

27.07.2026
Item No.04
Court No.01
KCP
[Assigned]

WPCT 249 of 2025

**Union of India & Anr.
- Versus -
Dr. Sanjoy Bhattacharyya**

Mr. Indrajeet Dasgupta
Mr. Guddu Singh
...for the petitioners

Mr. Tushar Ranjan Mohanty
Ms. Shruti Mukhopadhyay
Ms. Dona Sanyal Nath
...for the respondent

Records reveal that initially an original application was filed by one Dr. (Mrs.) Neelam Malhotra and six others before the learned Jabalpur Bench. The said original application being OA 474/98 was disposed of by an order dated 10th April, 2002. Aggrieved thereby, the Union of India and its functionaries preferred a writ petition before the Hon'ble High Court of Madhya Pradesh which was dismissed on 23rd February, 2010. Thereafter, the Department of Legal affairs of the Ministry of Health and Family Welfare made a proposal to Union Public Service Commission (in short, UPSC) for regularization of services of the applicants employed during 1994-97 on *ad hoc* basis. The UPSC, upon assessing the suitability of the said

applicants on the basis of relevant ACRs, bio-data and their performance found them '*FIT*' for regular appointment to the grade of Medical Officer. Thereafter, by a memo dated 4th February, 2016, the Under Secretary to the Government of India, Ministry of Health and Family Welfare *vide* memo dated 4th February, 2016 intimated *inter alia* that accepting the recommendations of the UPSC, the President has been pleased to appoint the 25 doctors (*ad hoc*), as mentioned in the annexed list, working in different offices under Ministry of Labour as Medical Officers with effect from 18th September, 2014. Subsequent thereto, one of the doctors in the said recommended list, namely, Dr. N. Swarnalatha filed an original application before the learned Tribunal at Hyderabad claiming regularization from the date of initial appointment. The said original application was allowed by the learned Tribunal by an order dated 26th July, 2007. Aggrieved thereby, the Union of India and its functionaries preferred a writ petition which was dismissed by an order dated 1st August, 2022. Challenging the said order, the Union of India preferred a Special Leave Petition (in short, SLP) before the Hon'ble Supreme Court but the same was also dismissed by an order dated 6th October, 2023.

Subsequent thereto, claiming regularization from the initial date of appointment, the respondent herein preferred an original application being OA 350/00536/2024 which was disposed of by an order dated 21st March, 2025. The operative part of the said order runs as follows:-

‘We have already determined that the applicant is similarly situated as the applicants in OA no. 285/2016 of Hyderabad Bench and OA no. 200/1092/2017 of Jabalpur Bench. Following the settled law as quoted above, the respondents are directed to regularize the appointment of the applicant w.e.f. 30.08.1996, i.e., the date of his initial appointment and extend all consequential benefits to the applicant within a period of 03 (three) months from the date of receipt of a certified copy of this order in their office’.

Aggrieved by the said order dated 21st March, 2025, the present writ petition has been preferred.

Mr. Dasgupta, learned advocate appearing for the petitioners submits that the implementation of the earlier orders of the learned Tribunal is strictly *in personam* and cannot be treated or quoted as a precedent in the present case. When the initial appointment was *ad hoc* in nature and not in terms of

the procedure prescribed in the recruitment rules, the learned Tribunal ought not to have directed regularization of the respondent's appointment with effect from the date of his initial appointment. In support of such contention, Mr. Dasgupta has placed reliance upon a memo dated 19th May, 2026 issued by the Under Secretary to the Government of India. Let the same, as produced, be kept on record.

Drawing our attention to judgment delivered by the Hon'ble Supreme Court in the case of *Registrar General of India and Another –vs- V. Thippa Setty and Others*, reported in (1998) 8 SCC 690 and the judgment delivered by the Hon'ble High Court, Bombay in the case of *Arjun Vasant Rane and Others –vs- Secretary, Government of Maharashtra, Higher and Technical Education Department and another*, reported in 2004(4) *Mh.L.J.* 1041, Mr. Dasgupta submits that regularization should always be prospective and not retrospective as the chances of their upsetting the seniorities cannot be overlooked moreso when, the deficiencies in *ad hoc* service rendered cannot be relaxed. In view thereof, the orders passed in the earlier proceedings, upon which reliance has been placed by the respondent, have no manner of application and it cannot be ruled out that

the said orders passed and complied with were *in personam* moreso when even a slight distinction in fact or an additional fact may make a lot of difference in the decision making process.

Mr. Mohanty, learned advocate appearing for the original applicant/respondent herein, however, disputes the contention of Mr. Dasgupta and drawing our attention to a memo dated 23rd August, 2020 issued by the Ministry of Health and Family Welfare, he submits that the petitioners herein after the appointment of 25 doctors on *ad hoc* basis directed *inter alia* that '*the seniority of aforesaid 25 doctors is subject to outcome of WP No. 3827/2019 filed in Hon'ble High Court of Telangana since the matter is still pending in the Hon'ble High Court of Telangana*'. The said original application has already been disposed of and the said order of the learned Tribunal has not been interfered with in the writ petition and the subsequent SLP preferred by the petitioners.

Heard the learned advocates appearing for the respective parties and considered the materials on record.

A perusal of the memo dated 4th February, 2016 reveals that the suitability of all the 25 *ad hoc* doctors was considered on the basis of their relevant ACRs,

bio-data and their performance during the personal talk and were found '*FIT*' for appointment to the grade of Medical Officer in General Duty Medical Officer (GDMO) Sub-cadre of Central Health Service (CHS). Upon such determination of suitability, the UPSC issued recommendation in favour of the said 25 *ad hoc* doctors including the respondent herein. No material has been produced to show that the respondent herein is not similarly situated with the said 24 *ad hoc* doctors, who were ultimately regularized with effect from their respective dates of initial appointment. The cases of all the 25 doctors are inextricably bound inasmuch as by the memo dated 11th February, 2016 all the said 25 doctors were recommended by UPSC and on the basis of such recommendation all of them were appointed.

In the said conspectus, the argument of Mr. Dasgupta that the earlier orders passed were strictly *in personam* is not acceptable to this Court. The judgments upon which reliance has been placed by the petitioners are distinguishable on facts and the Union of India being a model employer cannot violate the fundamental concept of equality in law and equal treatment in the matters of employment.

Accordingly, we are not inclined to interfere with the order impugned and the writ petition being WPCT 249 of 2025 is dismissed.

There shall, however, be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the learned advocates for the parties.

(Partha Sarathi Chatterjee, J.) (Tapabrata Chakraborty, A.C.J.)