNCTD'] has invoked jurisdiction under Article 226 of the Constitution of India, seeking to quash orders dated 16.02.2016 and 19.03.2018 [hereinafter referred to as 'Impugned Orders'] passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi [hereinafter referred to as 'the Tribunal'] in O.A. No.4303/2014 and C.P. No.89/2017, respectively.



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2. The Tribunal, while passing the Impugned Orders, proceeded on the premise that the Respondent was entitled to regularization from the date of initial appointment, i.e., 1998, and consequently held that the grant of regularisation with effect from 07.10.2008 did not amount to full compliance of its earlier directions, thereby directing GNCTD to effect complete compliance in those terms.

3. During the course of hearing, learned Counsel representing GNCTD has raised a short and crisp question for adjudication, namely, whether an *ad hoc* employee, in the absence of applicable statutory rules and regulations, can claim regularization from the date of his initial *ad hoc* appointment.

FACTUAL MATRIX:

4. In order to appreciate the controversy involved in the present case, it is necessary to briefly advert to the relevant facts.

5. The Tibbia College Act, 1952 [hereinafter referred to as 'TC Act'] was enacted and regulations were framed under the TC Act, whereunder the College was managed by an autonomous body with its own service conditions, including provisions relating to confirmation of temporary employees. The TC Act was subsequently repealed by the Tibbia College (Takeover) Act, 1997 [hereinafter referred to as 'Takeover Act'], pursuant to which the management of the College stood vested in GNCTD with effect from 30.04.1998, and the Ayurveda and Unani Tibbia College was formally taken over in May 1998.



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6. Thereafter, a recruitment notice dated 07.07.1998 was issued inviting applications for the post of Lecturer in various streams, including *Kaya Chikitsa* (Ayurvedic Medicine), on *ad hoc* basis in the regular pay scale, pursuant to which the Respondent applied, was selected, and came to be appointed on *ad hoc* basis on 21.09.1998.

7. In the year 2002, the Recruitment Rules, 2002 [hereinafter referred to as '2002 RR'] were notified. Thereafter, the Respondent filed O.A. No.1479/2003 before the Tribunal seeking regularization on the basis of the Recruitment Rules of 1985 [hereinafter referred to as '1985 RR'], which came to be dismissed on 01.04.2004. Aggrieved thereby, the Respondent preferred W.P.(C) No.10920/2004, wherein this Court, while issuing notice, granted a stay on the operation of the Tribunal's order *vide* order dated 13.07.2004.

8. In October 2005, the Union Public Service Commission [hereinafter referred to as 'UPSC'] issued a recruitment notice for 18 posts of Lecturer (Ayurveda) under the Directorate of Indian System of Medicine & Homeopathy ('ISM&H') for Tibbia College, to be filled through direct recruitment. Pursuant thereto, the Petitioners forwarded a requisition to UPSC for making recommendations against 18 posts of Ayurveda Lecturers and 16 posts of Unani Lecturers.

9. Thereafter, *vide* Cabinet Decision No.1139 dated 20.11.2006, approval was accorded for the constitution of the Delhi Health Service [hereinafter referred to as 'DHS']. In furtherance thereof, an Office Memorandum ('OM') dated 18.12.2006 was issued providing for the constitution of DHS for practitioners of the Allopathy system,



envisaging creation of Public Health sub-cadres with initial constitution to be drawn from two sources, namely: (a) officers of the Central Health Service ('CHS') stream serving in Delhi who opted to be part of the new service; and (b) those appointed on the advice of the Ministry of Health and Family Welfare ('MoHFW') on *ad hoc*/contract basis from 1995-96 onwards against ex-cadre posts.

10. Subsequently, on 06.05.2008, a Cabinet Note was prepared proposing regularization of *ad hoc*/contract teachers as part of the initial constitution of the service, subject to (i) satisfactory work and conduct, (ii) vigilance clearance, and (iii) satisfactory assessment by UPSC. The said proposal was approved *vide* Cabinet Decision No.1403 dated 12.05.2008, whereby it was decided to recommend the cases of 20 *ad hoc*/contract teachers of the Indian System of Medicine ('ISM') stream, including the Respondent, to UPSC for regularization on the aforesaid terms.

11. Pursuant thereto, an OM dated 07.10.2008 was issued by the Department of Health and Family Welfare ('DoHFW') stipulating that such regularization would form part of the initial constitution of the service and would be subject to approval by UPSC. In view of the said development, the Respondent withdrew W.P.(C) No.10920/2004 with liberty to seek appropriate remedies in the event the decision dated 07.10.2008 was not taken to its logical conclusion.

12. On 08.09.2011, the Respondent was re-designated as Associate Professor in his existing pay scale as a stop-gap arrangement, with a specific stipulation that such re-designation would not confer any right



to promotion or regular appointment. A similar order came to be issued on 27.09.2012.

13. Thereafter, on 03.05.2013, the Delhi Health Service – Teaching Cadre of Indian System of Medicine (Ayurveda and Unani) Rules, 2013 [hereinafter referred to as ‘2013 DHS Rules’] were notified. Rule 6 and Rule 9 thereof read as under:

“6. Initial Constitution of the Service.-

(i) All the officers appointed on regular basis in the Ayurvedic and Unani Tibbia College, Delhi on or before the commencement of these rules will be deemed to have been appointed under these rules and they will be members of the service at the entry grade.

(ii) The regular continuous service of officers referred to in sub-rule (1) before the commencement of these rules will count for the purpose of promotion, qualifying service for promotion confirmation and pension in the service.

(iii) The suitability of all the officers who are appointed on adhoc /contract basis upto 2003 in Ayurveda and Unani Tibbia College and are continuing in service till day and possess requisite educational qualifications and experience prescribed for the post of lecturer (Ayurveda/ Unani) now re-designated as Assistant Professor (Ayurveda/Unani) as per CCIM norms shall be assessed by the commission and being found fit, they shall be deemed to have been appointed under these rules and they shall be members of the service at the entry level at initial constitution stage from the date of the issuance of Office Memorandum No. F. DISMH/1/07/79/AY/553-566 dated 07-10-2008.

9. Seniority.-

The seniority of members of the service appointed to a grade at the time of initial constitution of the service under Rule 6, will be as obtaining on the date of commencement of these rules in the following manner:-

(i) For the members appointed under Rule 6 (i) if the seniority of any such member had not been specifically determined: on the said date, the same will be determined on the basis of the rules governing the fixation of seniority as were applicable to the members of the service prior to the commencement of these rules



(ii) *The seniority of officers recruited to, other than those appointed under Rule 6(i) will be determined in accordance with the orders issued by the Government in the matter from time to time.*

(iii) *The seniority of persons recruited to the service in accordance with sub rule (v) of Rule 4 will be fixed in the manner provided therein.*

(iv) *In cases not covered by the above provisions, seniority will be determined by the Government in consultation with the commission.*

(v) *The protection, if any accorded in towards increments drawn by doctors who worked on contract/adhoc basis prior to placement at the initial constitution stage shall not be taken into account for determining the length of service or seniority for consideration, for promotion on time scale basis subsequent to their placement at the initial constitution stage.”*

14. After making various representations, the Respondent filed O.A. No.4303/2014 before the Tribunal seeking regularization in terms of the Cabinet decision dated 12.05.2008 and the 2013 DHS Rules, along with grant of seniority from the date of his initial appointment in the year 1998. In the said OA, the Respondent, *inter alia*, prayed for the following reliefs:

“6. The applicant, therefore, prayed for the following reliefs:-

(a) Direct the respondents to regularize the applicant in view of the Cabinet decision dated 12.05.2008 and office order dated 07.10.2008 and grant seniority from the date of initial appointment and to take necessary steps for the same.

(b) Direct the respondents to include and consider the case of the applicant in the list sent for DPC for the post of Associate Professor.

(c) Hold and declare that no promotion that no promotion to the post of Associate Professor can be made without considering the case of the applicant for the post of Associate Professor reckoning his seniority from September, 1998.

(d) Direct respondents to take immediate steps in terms of the Recruitment Rules, 2013 for constitution of initial cadre to regularize applicant from initial date of appointment and also to grant all benefits including seniority from initial date of appointment being September 1998.



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(e) To pass any other order and/or direction as this Hon'ble Tribunal may deem fit and appropriate.”

15. In response, GNCTD submitted that the process of regularization was underway and that the UPSC would complete the requisite assessment. *Vide* order dated 16.02.2016, the Tribunal allowed O.A. No.4303/2014 and directed convening of a Department Promotion Committee ('DPC') to consider regularization of the applicants in service from the date of their initial appointment within a period of three months. However, the said directions were not complied with. Consequently, the Respondents initiated the contempt proceedings.

16. Thereafter, on 15.06.2017, an Assessment Board convened by UPSC considered the case of the Respondent along with other candidates for regularization under Rule 6(iii) of the 2013 DHS Rules, and *vide* recommendation dated 20.06.2017, found the Respondent suitable for appointment as a member of the service at the entry level from the stage of initial constitution. The said recommendation was accepted by the Lieutenant Governor of GNCTD, and accordingly, *vide* order dated 16.10.2017, the services of the Respondent were regularized with effect from 07.10.2008.

17. In the contempt proceedings instituted by the Respondent, the Tribunal, *vide* order dated 19.03.2018, held that its earlier direction required regularization from the date of initial appointment (1998), whereas GNCTD had granted regularization only with effect from 07.10.2008, and consequently directed compliance within a period of



four weeks. Aggrieved thereby, the present Writ Petition has been filed.

18. Counter Affidavit and Rejoinder have been filed by the Respondent and the Petitioner, respectively.

CONTENTIONS OF THE PARTIES:

19. This Court has heard learned Counsel for the parties at length and, with their assistance, perused the material placed on record.

20. Learned Counsel representing the Petitioner, placing reliance on Rule 6(iii) of the 2013 DHS Rules, submits that the Respondent has been rightly regularized with effect from 07.10.2008 as part of the initial constitution of the service, and that no claim for regularization or seniority can be sustained from the date of his *ad hoc* appointment.

21. *Per contra*, learned Counsel representing the Respondent submits that:

i. The Respondent was appointed in 1998 pursuant to a recruitment notice and recommendation of the Staff Selection Commission ('SSC') through an open and transparent selection process.

ii. Even the Cabinet Note dated 06.05.2008 acknowledges that the Respondent was selected by a duly constituted committee in accordance with the recruitment rules prevailing at the time, and thus cannot be termed a backdoor entrant. Reliance is placed upon the



judgments in *Jaggo v. Union of India & Ors.*¹; *Vinod Kumar & Ors. v. Union of India & Ors.*²; and *Dharam Singh & Ors. v. State of Uttar Pradesh & Anr.*³.

iii. The services of the Respondent were governed by valid recruitment rules, namely the 1985 RR and subsequently the 2002 RR. Since the Respondent underwent a selection process and was appointed in terms of the Recruitment Rules in vogue at the time of his appointment, his appointment shall be regular as on the date of his appointment. Reliance is placed upon the judgment rendered in *K. Raghupathi v. State of Uttar Pradesh & Ors.*⁴

iv. The Respondent is, therefore, entitled to seniority from the date of his initial appointment on *ad hoc* basis, the same being substantive in nature. Reliance is placed upon the judgment of the Supreme Court in *G.P. Doval & Ors. v. Chief Secretary, Govt. of Uttar Pradesh & Ors.*⁵.

v. Where substantive posts are filled in accordance with the procedure known to law, the length of service ought to be reckoned from the date of initial appointment, including for the purposes of pensionary benefits, particularly as the Respondent has since superannuated on 30.11.2020. Reliance is placed upon the judgments

¹ 2024 SCC OnLine SC 3826

² (2024) 9 SCC 327

³ 2025 SCC OnLine SC 1735

⁴ (2022) 6 SCC 346

⁵ (1984) 4 SCC 329



in *Baleshwar Dass & Ors. v. State of Uttar Pradesh & Ors.*⁶; and *Ramesh K. Sharma & Anr. v. Rajasthan Civil Services & Ors.*⁷

vi. The Respondent is entitled to pensionary benefits for a qualifying service to be calculated from his initial appointment. Reliance is placed upon the judgment of this Court in *Govt. of NCT of Delhi & Anr. v. Dr. Yoginder Gupta & Anr.* in W.P.(C) No.1265/2018 and other connected matters.

22. No other submissions have been made on behalf of the learned Counsel representing the parties.

ANALYSIS AND FINDINGS:

23. The short question that arises for consideration in the present case is whether an employee appointed on *ad hoc* basis can claim regularization from the date of his initial appointment, in the absence of any statutory rules or provisions permitting such retrospective regularization.

24. From a reading of the Impugned Order dated 16.02.2016 passed by the Tribunal, it becomes evident that the Tribunal has not given any reason for issuing a direction to convene a DPC to consider the process of regularization of the Respondent from the date of his initial appointment. The Tribunal has neither examined the Rule 6(iii) nor referred to any rule or regulation in support of such a direction. Such an approach of the Tribunal is not in accordance with law. Once the Respondent had specifically relied upon the service rules, the Tribunal

⁶ (1980) 4 SCC 226

⁷ (2001) 1 SCC 637



was expected to examine the matter in the light of the applicable statutory framework.

25. At the outset, it is necessary to examine the appointment letter issued to the Respondent on 21.09.1998. It is specifically provided therein that the Respondent was appointed to the post of Lecturer (Ayurveda) in *Kaya Chikitsa* on a purely temporary and *ad hoc* basis. Clause 1 of the appointment letter provides that the appointment was purely on *ad hoc* basis for a period of six months or till a regular appointment is made, whichever is earlier.

26. The said appointment letter was issued pursuant to the recruitment notice dated 07.07.1998, which specifically invited applications for various teaching posts on *ad hoc* basis in the regular pay scale. Once the recruitment notice as well as the appointment letter clearly provided that the Respondent was appointed on *ad hoc* basis, it was not appropriate for the Tribunal to hold that he would be treated as having been appointed on a regular basis from the date of his appointment in the absence of any rules, regulations, or instructions to that effect.

27. The concept of regularization of service is to regularize irregular appointments in accordance with the applicable rules. The Constitution Bench of the Supreme Court in *Secretary, State of Karnataka & Ors. v. Uma Devi & Ors.*⁸ has clearly held that regularization must be strictly governed by rules, regulations, or instructions issued by the Government, as any such regularization

⁸ (2006) 4 SCC 1



otherwise would deprive eligible candidates of the opportunity to compete for appointment.

28. In the present case, the Respondent was admittedly appointed on *ad hoc* basis pursuant to a recruitment notice which itself contemplated only a temporary engagement. In the absence of any statutory rules at the relevant time permitting regularization from the date of initial appointment, the Respondent cannot claim retrospective regularization *dehors* the subsequently framed statutory scheme.

29. When a recruitment notice is issued for filling up posts on *ad hoc* basis, many interested candidates may not choose to apply because of the uncertainty with regard to the tenure of appointment. Hence, the submission of learned Counsel for the Respondent that the appointment was made against a substantive post after following the procedure known to law cannot be accepted.

30. Further, learned Counsel for the Respondent has placed reliance upon the judgments rendered in **Jaggo** (*supra*), **Vinod Kumar** (*supra*), and **Dharam Singh** (*supra*) to contend that the Respondent was appointed through a valid selection process and cannot be treated as a backdoor entrant.

31. This Court has considered the aforesaid judgments. The same do not advance the case of the Respondent. The said decisions were rendered in the context of appointments where, despite the initial nature of engagement, the incumbents were appointed pursuant to a recognized selection process and continued in service under



circumstances where the Courts found it appropriate to extend certain protections in the absence of a governing statutory bar.

32. In the present case, however, the Respondent was appointed pursuant to a recruitment notice which itself contemplated only an *ad hoc* engagement for a limited duration, and the appointment letter expressly stipulated that the engagement was purely temporary and *ad hoc*, for a period of six months or till a regular appointment was made, whichever was earlier.

33. More importantly, the present case is governed by a specific statutory framework, namely the 2013 DHS Rules, which provide for regularization only as part of the initial constitution of the service and from a specified date, i.e., 07.10.2008. The aforesaid judgments do not deal with a situation where a statutory rule expressly governs the manner and date of regularization. The mere fact that a selection process was undertaken would not, by itself, alter the expressly *ad hoc* nature of the appointment in the face of a governing statutory scheme. Accordingly, the reliance placed thereon is misplaced.

34. This Court now turns to the Cabinet Note dated 06.05.2008. A careful reading thereof shows that regularization was proposed only as a part of the initial constitution of the service and that too subject to certain conditions, namely: (i) satisfactory work and conduct, (ii) vigilance clearance, and (iii) assessment by UPSC. The said proposal was approved on 12.05.2008.

35. Thereafter, in exercise of powers under Article 309 of the Constitution of India, the 2013 DHS Rules were notified. The



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expression “initial constitution of the service” has been specifically explained in Rule 6, which has already been extracted hereinabove.

36. The case of the Respondent clearly falls under Rule 6(iii), which provides that candidates appointed on *ad hoc* basis up to the specified period, who are continuing in service and possess the requisite educational qualifications and experience, shall have their suitability assessed by UPSC and, on being found fit, shall be deemed to have been appointed under the Rules and shall become members of the service at the entry level from the date of issuance of the OM dated 07.10.2008.

37. A plain reading of Rule 6(iii) makes it clear that the statutory scheme itself creates a legal fiction whereby such *ad hoc* appointees, upon being found suitable, are deemed to have been appointed under the Rules only from the date of initial constitution, i.e., 07.10.2008. The Rule consciously does not provide for regularization from the date of initial appointment. Therefore, any claim for regularization from an earlier date would run contrary to the express mandate of the statutory rules.

38. Thus, the service rules clearly mandate that regularization would take effect from 07.10.2008 and not from the date of initial appointment on *ad hoc* basis. The Respondent has not challenged the constitutional validity of Rule 6(iii), and in the absence of any such challenge, the Tribunal could not have issued a direction contrary to the statutory rules.



39. Learned Counsel for the Respondent has further placed reliance upon *K. Raghupathi (supra)* to contend that since the Respondent was appointed in accordance with the recruitment rules prevailing at the relevant time, his appointment ought to be treated as regular from the date of initial appointment. This Court has considered the aforesaid judgment. The same does not advance the case of the Respondent, as it pertains to a situation where, despite the nomenclature of the appointment being contractual, the candidates were subjected to a full-fledged selection process and were extended benefits and service conditions akin to those applicable to regularly appointed employees. The appointments in the said case, therefore, were not purely *ad hoc* in nature. In contrast, the Respondent in the present case was appointed on a purely *ad hoc* basis, as is evident from both the recruitment notice and the appointment letter, which clearly stipulated the temporary nature of the engagement.

40. More importantly, as already noted, the field in the present case is governed by the 2013 DHS Rules. In view of this statutory scheme, any claim for regularization from an earlier date cannot be sustained on the basis of general principles laid down in the aforesaid judgment, which is therefore distinguishable on facts as well as in law.

41. It is also relevant to note that the Respondent had earlier filed O.A. No.1479/2003 before the Tribunal seeking regularization under the 1985 RR, which came to be dismissed on 01.04.2004. Though the Respondent had filed a Writ Petition against the said order, the same was subsequently withdrawn. Consequently, the decision of the Tribunal declining regularization under the 1985 RR attained finality.



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At the cost of repetition, the Tribunal has not adverted to these crucial aspects.

42. The Tribunal has also erred in observing that the Respondent was appointed prior to the takeover of the College. The record clearly shows that the College was taken over in May 1998 pursuant to the decision dated 30.04.1998 under the provisions of the Takeover Act. The recruitment notice dated 07.07.1998 was issued by GNCTD itself, and the Respondent was selected only in September 1998. The finding recorded by the Tribunal, therefore, suffers from a factual error.

43. It is also pertinent to note that, as per Clause (d) contained in the prayer portion of the O.A., the Respondent himself had prayed for regularization in terms of the 2013 DHS Rules, though he simultaneously sought regularization from the date of initial appointment. Such a relief is not envisaged under the 2013 DHS Rules.

44. While filing the O.A., the Respondent had also prayed for grant of seniority from the date of his initial appointment. This aspect has not been specifically examined by the Tribunal. This Court has examined the relevant service rules. Rule 9 of the 2013 DHS Rule governs the seniority of members of the service. The same has been reproduced hereinabove.

45. The case of the Respondent would fall under Rule 9(ii), as he is not covered under Rule 6(i) and has entered the service as part of the initial constitution under Rule 6(iii). Rule 9(ii) provides that the



seniority of such officers shall be determined in accordance with the orders issued by the Government from time to time.

46. Learned Counsel for the Respondent has placed reliance upon **G.P. Doval** (*supra*) to contend that the Respondent is entitled to seniority from the date of his initial appointment. The said judgment is distinguishable, as it pertains to appointments made against substantive vacancies where the incumbents were treated as members of the service. In the present case, however, the Respondent was appointed on a purely *ad hoc* basis. Further, seniority is specifically governed by Rule 9 of the 2013 DHS Rules, and the Respondent, being covered under Rule 6(iii), cannot claim seniority from the date of his initial *ad hoc* appointment.

47. Additionally, learned Counsel has also relied upon **Baleshwar Dass** (*supra*) and **Ramesh K. Sharma** (*supra*) to contend that the entire length of service ought to be reckoned from the date of initial appointment. The said judgments, however, relate to appointments against substantive posts and do not deal with a statutory framework such as the 2013 DHS Rules. In the present case, Rule 6(iii) creates a legal fiction whereby regularization takes effect only from 07.10.2008. In view thereof, the reliance placed upon the aforesaid judgments is misplaced.

48. Further, in the facts of the present case, it would be appropriate to direct the Government to determine the Respondent's seniority in accordance with Rule 9(ii), while leaving it open to the Respondent to



challenge the same in accordance with law, if so advised. Such a decision shall be taken within a period of two (02) months.

49. The last submission of learned Counsel for the Respondent relates to counting the entire length of service from the date of initial appointment for the purpose of pensionary benefits. It has been contended that the issue stands covered by the judgment in *Dr. Yoginder Gupta (supra)*.

CONCLUSION:

50. As already noticed, when the O.A. was filed, the Respondent was still in service and has since superannuated during the pendency of the present Writ Petition.

51. It would not be appropriate for this Court to adjudicate this issue in the present Writ Petition arising out of the order of the Tribunal. However, GNCTD is directed to take an appropriate decision regarding the Respondent's entitlement to pensionary benefits in accordance with law, within a period of three months after the issue of regularization and seniority is decided. Needless to note, such consideration shall be uninfluenced by any observations made herein on the issue of regularization.

52. Consequently, the present Writ Petition is partly allowed. The directions issued by the Tribunal with regard to regularization of the Respondent from the date of his initial appointment on *ad hoc* basis are set aside.



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53. The present Writ Petition is disposed of in the aforesaid terms.
All pending applications stand closed.

ANIL KSHETARPAL, J.

AMIT MAHAJAN, J.

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