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

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Date of Decision : 01.06.2026

+ **W.P.(C) 6651/2026**

DR ATUL PANDEY & ORS.

.....Petitioners

Through: Mr. Abhaya Kumar Behera, Sr. Adv.
with Ms. Amita Singh Kalkal, Ms.
Aditi Gupta and Ms. Lavanya
Bhardwaj, Advs.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Mr. Chetan Sharma, ASG with Dr.
Vijendra Singh Mahndiyan, CGSC,
Mr. Vaibhav Singh, Adv and Mr. C P
Vinod Kumar, Under Secretary.
Mrs Avnish Ahlawat, SC GNCTD
Services, Mr Nitesh Kumar Singh and
Mr Amit Yadav, Advs.
Mr Ravinder Agarwal, Adv for
UPSC.

+ **W.P.(C) 6658/2026**

DELHI ANDAMAN AND NICOBAR ISLANDS CIVIL

SERVICE OFFICERS ASSOCIATION & ORS.

.....Petitioners

Through: Mr. Parag P. Tripathi & Mr. Pragyan
Pradip Sharma, Sr. Advs. with Ms.
Amita Singh Kalkal, Ms. Aditi Gupta,
Mr. Rachit Sharma and Mr.
Akashdeep, Advs.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Mr. P. S. Patwalia, Sr. Adv. And Mr.
Kirtiman Singh, Sr. Adv. with Ms.
Natasha Dalmia, Ms. Shambhavi
Singh, Ms. Anisha Jain and Ms.
Prerna Cheema, Ms. Esha Mazumdar,
Mr. Abhishek Yadav and Mr. Manish



Kumar Advs.

Ms. Pratima N Lakra CGSC, Ms. Indu Uttara, Adv. and Mr. G. P. Vinod Kumar, Under Secretary, MHA.

Mrs Avnish Ahlawat, SC GNCTD Services, Mr Nitesh Kumar Singh and Mr Amit Yadav, Advs.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

V. KAMESWAR RAO, J. (ORAL)

CM APPL. 32760/2026 in W.P.(C) 6651/2026

CM APPL. 32782/2026 in W.P.(C) 6658/2026

1. By this order, we shall decide the applications filed by the petitioners for stay. The applications with identical prayers have been filed by the petitioners seeking stay of “*Government of National Capital Territory of Delhi Subordinate Service (Second Amendment) Rules, 2024 (GNCTDSS Rules, 2024) or stay DPC for the post of Senior Scale (GNCTDSS) in DASS cadre*”, which are reproduced as under: -

“(a) allow the present application;

(b) stay the operation of the impugned Government of National Capital Territory of Delhi Subordinate Service (Second Amendment) Rules, 2024 (GNCTDSS Rules, 2024) or stay DPC for the post of Senior Scale (GNCTDSS) in DASS cadre during the pendency of the present writ petition;

(c) any other order or direction that this Hon'ble court deems just and proper, keeping in consideration the facts and circumstances of the instant case and in the larger interest of justice and equity.”

2. The challenge in the above writ petitions is to the order dated



16.02.2026 passed by the Central Administrative Tribunal (Tribunal) in two OAs' being O.A.No.4107/2023 and O.A. No.474/2025 filed by the petitioners herein.

3. The challenge in the OAs' before the Tribunal, as noted was primarily to the action of the respondents to abolish nearly 217 posts meant for the Delhi, Andaman & Nicobar Islands, Lakshwadeep, Daman & Diu, and Dadra & Nagar Haveli, Civil Services (DANICS) and Indian Administrative Services (IAS) cadre and to make them available to the Grade I officers of the Delhi Administrative Subordinate Secretariat Service (DASS) (now GNCTDSS).

4. The grounds of challenge are primarily, the action is in violation of statutory Recruitment Rules, procedure prescribed for abolition/creation of group A posts and the DoPT guidelines.

5. The petitioners herein are officers in DANICS, which was constituted in the year 1962. They are directly recruited through Civil Services Examination conducted by the Union Public Service Commission (UPSC) during the years 2020-22. The recruitment to DANICS is through direct recruitment and promotion (which is from the DASS Grade-1 Cadre with three-year regular service) in the ratio of 50:50.

6. It is the case of the petitioners and contended by Mr. Parag P. Tripathi and Mr. Abhaya Kumar Behera, learned Senior Counsels' appearing in both petitions that the cadre strength of DANICS was determined in 2009. However, no cadre review was conducted for the past 17 years. In this regard, they have given reference to the orders passed by the Tribunal and this Court from time to time in the litigation initiated by the DANICS for



cadre review.

7. It is noted from the record that, in the year 2015, Ministry of Home Affairs (MHA) approved the proposal of the GNCTD for upgradation of pay scale of Grade-1 DASS Cadre from level-7 to level-8. At this stage, it may be stated that the case of the respondents/officers belonging to DASS cadre is that the petitioners had not objected to the upgradation of their pay scale from level-7 to level-8.

8. According to Mr. Tripathi and Mr. Behera, Grade-1 DASS Cadre Officers though have been given higher pay level, but the same had no bearing on seniority or for that matter promotion to DANICS Cadre. In other words, the pay upgradation as granted to Grade-1 DASS officers, was only personal to them.

9. Mr. Tripathi and Mr. Behera submitted that the respondents/ Grade-1 DASS cadre officers started demanding back dated seniority on the promotion into the entry grade of the DANICS which plea was rejected. Subsequently, a demand was made by the respondents/ Grade-1 DASS officers for creation of Group A post in the DASS cadre which proposal was accepted by the Delhi Cabinet in the year 2015. A reference is also made about the constitution of two-member committee headed by Dr. M.M. Kutty, IAS with the approval of the Hon'ble Home Minister, Government of India to examine the service-related issues of IAS, DANICS and DASS and to recommend measures to remove stagnation in DANICS and DASS cadre in a holistic manner.

10. The Committee recommended measures for removing stagnation in DASS cadre but rejected the demand of creation/encadrement of Group A



posts in DASS cadre as it involves creation of a parallel State Civil Service for DASS for Delhi. It appears, later as submitted by Mr. Tripathi and Mr. Behera, the GNCTD, without examining the petitioners' representations, sent a proposal to the MHA for abolition of the DANICS equivalent posts for creation of Group 'A' posts in DASS cadre. According to them, MHA without considering its effect has conveyed no objection for abolition of DANICS equivalent posts in Delhi for creation of Group-A posts in DASS cadre. At this stage, it is necessary to state, as stated above, the DANICS officers were also demanding cadre review in their cadre, which prayer was allowed by the Tribunal/this Court.

11. The Kutty Committee had recommended the cadre review of the DANICS by encadring 442 ex-cadre posts equivalent to DANICS into DANICS as the same would add additional 221 posts in the promotional quota, resulting in increase in the promotional quota of Entry Grade-1 DANICS officers to 359 posts for 789 directly recruited Grade-II DASS officers, which shall answer the stagnation of DASS cadre. It is stated that, a decision was taken to hold DPC to fill up 50% promotion quota from amongst DASS Cadre Grade I. According to them, there was no reason for the respondents to issue an order on 10.11.2023, for restructuring of the DASS Cadre, whereby it was decided that 217 posts be encadred at Pay Level-11 to be filled through promotion of officers in Grade-I DASS. Pursuant thereto, a notification dated 24.12.2024 was issued amending the DASS/GNCTDSS Rules, whereby Senior Scale has been prescribed over and above Grade-I in the rules, in the Pay Level-11 with 217 posts. It is this notification along with the letters and decision dated 07.08.2023 and



24.08.2023, which became the subject matter of the OA.

12. According to them, the Tribunal had framed six issues for its consideration. One of the issues was whether the Hon'ble Lieutenant Governor of Delhi is competent in law to frame recruitment rules for DASS cadre and create Group-A posts therein. They stated that the Tribunal has erred in deciding the said issue to hold that the Hon'ble Lieutenant Governor is competent to frame the rules in the following manner:-

“13.8 Independently of the statutory framework, the competence of the Hon'ble Lt. Governor is traceable to the proviso to Article 309 of the Constitution of India. The said provision empowers the President, or any person authorized by him, to frame rules regulating recruitment and conditions of service.

13.9 It is a settled proposition of law, as consistently held by the Hon'ble Supreme Court in decisions such as B.S. Yadav v State of Haryana (supra), V.K. Sood v. Secretary, Civil Aviation (supra), and S.S. Bola v. B.D. Sardana (supra), that the power under the proviso to Article 309 is legislative in character; Such rules continue to operate with full force until displaced by an enactment of the competent legislature; and the Constitutional scheme does not permit a vacuum in service jurisprudence. In the present case, it is an admitted position that no legislation has been enacted by the GNCTD legislature governing the service conditions or cadre structure of the DASS cadre. Consequently, the rules framed by the delegatee of the Hon'ble President validly occupy the field. The principle that rules framed under Article 309 operate with full force in the absence of legislation is further reiterated by the Hon'ble Supreme Court in D.R. Yadav v. R.K. Singh, reported in 2003 (7) SCC 110. The relevant paras of the said judgment reads as under:-

"20. The 1991 Rules were framed by the Governor



of Uttar Pradesh in exercise of his power conferred under the proviso appended to Article 309 of the Constitution of India. The proviso appended to Article 300 of the Constitution reads thus:

Provided that it shall be competent for the President or such person as he may direct in the case of services and posts in connection with the affairs of the Union, and for the Governor of a State or such person as he may direct in the case of services and posts in connection with the affairs of the State, to make rules regulating the recruitment, and the conditions of service of persons appointed, to such services and posts until provision in that behalf is made by or under an Act of the appropriate legislature under this Article, and any rules so made shall have effect subject to the provisions of any such Act."

21. On a plain reading of the said provision, there cannot be any doubt whatsoever that rules framed thereunder would apply so long as a statute or statutory rules or any other subordinate legislation governing the conditions of service are not enacted or made or not otherwise operating in the field. In other words, rules made under the proviso to Article 309 of the Constitution are for a transitory period and the same would give way to the special rules once framed. However, if a statute or rules made thereunder was/were already operating in the field, the general rules made under the proviso to Article 309 would not apply to the services created thereunder.

22. The submission of Mr Dwivedi to the aforementioned extent appears to be correct.

13.10 In the present case, no enactment of the Legislative Assembly of Delhi occupying the field of



recruitment or service conditions of the DASS cadre has been brought to notice. In the absence of any such law, the rules framed by the delegatee of the President, i.e., the Hon'ble Lt. Governor, must prevail and hold the field.

13.11 The respondents have also demonstrated a consistent chain of delegation of powers in favour of the Hon'ble Lt. Governor, commencing from notifications dated 13.07.1959 and 24.09.1968, followed by the circular dated 01.01.1990 specifically delegating powers for creation of posts, and its reiteration post the 2023 Amendment through Office Memorandum dated 05.01.2024.

13.12 It is not in dispute that, in exercise of such delegated powers, the Hon'ble Lt. Governor has, from time to time, created and restructured posts across various services under GNCTD, including Group 'A' posts in multiple departments. Such actions have remained unchallenged and have attained finality. The impugned notification is, therefore, in line with an established administrative practice and cannot be singled out for adverse scrutiny.

13.13 The reliance placed by the applicants on the Office Memorandum dated 30.09.2022 is misplaced. The said O.M. pertains specifically to Organized Central Group 'A' Services and lays down a procedure for their cadre review. The DASS cadre, admittedly, is a Central Civil Service Group 'B' and does not fall within the ambit of the said O.M.

13.14 The creation of certain Group 'A' posts within an existing Group 'B' service does not ipso facto convert it into a Group 'A' service, nor does it attract the procedural requirements applicable to organized Group 'A' cadres. The contention of procedural violation is, therefore, devoid of merit.

13.15 It is trite law that matters relating to creation, abolition, restructuring of posts, and prescription of service conditions fall squarely within the realm of



executive policy. The Hon'ble Supreme Court in P.U. Joshi v. Accountant General Ahmedabad (supra) has categorically held that such matters lie within the exclusive domain of the State and are not amenable to judicial interference unless shown to be arbitrary, mala fide, or violative of constitutional or statutory provisions. The applicants have failed to demonstrate any such illegality or arbitrariness. Their objections are primarily based on apprehensions regarding promotional avenues and perceived service disadvantages, which cannot constitute a legally enforceable right.

13.16 It is also evident that the applicants do not possess any enforceable legal right to dictate the structure of a cadre or the inclusion of particular posts therein. At best, they may seek consideration for cadre review; however, they cannot claim a vested right to determine the outcome of such policy decisions.

13.17 We also agree with the submissions advanced on behalf of GNCTD that the creation of posts and cadre restructuring falls within the domain of executive policy. The Hon'ble Supreme Court in P.U. Joshi and Ors. vs. Accountant General, Ahmedabad and ors., reported in (2003) 2 SCC 632, the relevant portion thereof has already been quoted in above para, has categorically held that matters relating to the creation or abolition of posts, structuring of cadres, and prescription of service conditions fall within the exclusive domain of the executive, and judicial interference is warranted only where there is a clear violation of constitutional or statutory provisions. No such violation has been established in the present case.

13.18 Viewed from any angle whether under the constitutional framework of Article 309, the statutory interpretation of "Central Government," or the consistent delegation of powers, the competence of the Hon'ble Lt. Governor stands clearly established.

13.19 Thus, we hold that the Hon'ble Lt. Governor,



being a delegatee of the Hon'ble President under the proviso to Article 309 of the Constitution, is fully competent to frame Recruitment Rules for the DASS cadre. The creation of Group 'A' posts within the said cadre is legally valid and within jurisdiction; and the impugned notification does not suffer from any lack of competence, statutory violation, or constitutional infirmity. Accordingly, this issue is answered in the affirmative, in favour of the respondents and against the applicants.”

13. The submissions of Mr. Tripathi and Mr. Behera are primarily reiteration of the submissions as were advanced before the Tribunal, including on the competence of the Lieutenant Governor to frame the RRs in DASS Cadre after the commencement of the GNCTD (Amendment) Act 2023.

14. It is submitted by them that the rules are in violation of GNCTD Amendment Act, 2023 which came into effect on 19.05.2023. As the Rules were framed after 19.05.2023, the same are not protected. The submission is that power to frame rules for Delhi government employees vests only with the Central Government and prior delegations in favour of Lieutenant Governor including those issued under Article 309 of the Constitution ceases to exist.

15. Mr. Tripathi and Mr. Behera have drawn our attention to various orders passed in the litigation initiated by the DANICS officers including an order passed by this Court and also the order passed in the contempt petition wherein, directions have been issued to decide cadre review of the DANICS cadre. Their endeavour is in view of the orders passed, by the Tribunal/ this Court there was no reason for the respondents to undertake the impugned



action, which impacts the Cadre restricting of DANICS. They justified the challenge made, also on the ground, that the promotion rule from DASS Grade-I to DANICS has become otiose. It shall also create constitutional, legal, and administrative issues in the Civil Services in GNCTD. They seek the prayers as made in the stay applications.

16. On the other hand, Mr. P. S. Patwalia, and Mr. Kirtiman Singh, learned Senior counsels appearing for the DASS Officers would justify the order passed by the Tribunal. It is their submission that the Tribunal *vide* the impugned order has upheld the action of the respondents removing the stagnation in the Grade-1 of the DASS cadre.

17. They contested the submissions made by Mr. Tripathi and Mr. Behera by stating that the Lieutenant Governor is competent to frame rules in the manner made. The cadre review/ framing of rules, in the given facts of this case is to obviate/to remove the stagnation in the DASS cadre. It is a settled law that such decisions are beyond the pale of judicial review. In fact, it is their submission that, the petitioners have no *locus standi* to challenge the creation of Group A posts in DASS Cadre. According to them, the equivalent posts of DANICS which have been created in DASS Cadre were not the encadred posts of DANICS. They were posts which were manned by DANICS without any authority of law. It is these posts, which are being encadred as Group A posts in DASS Cadre. They also stated in the absence of challenge to the order dated 10.11.2023, the petitioners cannot challenge the notification dated 24.12.2024, as the notification is pursuant to the aforesaid order. In any case, it is also their submission that the order dated 10.11.2023 has been issued pursuant to the NOC given by the MHA *vide* its



letter dated 24.08.2023 and in that sense, the impugned action has the approval / sanction of the Central Government. In fact, it is their submission that action of the Hon'ble Lt. Governor is an action of the Central Government. He stated that the attempt of the petitioners is to stall the process which has been initiated almost 17 years back. They stated that this Court shall allow the DPC which is scheduled on 12.06.2026 to undertake its task. They seek the dismissal of the applications.

18. On the other hand, Ms. Pratima N. Lakra and Dr. Vijendra Singh Mahndiyan, learned counsel for Union of India would contend contrary to what has been stated before the Tribunal. On this, Mr. Patwalia would state that the stand of the Union of India today is contrary to the written submissions filed by the Union of India before the Tribunal.

19. Having heard the learned counsel for the parties and perused the record, the only issue, to be decided at this stage, is whether the prayer as made for stay of the DPC need to be granted.

20. The submissions of Mr. Tripathi and Mr. Behera challenging the judgment of the Tribunal are many including the competency of the Hon'ble Lt. Governor to issue the notification dated 24.12.2024, by which 217 Group A posts have been created/encadred. The Tribunal has taken a view that the Central Government includes Hon'ble Lt. Governor of a Union Territory. It is also held, that the Hon'ble Lt. Governor is competent. These findings also answer the plea of Mr. Tripathi that after amendment to the GNCTD Act, vide Section 45C, it is the Central Government, which can make the rules. The issue is whether the creation of Group A posts in DASS Cadre by a notification issued by the Hon'ble Lt. Governor is proper /



justified. The law is well settled. *Prima facie* we are in agreement with the conclusion drawn by the Tribunal, which we have reproduced above.

21. Mr. Patwalia and Mr. Kritiman Singh have heavily relied upon the submissions filed on behalf of the MHA before the Tribunal, which *inter alia*, reads as under:-

“1 The Applicants have filed the present O.A. challenging the action of Respondents No 1 & 2 (Union of India and Ministry of Home Affairs) in conveying No Objection to Government of NCT of Delhi (GNCTD) for creation of 221 Group 'A' posts in the DASS cadre vide letter dated 24.08.2023 (Annexure R-3), pursuant to GNCTD's proposal dated 07.08.2023 (Annexure R-2).

2 The Applicants contend that creation of such Group 'A' posts outside DANICS will render the DANICS cadre redundant, amounting to creation of a parallel State Civil Service and Violating DANICS Rules, 2003.

3 The Respondents submit that the apprehension of the Applicants is misconceived. The 221 posts are non-DANICS /non-IAS: creation of these posts is based on administrative necessity and High Court directions in W.P. (C) 11537/2018 (Delhi Govt. Officers & Employees Federation v. UOI) dated 11.08.2023 (Annexure R-1)

4 Further, as per Department of Expenditure O.M. F.No. 7(1)/E.Coord-1/2017 dated 05.01.2024 (Annexure R-5), the Lt. Governor of Delhi is competent to create Group A, B, C & D posts within GNCTD, subject to fiscal prudence.

D. ARGUMENTS ON BEHALF OF RESPONDENTS 1 & 2

1. Creation of posts is within competence and does not violate DANICS Rules

5. The newly created 221 posts are expressly non-DANICS/non-IAS as certified by GNCTD. Therefore, no alteration has been made in the composition or strength of DANICS cadre under the 2003 Rules.

6 The Applicants apprehension that DANICS will



become redundant is purely speculative and unsupported by facts. 57% of DANICS posts (176 out of 309) in Delhi are presently vacant due to non-availability of eligible officers. Thus, there is no deprivation of promotion prospects

2. MHA acted pursuant to judicial directions and due process

7 The No Objection was issued in faithful compliance with Delhi High Court's order dated 11.08.2023, which mandated MHA to decide Proposal No. 2 within three weeks Hence, the action flows directly from a judicial direction and cannot be termed arbitrary or ultra vires

8. The MHA carefully examined representations of the Applicants dated 01.06.2023, 12.06.2023, and 15.09.2023 before conveying its decision, thereby satisfying principles of natural justice.

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6. No violation of Article 14 or arbitrariness

13. DASS and DANICS are distinct cadres catering to different functional domains under GNCTD, the other under MHA/JT Cadre. The classification is rational and based on intelligible differentia, fulfilling administrative needs.”

22. That apart, what is important to be noted is the submission of Mr. Patwalia and Mr. Singh that the posts encadred were never been the cadre posts of DANICS/IAS. In that sense, they were outside the cadre of DANICS/IAS. In fact, on a specific query to Mr. Tripathi and Mr. Behera to show the notification which depict the 217 posts as part of the DANICS Cadre, no reply is forthcoming. It follows, the rules being in place need to be given effect to.

23. Without dilating much on the rival submissions of the learned counsel for the parties, at this stage, as contended by Mr. Ravinder Agarwal, learned



counsel for UPSC, that the DPC has been scheduled for 12.06.2026, we are of the view that the DPC should be allowed to do its task and conclude the same, but the conclusion drawn by the DPC and orders issued thereof shall be subject to the outcome of these petitions. The orders shall be issued by taking undertaking from the officers that if the petitioners succeed in these petitions, they are liable to be reverted to their original posts and they shall not claim equities.

24. The applications are disposed of.

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W.P.(C) 6658/2026**

25. The written submissions be filed by the parties within a period of six weeks from today.

26. Renotify on 19.08.2026.

V. KAMESWAR RAO, J

MANMEET PRITAM SINGH ARORA, J

**JUNE 01, 2026
RK**