



2026:DHC:3121-DB



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

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Judgment reserved on: 09.04.2026
Judgment pronounced on: 16.04.2026
Judgment uploaded on: 16.04.2026

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W.P.(C) 4929/2019
DR. RADHA DUBEY

.....Petitioner

Through: Mr. Rakesh Kumar Khanna, Sr.
Adv. along with Mr. Shree
Prakash Sinha, Ms. Arushi
Jindal, Ms. Trishla Kumari and
Mr. Rishabh Kumar, Advs.

versus

GOVT. OF NCT OF DELHI AND ORS.Respondents

Through: Ms. Avnish Ahlawat, SC along
with Mr. Nitesh Kumar Singh,
Ms Aliza Alam and Mr
Mohnish Sehrawat, Advs.
Ms Manisha Agrawal Narain,
CGSC along with Ms. Aditi
Singh and Mr. Siddhant Soti,
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.:

CM APPL.20376/2026 [For recall/modification of judgment dated
10.03.2026.]

1. This judgment shall dispose of the present application filed by the Petitioner seeking recall/modification of the detailed judgment dated 10.03.2026, whereby a batch of seven (07) connected Writ



Petitions involving identical questions of law and fact came to be decided.

2. By the aforesaid judgment, this Court held that the Petitioner in the present Writ Petition, along with other similarly situated doctors who were initially engaged on contractual basis and were subsequently inducted into regular service, would not be entitled to reckon their period of contractual engagement for the purpose of seniority. However, such contractual service was directed to be considered only for the limited purpose of qualifying service towards pension, subject to the applicable rules.

3. While examining the individual cases of the respective Petitioners, the following finding came to be recorded in respect of the present Petitioner:

“IN W.P.(C) 4929/2019:

101. This Court now takes up W.P.(C) 4929/2019, which arises out of O.A. No.4018/2016 and assails the Impugned Order dated 19.02.2019 passed by the Tribunal.

102. The submissions advanced on behalf of the GNCTD are in terms of the contentions already recorded in Paragraph No.33 hereinabove. It is contended that the Petitioner was initially engaged on contractual basis, her services came to be terminated on 23.11.2007 on account of unauthorized absence and the said Termination Order was never set aside.

103. It is further submitted that though the Petitioner was taken back into service pursuant to interim orders of the Supreme Court, there was a clear break in service between 23.11.2007 and 03.11.2010. Consequently, any claim for continuity of service for purposes of seniority or pension is legally untenable. It is further urged that the Petitioner is governed by the statutory framework of the 2009 DHS Rules and cannot claim benefits *dehors* the Rules.

104. On behalf of the Petitioner, it is contended that she was initially appointed in 1996 on contractual basis after due selection and had rendered several years of service before proceeding on leave. It is



urged that she was ultimately reinstated pursuant to orders of the Supreme Court and was directed to be treated as eligible for consideration for regularization by the UPSC. It is submitted that the break in service ought not to be put against her, particularly when she was taken back into service and thereafter inducted under the 2009 DHS Rules. The Petitioner claims parity with other similarly situated doctors in matters of seniority and pension.

105. The Impugned Order dated 19.02.2019 records that the Petitioner's contractual services were terminated on 23.11.2007 due to unauthorized absence, the challenge to the termination did not culminate in the order being set aside and she was taken back into service only pursuant to interim directions of the Supreme Court. The Tribunal held that the termination order having remained intact, there was a clear break in service.

106. Insofar as the claim for seniority from the date of initial contractual engagement is concerned, the same stands concluded by the findings of this Court in the earlier part of this judgment. The Petitioner cannot claim seniority from a date prior to her induction under the 2009 DHS Rules.

107. However, the present case stands on a distinct footing in relation to pension. This Court has held in the other connected matters that contractual service rendered against sanctioned posts, if otherwise eligible under the governing rules, is liable to be counted towards qualifying service for pension.

108. The question that arises here is whether the period prior to 23.11.2007 and the period commencing from 03.11.2010 can be taken into account for pensionary benefits.

109. Admittedly, the Termination Order dated 23.11.2007 was never set aside. The Petitioner was taken back into service pursuant to interim directions, but no declaration of continuity of service was granted by the Supreme Court. In the absence of the Termination Order being quashed, the break in service cannot be ignored for all purposes.

110. In these circumstances, it becomes pertinent to adjudicate whether the Petitioner would be entitled to treat the entire period as continuous service. However, at this stage, the contractual service actually rendered by her prior to termination (i.e., up to 23.11.2007) and the service rendered after her rejoining on 03.11.2010 may be considered for purposes of qualifying service for pension, subject to the statutory framework and excluding the interregnum period.

111. To this limited extent, the Impugned Order warrants interference. The denial of retrospective seniority is upheld. However, for purposes of pension, the Respondents shall compute the Petitioner's qualifying service by including the periods during which she actually rendered



service on contractual basis and thereafter upon induction, but excluding the period between 23.11.2007 and 03.11.2010.

112. W.P.(C) 4929/2019 is accordingly partly allowed in the above terms. The necessary exercise shall be undertaken within twelve weeks.

113. It is, however, clarified that the remaining issues arising in the present Writ Petition shall be considered and decided after further hearing the matter.”

4. It is evident from the record that the issues peculiar to the case of the present Petitioner had already been duly examined while rendering the judgment under review. The present application has, however, been filed on the ground that, while reserving judgment on 10.02.2026, this Court had observed that only two identified issues, i.e., seniority and pension, would fall for consideration.

5. It is pertinent to note that the Petitioner had already placed on record a detailed and elaborate Written Submission, which was duly considered at the time of final hearing before the pronouncement of the judgment dated 10.03.2026. Nevertheless, in order to afford complete opportunity, learned senior counsel appearing for the Petitioner has been heard at considerable length in the present review proceedings.

6. Learned senior counsel appearing for the Petitioner has advanced the following three broad submissions in support of the application:

i. It is contended that, pursuant to the judgment dated 21.05.1998 passed in O.A. No.2600/1997, the Petitioner was held entitled to sanction of leave akin to a regular employee. On that basis, it is argued that the period of absence from 23.11.2007 till



03.11.2010 ought to have been treated as leave of the kind due and not as a break in service.

ii. It is further submitted that, in terms of the interim order dated 16.08.2010 passed by the Supreme Court in the SLP(C) No.23809-23810/2010, the Petitioner was taken back into service and was subsequently absorbed as a regular employee under the Delhi Health Service (Allopathy) Rules, 2009. Since the aforesaid SLPs ultimately came to be disposed of on 19.08.2015, it is urged that the Govt. of the National Capital Territory of Delhi ('GNCTD') was never permitted to treat the intervening period of absence as a break in service.

iii. Reliance is also placed upon Rule 25 of the Central Civil Services (Leave) Rules, 1972 [hereinafter referred to as 'Leave Rules'], to contend that the alleged break in service ought to have been regularised by treating the said period as leave of the kind due.

7. *Per contra*, learned counsel appearing for the GNCTD has opposed the present application.

8. At the relevant time, the Petitioner was engaged on a contractual basis. She was granted leave for a period of 20 days from 03.04.2006 to 22.04.2006, whereafter she sought extension of leave. Ultimately, her services came to be terminated *vide* order dated 23.11.2007. Aggrieved thereby, she filed O.A. No.2745/2008 challenging the termination, which was dismissed by the learned Central Administrative Tribunal, Principal Bench, New Delhi



[hereinafter referred to as ‘the Tribunal’], on 13.11.2009. The Writ Petition preferred against the said order was dismissed on 21.12.2009 and the Review Petition filed thereafter was also dismissed on 19.03.2010. Subsequently, an interim order dated 16.08.2010, passed by the Supreme Court, resulted in the re-engagement of the Petitioner.

9. The SLP preferred by the Petitioner was ultimately disposed of by order dated 19.08.2015, which reads as under:

“An interim order was passed by the Motion Bench on 16.08.2010 directing the respondents to take the petitioner back in service. Accordingly, the petitioner was permitted to continue in service (vide an order of the Government of National Capital Territory of Delhi, Health & Family Welfare Department, dated 03.11.2010). During the pendency, of the petitions in this Court, the respondents framed the Delhi Health Service (Allopathy) Rules, 2009. Under the above Rules, the suitability of the petitioner was required to be determined by respondent No.4 -the Union Public Service Commission. We are informed by the learned counsel, representing respondent No.4, that the petitioner has been declared suitable for appointment under the Delhi Health Service (Allopathy) Rules, 2009. In the above view of the matter, we are of the view, that in the peculiar facts and circumstances of this case, the petitioner should be entitled to the benefits of this case, the petitioner should be entitled to the benefits granted to others, who were found suitable under the provisions of the Delhi Health Service (Allopathy) Rules, 2009. Ordered accordingly.

For the other claims (emerging out of the factual position, that the petitioner to agitate the same, if she is so advised, in accordance with law. And if the petitioner makes a representation to respondent No.1, for the above claims, the same will be disposed of by passing a speaking order.

The special leave petitions stand disposed of in the above terms.”

10. Pursuant to the aforesaid order, the competent authority re-examined the Petitioner’s request for regularisation of the absence period; however, the same came to be rejected by a detailed order dated 16.11.2015. Aggrieved thereby, the Petitioner preferred an



Original Application ('OA') before the Tribunal challenging the said order dated 16.11.2015 while also seeking ancillary reliefs.

11. It is significant to note that the termination order dated 03.11.2007 passed by the competent authority bringing the Petitioner's contractual engagement to an end has never been set aside by any court of law. On the contrary, the validity of the said order was upheld by the Tribunal *vide* order dated 13.11.2009, which was affirmed by this Court on 21.12.2009. The Supreme Court also did not interfere with the aforesaid orders while disposing of the SLP. Consequently, the reliance placed by the Petitioner upon the order dated 21.05.1998 is misconceived.

12. A careful reading of the order dated 21.05.1998 reveals that the OA filed by the Petitioner, along with certain other doctors, was disposed of on the basis of the judgment rendered in ***Dr. J. P. Palia & Ors. v. GNCTD & Ors.***, O.A. No. 2564/1997 and connected matters decided on 23.04.1998. While disposing of the said OA, the Tribunal issued the following directions:

"a) The respondents shall grant the applicants the same pay scale and allowances and other service benefits, like, leave, increment on completion of one year and other benefits of service conditions, as are admissible to Medical officers who are appointed on regular basis in the corresponding pay scales.

b) The artificial break of one or two days in service, if any, during the contract period, shall be ignored and they shall be deemed to have continued in service from the date of their first appointment till regular appointments are made by the respondents in accordance with the relevant rules/instructions. In the circumstances, case, respondents shall also consider giving relaxation to the applicants in accordance with the rules, if they are candidates before the UPSC for regular appointment, to the extent of the number of years of service they have rendered on contract/ad-hoc basis.



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c) The above directions shall be implemented within three months from the date of receipt of a copy of this order.”

13. It is thus evident that the Petitioner and other doctors were held entitled to parity in pay scale, allowances and certain service benefits, including leave benefits, upon completion of one year of contractual service. The direction regarding ignoring artificial breaks of one or two days in service was issued in an entirely different factual context, namely, where the applicants continued to serve on contractual basis and minor artificial interruptions were introduced during subsistence of contractual engagement.

14. Rule 25 of the Leave Rules also does not advance the Petitioner's case. The said provision merely confers an enabling discretion upon the competent authority to treat absence beyond the sanctioned leave period as leave of the kind due. In the present case, however, the contractual services of the Petitioner stood terminated *vide* order dated 03.11.2007, which has attained finality and has never been set aside. Further, he was contractually employed again pursuant to interim order dated 16.08.2010. In such circumstances, the question of regularising the intervening period as leave does not arise.

15. In view of the foregoing discussion, no ground warranting exercise of review jurisdiction is made out. The present application is accordingly disposed of.

ANIL KSHETARPAL, J.

AMIT MAHAJAN, J.

APRIL 16, 2026/s.godara/shah