



2025:DHC:9123-DB



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

Date of decision: 10th OCTOBER, 2025

IN THE MATTER OF:

+ **LPA 872/2024 & CM APPL. 68554/2024, CM APPL. 68558/2024**

GOVERNMENT OF J AND K & ANR.Appellants

Through: Mr. Rushab Aggarwal, Advocate
versus

DR. RAJINDER KUMAR TRISALRespondent

Through: Mr. B. L. Wali, Advocate.

+ **LPA 876/2024 & CM APPL. 68551/2024, CM APPL. 68573/2024**

GOVT OF JAMMU AND KASHMIR & ANR.Appellants

Through: Mr. Rushab Aggarwal, Advocate

versus

DR. CHAMAN LAL DULLOORespondent

Through: Mr. B. L. Wali, Advocate.

+ **LPA 877/2024 & CM APPL. 66454/2024, CM APPL. 68565/2024**

GOVT OF JAMMU AND KASHMIR & ANR.Appellants

Through: Mr. Rushab Aggarwal, Advocate

versus

DR. RAVI RAMAN DHARRespondent

Through: Mr. B. L. Wali, Advocate.

+ **LPA 879/2024 & CM APPL. 68562/2024, CM APPL. 68564/2024**

GOVT OF JAMMU AND KASHMIR & ANR.Appellants

Through: Mr. Rushab Aggarwal, Advocate

versus



2025:DHC:9123-DB



DR. BHARAT BHUSHAN KACHROORespondent
Through: Mr. B. L. Wali, Advocate.

+ **LPA 882/2024 & CM APPL. 68566/2024, CM APPL. 68567/2024**

GOVT OF JAMMU AND KASHMIR & ANR.Appellants

Through: Mr. Rushab Aggarwal, Advocate

versus

DR. UPENDER KRISHEN WALIRespondent
Through: Mr. B. L. Wali, Advocate.

+ **LPA 883/2024 & CM APPL. 68557/2024, CM APPL. 68568/2024**

GOVT OF JAMMU AND KASHMIR & ANR.Appellants

Through: Mr. Rushab Aggarwal, Advocate

versus

DR. VIJAY KUMAR KACHROORespondent
Through: Mr. B. L. Wali, Advocate.

CORAM:
HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD
HON'BLE MR. JUSTICE VIMAL KUMAR YADAV

JUDGMENT

SUBRAMONIUM PRASAD, J.

1. The challenge in this batch of appeals is to the Judgment dated 08.05.2023 passed by the learned Single Judge in W.P.(C) 7916/2019, W.P.(C) 7917/2019, W.P.(C) 7922/2019, W.P.(C) 7926/2019, W.P.(C) 7928/2019 and W.P.(C) 7932/2019.
2. The learned Single Judge by the Judgment impugned herein has allowed the writ petition, directing the Appellant herein to grant the second



and third time bound promotions to the Respondents herein w.e.f. 01.04.1995 and 01.04.2000 instead of 16.03.2017.

3. The learned Single Judge referred to the facts in W.P.(C) 7916/2019, i.e., LPA 882/2024. For the sake of clarity, this Court shall also adopt the same course of action.

4. Material on record indicates that the Respondent in LPA 882/2024 joined the Government Medical College, Srinagar, Kashmir on 26.07.1980. After completing his house job in 1980-81, the Respondent was appointed as Assistant Surgeon in the Medical Department, Srinagar on 31.03.1981. The Respondent, who was holding MBBS degree, completed his Masters Degree in the year 1989.

5. A Government Order bearing No. 595-FME of 1988 was issued by the Government of Jammu & Kashmir, Health and Medical Education Department on 22.07.1988, introducing a scheme for time bound promotion for doctors in Health Services Department including Dental Surgeons/Specialists in the Government of Jammu & Kashmir.

6. Under the said Government Order, sanction was accorded for introduction of time bound promotion of doctors in the Health Services Department, subject to the condition *inter alia* that there are no adverse remarks in the Annual Performance Reports ["APRs"] of the concerned doctor in the preceding three years. The said Scheme did not have any bearing on the seniority of the doctors.

7. The Respondent was appointed as Assistant Surgeon in Sub-District Hospital, Kashmir Division under the Health Services, Kashmir in the year 1989. On account of disturbed conditions in the State of Jammu & Kashmir in 1990-91, several doctors including the Respondents had to shift to various parts of the country, including Jammu and Delhi.



8. The Respondent herein also left the Jammu and Kashmir Valley in 1990 and stayed in Jammu for some time, however, he continued to draw salary from the Office of Resident Commissioner, Jammu & Kashmir House, Delhi.

9. On 03.03.1994, the Health and Medical Education Department, Government of Jammu & Kashmir issued an order in respect of time bound promotions of doctors in accordance with the Resident Commissioner's Letter dated 17.01.1994, whereby several doctors, including the Respondent herein, who were working as doctors in the pay scale of Rs.2200-4000 were placed in the pay scale of Rs.3000-4500 from the respective dates mentioned in the Order, with no effect on their *inter se* seniority.

10. On 09.07.2010, another order was issued by the Health and Medical Education Department, granting sanction of a second time bound promotion in the pay scale of Rs.2700-4250 (pre-revised) w.e.f. 01.04.1994 and the third time bound promotion in the pay scale of Rs.4100-53000 (pre-revised) w.e.f. 01.04.1999, in favour of Dr. Vinod Kumar Bhat, Assistant Surgeon, who is also a migrant.

11. A similar order granting sanction for a second time bound promotion was issued on 11.04.2018 in the pay scale of Rs.15600-39100 with Grade Pay of Rs.6600 w.e.f. 01.04.1995 and a third time bound promotion in the pay scale of Rs.37400-67000 with Grade Pay of Rs.8700 w.e.f. 01.04.2000 notionally with actual monetary benefits w.e.f. 16.03.2017 only to 34 migrant doctors, including the Respondent herein.

12. Aggrieved by the fact that the Respondent was only granted notional promotion from 01.04.1995 and 01.04.2000 and actual monetary benefits from 16.03.2017 resulting in enormous pecuniary loss, the Respondent herein with similarly placed doctors made a joint representation, seeking



actual monetary benefits from the actual dates of grant of time bound promotions. Since their representations were not being considered, they approached this Court by filing the writ petitions.

13. At this juncture, it is pertinent to mention that three other similarly placed doctors, namely, Dr. Umesh Kumar Moza, Dr. Ashok Kumar Dhar and Dr. Roop Kishan Kaul approached this Court by filing W.P.(C) 1104/2013, W.P.(C) 2874/2013 and W.P.(C) 2884/2013 seeking similar reliefs.

14. The said writ petitions were allowed by this Court *vide* common Judgment dated 31.10.2014 passed by the learned Single Judge of this Court in W.P.(C) 1104/2013.

15. An appeal being LPA 545/2016 had been filed by the Government of Jammu & Kashmir challenging the Judgment dated 31.10.2014 passed by the learned Single Judge of this Court only in one of the cases, i.e., W.P.(C) 1104/2013 which was filed by Dr. Umesh Kumar Moza. The said appeal was dismissed by a Coordinate Bench of this Court *vide* Order dated 30.09.2016.

16. Material on record suggests that no appeal was filed against W.P.(C) 2874/2013 and W.P.(C) 2884/2013 which were disposed of by the learned Single Judge *vide* the common Judgment dated 31.10.2014. In fact, the Division Bench while dismissing LPA 545/2016 on the point of delay, also commented on the State picking and choosing the writ petition against which an appeal is preferred. The Division Bench *vide* Order dated 30.09.2016 passed in LPA 545/2016 has observed as under:-

“There were two other doctors, namely Ashok Kumar Dhar and Roop Kishan Kaul, who were granted identical relief. The appeal has been filed in the case of Umesh Kumar Moza, and not in the other cases. On



being asked, learned counsel for the appellant is unable to state whether an appeal has been preferred against the identical relief granted to Ashok Kumar Dhar and Roop Kishan Kaul. She states that she has no instructions, and affirms that she has not been asked to prefer any appeal in the said cases.”

17. The Respondent herein came forward virtually claiming the very same relief as sought for by the Petitioner in W.P.(C) 1104/2013. The preliminary objection of lack of territorial jurisdiction raised in W.P.(C) 1104/2013, which was disposed of in the year 2013, has been rejected by the learned Single Judge in the Impugned Judgment as well.

18. The learned Single Judge in the Impugned Judgment has followed the Judgment passed by this Court in W.P.(C) 1104/2013 and relying on the same, the learned Single has allowed the writ petitions.

19. When this matter came up for hearing, this Court enquired from the learned Counsel for the Appellant/State of Jammu & Kashmir as to why the State of Jammu & Kashmir did not file an appeal against the Judgment dated 31.10.2014 passed in W.P.(C) 2874/2013 and W.P.(C) 2884/2013, no proper answer was given thereto.

20. Be that as it may, it is well settled that if a person approaches a court of law and obtains a declaration in his favour, then the State, being a fair litigant, is duty bound to extend the same benefit to all similarly placed persons without the need for them to approach the Court seeking the same relief. This position was discussed by the Apex Court in Amrit Lal Berry v. Collector of Central Excise New Delhi & Ors., (1975) 4 SCC 714, and later relied upon in a recent judgment titled Lt. Col. Suprita Chandel v. Union of India & Ors., 2024 SCC OnLine SC 3664. Relevant observations of the Apex Court in Amrit Lal Berry (supra) are as under:-



*“24. It may be mentioned here that an attempt was made by Amrit Lal Berry to account for delay in filing his petition. He said that he had made two departmental representations, one, dated March 6, 1965 and another, dated August 13, 1971, of which he filed copies, to which no replies had been received so far by him. It was denied by the excise department that he ever sent the first representation. It is evident that he had waited for a considerable period before making his representation in 1965 even if we were to assume that he did make such a representation then. Furthermore, the copy of the alleged representation of 1965 shows that it was directed only against the imposition of a test by examination before confirmation. We do not think that, merely by filing repeated or delayed representations, a petitioner can get over the obstacles which delay in approaching the Court creates because equitable rights of others have arisen. **We may, however, observe that when a citizen aggrieved by the action of a government department has approached the Court and obtained a declaration of law in his favour, others, in like circumstances, should be able to rely on the sense of responsibility of the department concerned and to expect that they will be given the benefit of this declaration without the need to take their grievances to court.**”*

(emphasis supplied)

21. Additionally, the Apex Court in State of Uttar Pradesh & Ors. v. Arvind Kumar Srivastava & Ors., (2015) 1 SCC 347, has observed as under:-

“22.1. The normal rule is that when a particular set of employees is given relief by the court, all other identically situated persons need to be treated alike by extending that benefit. Not doing so would amount to discrimination and would be violative of Article 14 of the Constitution of India. This principle needs to be applied in service matters more emphatically as the



service jurisprudence evolved by this Court from time to time postulates that all similarly situated persons should be treated similarly. Therefore, the normal rule would be that merely because other similarly situated persons did not approach the Court earlier, they are not to be treated differently.”

22. Applying the aforesaid principles, once the State has accepted the Judgment of this Court in W.P.(C) 1104/2013, W.P.(C) 2874/2013 and W.P.(C) 2884/2013, out of which they chose to file an appeal only in one case, i.e., W.P.(C) 1104/2013 filed by Dr. Umesh Kumar Moza, which also came to be dismissed by a Coordinate Bench of this Court *vide* Order dated 30.09.2016 in LPA 545/2016 on the ground of delay and there is no further challenge to the same before the Apex Court, the State cannot keep on denying the same benefits to all similarly placed doctors on the ground that it will amount to substantial burden on the State exchequer. The State, being a fair litigant, is duty bound to follow the cardinal principles as laid down by the Apex Court.

23. Learned Counsel for the Appellant/State did make a feeble attempt to state that the Respondents herein have not worked since the time they left Jammu and Kashmir and therefore they cannot claim monetary benefits from an anterior date. This submission cannot be accepted because there is nothing on record to demonstrate that any attempt was made by the State to adjust/accommodate the Respondents herein to any non-disturbed areas of the State. The Respondents herein had to virtually flee due to the disturbance in the State of Jammu & Kashmir when they were ready and willing to work.

24. Arguments regarding territorial jurisdiction were also raised in the earlier writ petitions, which were answered in favour of the Respondents



herein by the learned Single Judge in Umesh Kumar Moza v. Govt. of J & K, **2014 SCC OnLine Del 6491**, and the appeal against the said Judgment was dismissed by a Coordinate Bench of this Court on the ground of delay.

25. In view of the fact that the Government of Jammu & Kashmir has already accepted the Judgment passed by this Court in Umesh Kumar Moza (supra) which has been copiously quoted in the Impugned Judgment and the learned Single Judge is in agreement with the findings contained therein regarding territorial jurisdiction, this Court is of the opinion that the State ought to have extended the relief granted to Umesh Kumar Moza to other similarly placed Doctors without forcing the hapless doctors approaching this Court seeking the same relief.

26. In view of the above, this Court also deems it fit to waive the litigation costs of Rs. 10,000/- in favor of each of the Petitioner imposed by the learned Single Judge.

27. The Appellant is directed to implement the judgment of the learned Single Judge within ten weeks from the date of upload of this Judgment.

28. With these observations, the appeals are dismissed along with pending application(s), if any.

SUBRAMONIUM PRASAD, J

VIMAL KUMAR YADAV, J

OCTOBER 10, 2025

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