



CNR: KAHC010155492023

NC: 2026:KHC:38532-DB
WP No. 6821 of 2023

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 22ND DAY OF JULY, 2026

PRESENT

THE HON'BLE MR. JUSTICE S.G.PANDIT

AND

THE HON'BLE DR. JUSTICE K.MANMADHA RAO

WRIT PETITION NO.6821 OF 2023(S-CAT)

BETWEEN:

DR. MOHAMMED SHAKEEL ANSARI
S/O MOHAMMED SHAFI ANSARI,
AGED ABOUT 49 YEARS,
LECTURER, AT PRESENT ASSOCIATE PROFESSOR,
DEPARTMENT OF JARAHAT,
NATIONAL INSTITUTE OF UNANI MEDICINE,
KOTTIGEPALYA,
MAGADI MAIN ROAD,
BANGALORE-560 091.

...PETITIONER

(BY SRI.VIJAY KUMAR, ADVOCATE(VC))

AND:

1. UNION OF INDIA,
MINISTRY OF AYUSH,
REPRESENTED BY ITS SECRETARY,
AYUSH BHAVAN,
'B' BLOCK, GPO COMPLEX,
I.N.A COLONY,
NEW DELHI- 110 023.





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2. THE DIRECTOR
NATIONAL INSTITUTE OF UNANI MEDICINE,
KOTTIGEPALYA,
MAGADI MAIN ROAD,
BANGALORE-560 091.

...RESPONDENTS

(BY SRI.VINAY VENUGOPAL,CGC (MOA FILED))

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE A WRIT OR ORDER OR DIRECTION TO SET ASIDE IMPUGNED ORDER DATED 01/02/2023 IN APPLICATION No. 170/00006/2021 PASSED BY THE CENTRAL ADMINISTRATIVE TRIBUNAL VIDE ANNEXURE-A AND CONSEQUENTLY ALLOW THE O. A. No. 170/00006/2021 AND ETC.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE S.G.PANDIT
and
HON'BLE DR. JUSTICE K.MANMADHA RAO

ORAL ORDER

(PER: HON'BLE DR. JUSTICE K.MANMADHA RAO)

The petitioner has invoked the extraordinary jurisdiction of this Court under Articles 226 and 227 of the Constitution of India calling in question the order dated



01.02.2023 passed by the Central Administrative Tribunal, Bengaluru Bench, in O.A. No.170/00006/2021, whereby the Tribunal dismissed the Original Application filed by the petitioner challenging the Office Memorandum bearing No.R13017/45/2009-NI dated 06.06.2017, the consequential communications issued by the respondents and seeking extension of the benefits under the Dynamic Assured Career Progression (DACP) Scheme by reckoning his past service rendered as Clinical Registrar.

2. The brief facts leading to the filing of the writ petition are that the petitioner was initially appointed as a Clinical Registrar in the National Institute of Unani Medicine on 22.10.2004 and continued in the said post till March 2012. Pursuant to a recruitment notification issued by the second respondent for appointment to the post of Lecturer, the petitioner applied through proper channel, participated in the selection process and, having been selected on merit, was appointed as Lecturer (Jarahiya)



on 24.03.2012. He reported to duty as Lecturer on 26.03.2012. According to the petitioner, the appointment as Lecturer was by way of lateral entry and, therefore, the service rendered by him as Clinical Registrar ought to have been taken into consideration while extending the benefits under the DACP Scheme.

3. It is the case of the petitioner that despite several representations submitted to the respondents, including representations requesting that his past service be counted for the purpose of financial upgradation under the DACP Scheme, the respondents declined to extend such benefit. According to him, several officers junior to him were granted higher Grade Pay under the Scheme, thereby resulting in discrimination and violating the principle of equal pay for equal work. The petitioner also contends that the posts of Clinical Registrar and Lecturer are analogous in nature, that both fall within the teaching stream and that the Recruitment Rules and Bye-laws



governing the National Institute of Unani Medicine support his claim.

4. Aggrieved by the denial of the benefit claimed, the petitioner approached the Central Administrative Tribunal by filing O.A. No.170/00006/2021. Before the Tribunal, the petitioner challenged the validity of the Office Memorandum dated 06.06.2017 insofar as it enhanced the period of regular service required for promotion under the DACP Scheme and gave effect to the Scheme from 01.04.2015. The petitioner further sought quashing of the consequential communications dated 02.02.2018, 15.05.2018 and 30.07.2018 and prayed for a direction to the respondents to extend the DACP Scheme by counting his past service rendered as Clinical Registrar together with all consequential monetary benefits.

5. The respondents resisted the Original Application by filing a detailed reply statement. It was contended that the petitioner was appointed as Lecturer only after



participating in an independent recruitment process and that the post of Clinical Registrar and the post of Lecturer belong to different cadres having different duties and responsibilities. According to the respondents, under the applicable Office Memoranda, the benefit of the DACP Scheme is available only on completion of the prescribed period of regular service in the relevant cadre and, therefore, the service rendered by the petitioner as Clinical Registrar could not be counted after his appointment as Lecturer. It was further contended that the Office Memoranda implementing the DACP Scheme were issued pursuant to the recommendations of the Expert Committee with the approval of the competent authority and that no illegality could be attributed thereto.

6. Upon consideration of the rival submissions, the Tribunal rejected the contentions urged by the petitioner. The Tribunal held that the petitioner could not claim parity with teachers of other institutions or rely upon the minutes



of the Academic Council of the University of Delhi for seeking similar treatment. The Tribunal further held that the petitioner was rightly extended the benefit of the DACP Scheme from the date he became eligible in the cadre of Lecturer and that the service rendered by him as Clinical Registrar could not be counted for the purpose of financial upgradation under the applicable Scheme. The Tribunal also distinguished the decisions relied upon by the petitioner, including those rendered by the CAT, Mumbai and Delhi Benches, on the ground that they arose under different factual and statutory settings. Consequently, the Original Application came to be dismissed.

7. Assailing the order of the Tribunal, learned counsel appearing for the petitioner would contend that the Tribunal failed to appreciate the true scope of the DACP Scheme and the relevant Recruitment Rules. It is submitted that the petitioner's appointment as Lecturer was by way of lateral entry without any break in service



and, therefore, his earlier service as Clinical Registrar ought to have been reckoned while granting financial upgradation. Learned counsel would further contend that the petitioner and the officers with whom parity is claimed perform substantially similar duties and responsibilities and, therefore, denial of the same financial benefits violates Articles 14 and 16 of the Constitution of India. It is also argued that the Tribunal committed an error in refusing to follow the principles laid down by the CAT, Mumbai and Delhi Benches in similar matters and that the Office Memorandum dated 06.06.2017, insofar as it modifies the period of qualifying service and gives effect to the Scheme only from 01.04.2015, is arbitrary and unsustainable. Reliance is also placed upon the Recruitment Rules and the Bye-laws of the National Institute of Unani Medicine to contend that the posts of Clinical Registrar and Lecturer are analogous and that the petitioner is entitled to the benefits claimed.



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8. Per contra, learned counsel appearing for the respondents would support the order passed by the Tribunal. It is submitted that the petitioner was appointed as Lecturer only after participating in a fresh recruitment process and that his appointment cannot be equated with continuation in the earlier post. It is further submitted that the DACP Scheme specifically contemplates regular service in the concerned cadre and that no rule or executive instruction permits counting of service rendered in the distinct cadre of Clinical Registrar after appointment as Lecturer. Learned counsel would further contend that the Office Memoranda implementing the DACP Scheme constitute policy decisions taken by the competent authority and that the Tribunal has rightly held that the precedents relied upon by the petitioner are distinguishable on facts. It is therefore submitted that the impugned order does not suffer from any jurisdictional error, perversity or patent illegality warranting



interference by this Court in exercise of its supervisory jurisdiction.

9. In the light of the rival submissions and the material placed on record, the following point arises for consideration:

"Whether the petitioner has made out any ground warranting interference under Articles 226 and 227 of the Constitution of India with the order dated 01.02.2023 passed by the Central Administrative Tribunal, Bengaluru Bench, in O.A. No.170/00006/2021?"

10. This Court has carefully considered the submissions advanced by the learned counsel for the parties and perused the material on record, including the order passed by the Tribunal. At the outset, it requires to be noticed that the challenge in the present writ petition is directed against an order passed by the Central Administrative Tribunal in exercise of its jurisdiction under



Section 19 of the Administrative Tribunals Act, 1985. While exercising jurisdiction under Articles 226 and 227 of the Constitution, this Court does not function as a Court of appeal over the decision of the Tribunal. Interference is warranted only when the order impugned suffers from patent illegality, perversity, jurisdictional error or violation of the principles of natural justice. Merely because another view is possible on the facts of the case would not justify interference in exercise of the supervisory jurisdiction of this Court.

11. The principal grievance urged by the petitioner is that the service rendered by him as Clinical Registrar ought to have been reckoned for the purpose of extending the benefits under the DACP Scheme after his appointment as Lecturer and that denial of such benefit has resulted in officers junior to him drawing higher Grade Pay. The petitioner also questions the validity of the Office Memorandum dated 06.06.2017 to the extent it prescribes



the qualifying period of service and grants the benefit of the Scheme with effect from 01.04.2015.

12. The Tribunal has examined these contentions. It has noticed that the petitioner initially entered service as a Clinical Registrar and thereafter secured appointment to the post of Lecturer pursuant to a separate recruitment process. Upon examining the Office Memoranda governing the DACP Scheme, the Tribunal has recorded a finding that the post of Clinical Registrar and the post of Lecturer belong to different cadres and involve different duties and responsibilities. Consequently, it has held that the service rendered in the former post cannot automatically be reckoned for grant of financial upgradation in the latter cadre. Such finding is based upon the material that was placed before the Tribunal and cannot be said to be unsupported by the record or perverse.

13. The Tribunal has further noticed that the modified DACP Scheme was implemented pursuant to the



recommendations of the Expert Committee and with the approval of the competent authorities. The effective date of implementation as well as the qualifying service prescribed under the Office Memorandum are matters of policy. Unless such policy is shown to be arbitrary, discriminatory or contrary to any statutory provision, the scope of judicial review remains limited. The petitioner has not been able to demonstrate that the Office Memorandum suffers from any constitutional or statutory infirmity warranting interference by this Court. The Tribunal was, therefore, justified in declining to invalidate the said policy decision.

14. Much emphasis was laid by the learned counsel for the petitioner on the fact that the petitioner entered the post of Lecturer by way of lateral entry without break in service. In the considered opinion of this Court, the said circumstance by itself does not advance the petitioner's case. Continuity of service is distinct from entitlement to



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count past service rendered in another cadre for promotional or financial benefits. Unless the governing Rules or the Scheme specifically provide for such reckoning, no such right can be claimed merely because there was no break in service. The petitioner has not demonstrated any provision governing the DACP Scheme which entitles him to count the service rendered as Clinical Registrar after his appointment as Lecturer. This finding does not suffer from any manifest error warranting interference.

15. The contention founded on the doctrine of "equal pay for equal work" also does not merit acceptance. The said doctrine is not attracted merely because an employee alleges that another employee is drawing a higher pay. The petitioner must establish that the persons sought to be compared are similarly situated in all material particulars, including the cadre, service conditions, nature of duties and responsibilities. In the present case, the



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Tribunal has recorded a finding that the petitioner seeks comparison between different cadres and has also noticed the distinction in the nature of duties. In the absence of any demonstrated perversity in such finding, this Court finds no justification to invoke the doctrine of equal pay for equal work.

16. The petitioner has also relied upon certain decisions rendered by the Central Administrative Tribunal, Mumbai and Delhi Benches, to contend that past service ought to have been counted for extending the benefit of the DACP Scheme. The Tribunal has considered those decisions and distinguished them by observing that they arose under different statutory provisions and service conditions where the applicable rules themselves permitted reckoning of earlier service. The Tribunal has assigned reasons for holding that those decisions do not govern the controversy involved in the present case. This



Court finds no infirmity in the approach adopted by the Tribunal.

17. Though the petitioner has produced the Recruitment Rules and Bye-laws before this Court, the writ petition itself discloses that these documents were not part of the record before the Tribunal. Be that as it may, even on a perusal of the said documents, this Court does not find any provision which unequivocally mandates counting of the service rendered by a Clinical Registrar towards financial upgradation after appointment to the distinct cadre of Lecturer under the DACP Scheme. Even on consideration of the said documents, therefore, this Court finds no basis to interfere with the conclusion reached by the Tribunal.

18. The contention that certain officers junior to the petitioner are drawing higher Grade Pay also does not by itself confer an enforceable right upon the petitioner. Financial upgradation under the DACP Scheme is governed



by the applicable executive instructions and eligibility criteria prescribed thereunder. If the difference in pay is the consequence of operation of the governing Scheme and not the result of hostile discrimination between identically situated employees, the plea founded on Articles 14 and 16 of the Constitution cannot be accepted. The Tribunal has found no material to establish that the petitioner and the employees relied upon by him constitute one homogeneous class for the purpose of grant of DACP benefits. This finding does not call for interference in exercise of supervisory jurisdiction.

19. On an overall consideration of the matter, this Court is satisfied that the Tribunal has considered the relevant pleadings and Office Memoranda, adverted to the decisions relied upon by the petitioner and assigned reasons for rejecting the claim for counting past service for the purpose of DACP benefits. The findings recorded by the Tribunal are based on the material available on record



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and cannot be characterised as arbitrary, irrational or perverse. No jurisdictional error, patent illegality or violation of the principles of natural justice is demonstrated so as to warrant interference under Articles 226 and 227 of the Constitution.

20. The endeavour of the petitioner before this Court is essentially to persuade this Court to take a different view on the same material. Such an exercise is beyond the permissible limits of judicial review under Articles 226 and 227 of the Constitution. In the absence of any perversity, jurisdictional error or patent illegality in the order of the Tribunal, this Court would not be justified in substituting its own opinion merely because another view may be possible.

Accordingly, the point for consideration is answered in the negative.



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ORDER

(i) The writ petition is ***dismissed***.

(ii) The order dated 01.02.2023 passed by the Central Administrative Tribunal, Bengaluru Bench, in O.A. No.170/00006/2021 is hereby affirmed.

(iii) In view of dismissal of the writ petition, all pending interlocutory applications, if any, stand disposed of.

(iv) No order as to costs.

**Sd/-
(S.G.PANDIT)
JUDGE**

**Sd/-
(DR.K.MANMADHA RAO)
JUDGE**

BNV,
List No.: 1 Sl No.: 17