



2026:DHC:2951-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 4645/2026, CM APPL. 22648/2026 & CM APPL.
22649/2026

UNION OF INDIA AND ORS.Petitioners
Through: Mr. Himanshu Pathak and Mr.
Chetanya Puri, SPC with Mr. Mohit Gupta
and Ms. Garima Mehta, Advs.

versus

DR. KHURSHEED KHATOONRespondent
Through: Mr. Ankur Chhibber, Mr.
Yogesh Kumar Mahur, Mr. Harkesh
Parashar and Ms. Yogita, Advs.

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR
HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

JUDGMENT (ORAL)

% **08.04.2026**

C. HARI SHANKAR, J.

1. The respondent was appointed as Assistant Research Officer in the Central Council for Research in Unani Medicine¹ in 1986 on *ad hoc* basis against a substantive vacancy. She was re-appointed in 1996. There was a break in service between 1986 and 1996. However, after 1996, she continued on *ad hoc* basis till her services were regularised in February 2004.

2. It is not in dispute that, if the respondent were to be entitled to

¹ "CCRUM" hereinafter



count her *ad hoc* service for the purposes of pension, she would be entitled to the benefit of the Old Pension Scheme² as the New Pension Scheme³ was introduced w.e.f. 1 January 2004.

3. The respondent represented to the CCRUM for counting of her *ad hoc* service for reckoning her pensionary benefits and, accordingly, for extending her the benefit of the OPS.

4. As the CCRUM did not accede to the respondent's request, she moved the Central Administrative Tribunal⁴ by way of OA 91/2025.

5. By judgment dated 14 July 2025, the Tribunal has allowed the OA in the following terms:

“6. To summarize the applicant was appointed on ad-hoc basis in the year 1996 and, thereafter, regularized in February, 2004. Evidently, it was not an illegal appointment. She was appointed in pursuance to public advertisements issued against the substantive post, nevertheless on ad-hoc basis, the appointment of the applicant was extended, from time to time, in spite of availability of substantive vacancies, reason for which has not been assigned. It would be worthwhile to reproduce para 4 of the DOP&T OM dated 03.03.2023:-

“4. The matter has been examined in consultation with the Department of Financial Services, Department of Personnel & Training, Department of Expenditure and Department of Legal Affairs in the light of the various representations/references and decisions of the Courts in this regard. It has now been decided that, in all cases where the Central Government civil employee has been appointed against a post or vacancy which was advertised/notified for recruitment/appointment, prior to the date of notification for National Pension System i.e.

² “OPS” hereinafter

³ “NPS” hereinafter

⁴ “Tribunal” hereinafter



22.12.2003 and is covered under the National Pension System on joining service on or after 01.01.2004, may be given a one-time option to be covered under the CCS(Pension) Rules, 1972 (now 2021). This option may be exercised by the concerned Government servants latest by 31.08.2023.”

7. The provision of the DOP&T OM dated 03.03.2023, which is reproduced hereinabove, specifically notes, that in case the selection exercise was commenced before 22.12.2003, the employee will be given an option to exercise an option to be covered under the CCS (Pension) Rules 1972. The Co-ordinate Bench of this Tribunal in O.A. No. 240/2021 decided on 02.06.2023, relying upon the same OM has allowed the Original Application. It may not be out of place to record that in the said Original Application, one of us [Hon'ble Dr. Chhabilendra Roul, Member (A)] was a Member. The order was assailed by the respondents before the Hon'ble High Court of Delhi in in W.P. (C) 1691/2024. The Hon'ble High Court of Delhi has confirmed the order passed by the co-ordinate Bench. Review thereto has also been dismissed.”

6. Aggrieved thereby, the CCRUM has approached this Court by means of the present writ petition.

7. We have heard Mr. Himanshu Pathak and Mr. Puri, learned SPCs for the petitioners. As there was some difficulty in Mr. Pathak connecting, Mr. Puri advanced arguments.

8. Mr. Puri submits that the Tribunal has relied on a judgment passed by this Court in WP (C) 1691/2024⁵, which is presently subject matter of an appeal before the Supreme Court and has, therefore, not yet attained finality.

9. As against this, Mr. Chhibber, learned Counsel for the

⁵ Judgment dated 6 February 2024 in **Union of India through Secretary & Anr v Late Dr. Nusrat Hameed Khan through Lrs Mrs. Zeenat Hameed Khan & Ors.**



respondent, submits that the issue is no longer *re integra*, in view of the decision of the Supreme Court in *S.D. Jayaprakash v. UOI*⁶ which has, thereafter, been followed recently by a Coordinate Division Bench of this Court in a batch of writ petitions headed by *GNCTD v. Dr. Yoginder Gupta*⁷.

10. In the said decisions, the Court has held that a period of contractual service, if continuous till regularisation, would be entitled to be counted towards pensionary benefits. We may, to advantage, reproduce paras 2, 6 and 8 of the judgment of the Supreme Court in *S.D. Jayaprakash* and paras 3, 57, 61 and 71 of the decision in *Dr. Yoginder Gupta*, thus:

Paras from *S.D. Jayaprakash*

“2. These appeals arise from the Karnataka High Court's order dated 23.03.2021 by which it held that the appellants, who were initially appointed on contractual basis and subsequently regularised, will not be entitled to seniority, service benefits, and pension for the period of their contractual service. Upon consideration of the relevant rules and the decision of this Court in *State of H.P. v. Sheela Devi*⁸, we have partly allowed the present appeals and directed the respondent, i.e., Union of India to grant pensionary benefit to the appellants in accordance with law.

6. Before commencing our analysis, it is necessary to note the scope of prayers made before the CAT and High Court, and before this Court. The prayer before the CAT is for regularisation with retrospective effect, protection of pay, and grant of seniority and service and pension benefits by counting the period of contractual service. Pursuant to the High Court's impugned order dated

⁶ 2025 SCC OnLine SC 973

⁷ Judgment dated 10 March 2026 in WP(C) 1265/2018

⁸ 2023 SCC OnLine SC 1272



23.03.2021, only the appellants' pay has been protected while their prayers for seniority, service and pension benefits by including the contractual period have been rejected. The submissions before this Court have been limited to the grant of pensionary benefits by including the contractual period, through reliance on the decision in *Sheela Devi (supra)*. The issues relating to grant of retrospective regularisation, seniority and service benefits during the contractual period have not been argued before us. We are therefore confining ourselves to the issue of pension.

8. This rule fell for consideration and interpretation in *Sheela Devi (supra)*, where this Court held that although Rule 2(g) of the Pension Rules excludes contractual employees from their application, Rule 17 applies once such contractual employee is regularised on a later date. The effect is that upon regularisation, the Pension Rules become applicable and Rule 17 requires that past service as a contractual employee is to be taken into account for calculating pension. In this light, and considering that Rule 17 requires the regularised employee to exercise an option to either retain the Government's contribution to Contributory Provident Fund, or to refund such amount or forgo the same if they have not been paid in lieu of counting the service period for which such benefits may have been payable, this Court in *Sheela Devi (supra)* issued the following directions:

“11. In view of the above reasoning, this court is of the opinion that there is no merit in the appeal however, the following directions are issued: —

(i) The state shall take immediate steps to indicate the mode and manner of exercising option by all the employees concerned (who had been regularized after spells of contractual employment) regardless of the dates on which they were engaged i.e., prior to the year 2003 or subsequently, within a time frame, of within eight weeks from today.

(ii) After receiving the options within the time indicated in the notice, the concerned employee(s) who exercise the relevant options should be notified about the amounts they would have to remit in case any amount towards contribution is required, clearly.



(iii) The options should be processed and completed within eight weeks from the last date of receiving options.

(iv) Time limit for payment too should be indicated and entire process should be completed within four months and all orders fixing pensions or family pension as the case may be, shall be issued.”

From *Dr. Yoginder Gupta*

3. By the Impugned Order dated 23.05.2017, passed in O.A. Nos.604/2014 and 238/2015, the Tribunal rejected the claim of the concerned Applicants for the grant of seniority by counting their contractual service, while directing that such period be considered only for the limited purpose of qualifying service towards pension, in accordance with the applicable rules. Further, vide the Impugned Order dated 23.12.2021 passed in O.A. No.3556/2018, the Tribunal directed to consider the period spent on contractual service for the purpose of qualifying service towards pension, however, it said that the same shall be subject to the decision of this Court in the Writ Petition filed assailing the decision of the Tribunal in O.A. No.604/2018, i.e., W.P.(C) 1265/2018.

57. The next and more nuanced issue pertains to pensionary benefits. In W.P.(C) 1265/2018, the Tribunal directed that the period rendered by the Applicants on contractual basis be taken into consideration towards qualifying service for pension, subject to and in accordance with the applicable rules.

61. A plain reading of the aforesaid provisions indicates that the CCSP Rules do not adopt an inflexible approach in excluding pre-regularisation service. While Rule 13 provides that qualifying service ordinarily commences from the date of first appointment to a post, whether substantive, officiating or temporary, it expressly permits counting of temporary or officiating service where it is followed, without interruption, by substantive appointment.

71. This Court, therefore, finds no infirmity in the approach adopted by the Tribunal in O.A. Nos.604/2014 and 238/2015 in directing consideration of past contractual service for pension, subject to satisfaction of statutory preconditions. The direction



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neither creates a right dehors the 2009 DHS Rules nor expands their scope, it merely ensures that service, if otherwise admissible under the CCSP Rules, is not excluded by a mechanical or hyper-technical application of the statutory scheme.”

11. The decision to count the respondent’s *ad hoc* service towards her pensionary benefits is, therefore, in sync with the exposition of the law by the Supreme Court in *S.D. Jayaprakash* and by the Coordinate Division Bench of this Court in *Dr. Yoginder Gupta*.

12. We do not, therefore, find this to be a case deserving interference. The writ petition is dismissed in *limine*.

C. HARI SHANKAR, J.

OM PRAKASH SHUKLA, J.

APRIL 8, 2026/AR