

**IN THE HIGH COURT OF JAMMU & KASHMIR AND
LADAKH AT SRINAGAR**

Reserved on: 19.05.2025
Pronounced on:04.07.2025

WP (C) Nos. 708/2023, 249/2025, 209/2021,
376/2024, 612/2025, 608/2023, 665/2023,
283/2023, 362/2023, 129/2023, 3132/2023,
543/2025, CCP(S) 49/2024, WP(C)
Nos.731/2022, 706/2023, 321/2023,
126/2024, 527/2025, 269/2023, 621/2024,
CCP(S) 206/2024, WP(C) Nos.322/2023,
3290/2023, 169/2024, 2983/2024, CCP(S)
Nos.62/2024 & 88/2025.

**MUSHTAQ AHMAD SHAH
SADIA SHAH
SHABIR AHMAD AKHOON & ORS.
DR. ISHFAQ NAZIR WANI
MOHAMMAD ASHRAF
MOHAMMAD AMIN MEER
NAIYARA KHAN
NUSRAT AHAD PANDIT
DR. ASHAQ HUSSAIN SOFI & ANR.
MOHAMMAD YOUNUS THOKAR
DANISH YAQOOB & ORS.
MASARAT MAJEES & ORS.
DR. NOOR AFSHAN
AAQIB HUSSAIN & ORS.
DR. RUKHSANA RAHIM & ANR.
DR. SABA MANZOOR GANAI & ORS.**

...PETITIONER(S)

Through: - Mr. G.A. Lone, Advocate Mr. Mujeeb Andrabi,
Advocate. Mr. Sheikh Mushtaq, Advocate, Mr.
Owais Shafi, Advocate, Mr. Manzoor Ahmad
Ganai, Advocate, Mr. Arif Sikandar, Advocate
with Ms. Asifa Padder & Ms. Laraib Anjeelena,
Advocates & Mr. S.M. Saleem, Advocate.

Vs.

UNIVERSITY OF KASHMIR & ORS. ...RESPONDENT(S)

Through: - Mr. Syed Faisal Qadiri, Sr Advocate with Mr.
Khursheed Dar, Advocate. Mr. Asif Maqbool,
Advocate. Mr. Mansoor Bukhari, Advocate.
Ms. Mariya, Advocate.

CORAM: HON'BLE MR. JUSTICE SANJAY DHAR, JUDGE

JUDGMENT

1) The writ petitioners in all the afore-titled writ petitions have been engaged on academic arrangement basis by respondent University and their engagement has been extended from time to time either by virtue of interim orders passed by this Court or otherwise. One of the main legal issues that has arisen out of the afore-titled writ petitions is as to whether services of a candidate engaged on academic arrangement basis can be put to an end after the culmination of the session and be replaced by a similar arrangement. Therefore, all these writ petitions have been clubbed together for their analogous hearing/consideration.

2) Before going to the fact situation of the individual writ petitions, it would be apt to refer to the submissions made by learned counsels appearing for the writ petitioners and the learned Senior Counsel appearing for the respondent institutes on the issue of legality of replacing a candidate engaged on academic arrangement basis by a similar arrangement. Learned counsels appearing for the writ petitioners have contended that it has been the consistent view of the Supreme Court as also the view of various High

Court of the Country including this Court that a contractual or an *ad hoc* employee cannot be replaced by another set of contractual/*ad hoc* employee and that such an employee can be replaced only by a candidate who has been appointed on substantive basis by following the regular procedure prescribed under the rules. In this regard, the learned counsels for the writ petitioners have placed heavy reliance upon the judgment of the Supreme Court in the case of **Manish Gupta & another etc. etc. vs. President Jan Bhagidari Samiti & Ors.**, 2022 SCC OnLine SC 485, which has been followed by this Court in the case of **Murad Ali Sajjan & Ors. Vs. UT of J&K and others** (WP(C) No.2635/2022 decided on 06.12.2022).

3) The stand of the respondent Institutes is that the engagement of the writ petitioners was for a specific academic session which stands expired, therefore, they are debarred from approaching this Court for invoking extraordinary writ jurisdiction. According to the respondent institutes, service conditions of the writ petitioners were governed by the terms and conditions laid down in the advertisement notices, pursuant to which they were engaged and after their engagement, they had furnished undertakings with the respondent institutes wherein they

had declared that they would not be claiming regularization and that they would adhere to the terms and conditions of their engagement. It is the further stand of the respondent institutes that there is requirement of updated and talented candidates for performing the functions as contractual lecturers and in case fresh advertisement notices for subsequent academic sessions are not issued, not only the rights of new talented and qualified persons to participate in the selection process would be infringed but even the student community will be deprived of quality education. To support these contentions, learned Senior Counsel appearing for the respondents has placed reliance upon the judgments of this Court in the cases of **State of J&K & Ors. Vs. Afshan Majid & Ors.** 2008 (2) JKJ[HC] 550, **Rajani Kumari & Ors. Vs. State & Ors.** 2017 (1) JKJ[HC] 310, and judgement of Madhya Pradesh High Court in the case of **State of Madhya Pradesh & Ors. vs. Rajeev Singh and Ors.** (2024) IV LLJ 320MP.

4) It has been further argued that merely because the writ petitioners continue to perform their duties on the strength of interim orders passed by this Court from time to time, they cannot claim right to continue on permanent basis. In this regard reliance has been placed upon the

judgments of the Supreme Court in the cases of **State of U.P and others vs. Raj Karan Singh**, (1998) 8 SCC 529, and **State of Rajasthan and others vs. Daya Lal and others**, (2011) 2 SCC 429.

5) I have heard learned counsel for the parties and perused record of the case.

6) So far as the position of law as regards the replacement of contractual/*ad hoc* employees engaged on academic arrangement basis by similar set of employees, is concerned, the same is more or less settled. The Supreme Court has, in the case of **Rattan Lal and others vs. State of Haryana and others**, (1985) 4 SCC 43, while dealing with the cases where the State Government had resorted to practice of appointing teachers on *ad hoc* basis at the commencement of an academic year and terminating their services before the commencement of next summer vacation and to reappoint them on *ad hoc* basis at the commencement of next academic year, deprecated this policy of the State Government to appoint teachers on *ad hoc* basis and terminate their services and then appoint them on *ad hoc* basis. In this regard, it would be apt to refer to the relevant observations of the Supreme Court, which are reproduced as under:

“In all these petitions the common question which arises for decision is whether it is open to the State Government to appoint teachers on an ad hoc basis at the commencement of an academic year and terminate their services before the commencement of the next summer vacation, or earlier, to appoint them again on an ad hoc basis at the commencement of next academic year and to terminate their services before the commencement of the succeeding summer vacation or earlier and to continue to do so year after year. A substantial number of such ad hoc appointments are made in the existing vacancies which have remained unfilled for three to four years. It is the duty of the State Government to take steps to appoint teachers in those vacancies in accordance with the rules as early as possible. The State Government of Haryana has failed to discharge that duty in these cases. It has been appointing teachers for quite some time on an ad hoc basis for short periods as stated above without any justifiable reason. In some cases the appointments are made for a period of six months only and they are renewed after a break of a few days. The number of teachers in the State of Haryana who are thus appointed on such ad hoc basis is very large indeed. If the teachers had been appointed regularly, they would have been entitled to the benefits of summer vacation along with the salary and allowances payable in respect of that period and to all other privileges such as casual leave, medical leave, maternity leave etc. available to all the Government servants. These benefits are denied to these ad hoc teachers unreasonably on account of this pernicious system of appointment adopted by the State Government. These ad hoc teachers are unnecessarily subjected to an arbitrary “hiring and firing” policy. These teachers who constitute the bulk of the educated unemployed are compelled to accept these jobs on an ad hoc basis with miserable conditions of service. The Government appears to be exploiting this situation. This is not a sound personnel policy. It is bound to have serious repercussions on the educational institutions and the children studying there. The policy of “ad hocism” followed by the State Government for a long period has led to the breach of Article 14 and Article 16 of the Constitution. Such a situation cannot be permitted to last any longer. It is needless to say that the State Government is expected to function as a model employer.”

7) Replacement of *ad hoc* or temporary employees with another set of temporary or *ad hoc* employees was deprecated by the Supreme Court in the case of **State of Haryana and others vs. Piara Singh and others**, (1992) 4 SCC 118. In the said case, the Supreme Court made the following observations”

“21. Ordinarily speaking, the creation and abolition of a post is the prerogative of the Executive. It is the Executive again that lays down the conditions of service subject, of course, to a law made by the appropriate legislature. This power to prescribe the conditions of service can be exercised either by making rules under the proviso to Article 309 of the Constitution or (in the absence of such rules) by issuing rules/instructions in exercise of its executive power. The court comes into the picture only to ensure observance of fundamental rights, statutory provisions, rules and other instructions, if any, governing the conditions of service. The main concern of the court in such matters is to ensure the rule of law and to see that the Executive acts fairly and gives a fair deal to its employees consistent with the requirements of Articles 14 and 16. It also means that the State should not exploit its employees nor should it seek to take advantage of the helplessness and misery of either the unemployed persons or the employees, as the case may be. As is often said, the State must be a model employer.....”

8) In the case of **Hargurpratap Singh vs. State of Punjab & Ors.** (2007) 13 SCC 292, the Supreme Court has, while dealing with the cases where appointment of the employees was made on *ad hoc* basis in several colleges, observed as under:

“3. We have carefully looked into the judgment of the High Court and other pleadings that have

been put forth before this Court. It is clear that though the appellants may not be entitled to regular appointment as such it cannot be said that they will not be entitled to the minimum of the pay scale nor that they should not be continued till regular incumbents are appointed. The course adopted by the High Court is to displace one ad hoc arrangement by another ad hoc arrangement which is not at all appropriate for these persons who have gained experience which will be more beneficial and useful to the colleges concerned rather than to appoint persons afresh on ad hoc basis. Therefore, we set aside the orders made by the High Court to the extent the same deny the claim of the appellants of minimum pay scale and continuation in service till regular incumbents are appointed. We direct that they shall be continued in service till regular appointments are made on minimum of the pay scale. The appeals shall stand allowed in part accordingly”.

9) The Supreme Court in the case of **Mohd. Abdul Kadir and another vs. Director General of Police, Assam and others**, (2009) 6 SCC 611, which was a case wherein servicemen were being subjected to re-selection after the expiry of their contracts despite the fact that the scheme under which they were appointed was not discontinued, held as under:

“17. When the ad hoc appointment is under a scheme and is in accordance with the selection process prescribed by the scheme, there is no reason why those appointed under the scheme should not be continued as long as the scheme continues. Ad hoc appointments under schemes are normally coterminous with the scheme (subject of course to earlier termination either on medical or disciplinary grounds, or for unsatisfactory service or on attainment of normal age of retirement). Irrespective of the length of their ad hoc service or the scheme, they will not be entitled to

regularisation nor to the security of tenure and service benefits available to the regular employees. In this background, particularly in view of the continuing Scheme, the ex-serviceman employed after undergoing the selection process, need not be subjected to the agony, anxiety, humiliation and vicissitudes of annual termination and re-engagement, merely because their appointment is termed as ad hoc appointments.

18. We are therefore of the view that the learned Single Judge was justified in observing that the process of termination and reappointment every year should be avoided and the appellants should be continued as long as the Scheme continues, but purely on ad hoc and temporary basis, coterminous with the Scheme....”

10) Relying upon the upon the ratio laid down in **Rattan Lal’s** case (supra) followed in **Hargurpratap Singh’s** case (supra), the Supreme Court has, in **Manish Gupta and anr.** (supra), while dealing with a case where teachers were appointed as guest faculty for a particular academic year and after the end of the academic year their services were discontinued whereafter fresh advertisements were issued for next academic year, observed as under:

“13. A perusal of the advertisement dated 24-6-2016 issued by the Principal, Government Kamla Raja Girls Post Graduate Autonomous College, Gwalior, which is at Annexure P-2 of the appeal paperbook and the advertisement dated 2-7-2016 issued by the Principal, SMS Government Model Science College, Gwalior, M.P., which is at Annexure P-3 of the appeal paperbook, would show that the appointments were to be made after the candidates had gone through due selection procedure. Though Shri Nataraj, learned ASG has strenuously urged that the appointments of the appellants were

as guest lecturers and not as ad hoc employees, from the nature of the advertisements, it could clearly be seen that the appellants were appointed on ad hoc basis. It is a settled principle of law that an ad hoc employee cannot be replaced by another ad hoc employee and he can be replaced only by another candidate who is regularly appointed by following a regular procedure prescribed. Reliance in this respect can be placed on the judgment of this Court in Rattan Lal v. State of Haryana , (1985) 4 SCC 43 and on the order of this Court in Hargurpratap Singh v. State of Punjab v. State of Punjab, (2007) 13 SCC 292.”

11) This Court in the case of **Murad Ali Sajan & Ors.** (supra), after following the ratio laid down by the Supreme Court in **Munish Gupta’s** case (supra), came to the conclusion that the action of respondents in the said case in inviting applications from the candidates for filling up of posts of Staff Nurses on academic arrangement basis after disengaging the services of the petitioners therein who were already working on a similar arrangement with the respondents therein, was not in accordance with law. It was further observed by this Court that the respondents therein can replace the writ petitioners therein only by filling up the vacant posts of Staff Nurses on substantive basis.

12) Recently, a Division Bench of Delhi High Court in the case of **Delhi Skill and Entrepreneurship University vs. Neeru Kalher and Ors.** (LPA No.615/2023 decided on

31.08.2023), after considering various decisions of the Supreme Court on the issue, summed up the legal principles in the following manner:

*“23. The principles emerging from the afore-stated precedents are squarely applicable to the case at hand. The Appellant University, without effecting any change to their scheme of employing Master Trainers sought to replace the Respondents with similarly situated fresh contractual employees. It is pertinent to note that the Appellant University has not alleged any deficiency in services provided by the Respondents or any instance of misconduct. They have failed to provide any rationale justifying the replacement of the Respondents other than asserting their desire to attract fresh talent. The action of replacing contractual faculty members who possess experience is not only unfair to the Respondents but is also detrimental for the University and its students. Under these circumstances, this Court finds no reason to interfere with the finding of the Learned Single Judge that the action of the Appellant University is untenable by virtue of being contrary to the law laid down in **Piara Singh** (supra).”*

13) Learned Senior Counsel appearing for the respondents has contended that the basic principle relating to impermissibility of replacing a contractual employee by a similar arrangement has been laid down in **Piara Singh’s** case (supra) but the Supreme Court in its later Constitution Bench judgment in the case of **Secretary, State of Karnataka and others vs. Uma Devi and others**, (2006) 4 SCC 1, has impliedly overruled the ratio laid down in **Piara Singh’s** case, therefore, the very basis of the legal principle

that a contractual employee cannot be replaced by a similar arrangement stands knocked down by the ratio laid down by the Supreme Court in **Uma Devi's** case (supra).

14) The contention of the learned Senior Counsel appearing for the respondents appears to be misconceived for the reason that the direction in **Piara Singh's** case (supra) that *ad hoc* or temporary employees should not be replaced by another *ad hoc* or temporary employees and should only be replaced by regularly selected employees, though considered in **Uma Devi's** case (supra), was not disagreed with. In this regard, it would be apt to refer to the relevant paras of **Uma Devi's** judgment wherein Constitution Bench of the Supreme Court considered the ratio laid down in **Piara Singh's** case. The same are reproduced as under:

“23. We may now consider State of Haryana v. Piara Singh. There, the Court was considering the sustainability of certain directions issued by the High Court in the light of various orders passed by the State for the absorption of its ad hoc or temporary employees and daily-wagers or casual labour. This Court started by saying : (SCC p. 134, para 21)

“21. Ordinarily speaking, the creation and abolition of a post is the prerogative of the executive. It is the executive again that lays down the conditions of service subject, of course, to a law made by the appropriate legislature. This power to prescribe the conditions of service can be exercised either by making rules under the proviso to Article 309 of the Constitution or (in the absence of such

rules) by issuing rules/instructions in exercise of its executive power. The court comes into the picture only to ensure observance of fundamental rights, statutory provisions, rules and other instructions, if any, governing the conditions of service.”

24. This Court then referred to some of the earlier decisions of this Court while stating : (SCC p. 134, para 21)

“The main concern of the court in such matters is to ensure the rule of law and to see that the executive acts fairly and gives a fair deal to its employees consistent with the requirements of Articles 14 and 16. It also means that the State should not exploit its employees nor should it seek to take advantage of the helplessness and misery of either the unemployed persons or the employees, as the case may be. As is often said, the State must be a model employer. It is for this reason, it is held that equal pay must be given for equal work, which is indeed one of the directive principles of the Constitution. It is for this very reason it is held that a person should not be kept in a temporary or ad hoc status for long. Where a temporary or ad hoc appointment is continued for long the court presumes that there is need and warrant for a regular post and accordingly directs regularisation. While all the situations in which the court may act to ensure fairness cannot be detailed here, it is sufficient to indicate that the guiding principles are the ones stated above.”

25. This Court then concluded in paras 45 to 49 : (SCC p. 152)

“45. The normal rule, of course, is regular recruitment through the prescribed agency but exigencies of administration may sometimes call for an ad hoc or temporary appointment to be made. In such a situation, effort should always be to replace such an ad hoc/temporary employee by a regularly selected employee as early as possible. Such a temporary employee may also compete along with others for such regular selection/appointment. If he gets selected, well and good, but if he does not, he

must give way to the regularly selected candidate. The appointment of the regularly selected candidate cannot be withheld or kept in abeyance for the sake of such an ad hoc/temporary employee.

46. Secondly, an ad hoc or temporary employee should not be replaced by another ad hoc or temporary employee; he must be replaced only by a regularly selected employee. This is necessary to avoid arbitrary action on the part of the appointing authority.

47. Thirdly, even where an ad hoc or temporary employment is necessitated on account of the exigencies of administration, he should ordinarily be drawn from the employment exchange unless it cannot brook delay in which case the pressing cause must be stated on the file. If no candidate is available or is not sponsored by the employment exchange, some appropriate method consistent with the requirements of Article 16 should be followed. In other words, there must be a notice published in the appropriate manner calling for applications and all those who apply in response thereto should be considered fairly.

48. An unqualified person ought to be appointed only when qualified persons are not available through the above processes.

49. If for any reason, an ad hoc or temporary employee is continued for a fairly long spell, the authorities must consider his case for regularisation provided he is eligible and qualified according to the rules and his service record is satisfactory and his appointment does not run counter to the reservation policy of the State.”

26. *With respect, why should the State be allowed to depart from the normal rule and indulge in temporary employment in permanent posts? This Court, in our view, is bound to insist on the State making regular and proper recruitments and is bound not to encourage or shut its eyes to the persistent transgression of the rules of regular recruitment. The direction to make permanent—the distinction between regularisation and making permanent, was not emphasised here—can only encourage the State,*

the model employer, to flout its own rules and would confer undue benefits on a few at the cost of many waiting to compete. With respect, the direction made in para 50 (of SCC) of Piara Singh is to some extent inconsistent with the conclusion in para 45 (of SCC) therein. With great respect, it appears to us that the last of the directions clearly runs counter to the constitutional scheme of employment recognised in the earlier part of the decision. Really, it cannot be said that this decision has laid down the law that all ad hoc, temporary or casual employees engaged without following the regular recruitment procedure should be made permanent.”

15) From the above, it nowhere comes to the fore that the ratio laid down in **Piara Singh’s** case (supra) that an *ad hoc* or temporary employee should not be replaced by a similar arrangement has been dissented to in **Uma Devi’s** case. The argument of learned Senior Counsel in this regard is without any merit.

16) Thus, right from **Rattan Lal’s** case (supra) to **Manish Gupta’s** case (supra), it has been the consistent view of the Supreme Court that an *ad hoc* or temporary employee cannot be replaced by a similar arrangement and such an employee can be replaced only by a regularly selected employee.

17) So far as the contention of respondent institutes that by inviting fresh applications, fresh talent would be engaged for imparting quality education to the student’s community and in case the respondent institutes are stopped from

inviting fresh applications at the end of academic sessions, it would be detrimental to the larger interests of student community and also to the interests of new candidates, is concerned, the same also appears to be without any merit. This aspect of the matter has been dealt with by the Supreme Court in the case of **Hargurpratap Singh's** case (supra), wherein it has been held that continuing the *ad hoc* arrangement of already engaged persons who have gained experience would be more beneficial and useful to the colleges rather than to appoint candidates afresh on *ad hoc* basis.

18) Apart from the above, replacing teaching faculty after every academic session, breaks continuity which is ultimately detrimental to the academic career of the students. A teacher who is engaged to impart education to students has not only to be abreast with the knowledge of the relevant subject but he has to relate to the students and to strike a chord with them. This he/she can do only by interacting with the students for a sufficiently long period of time. If we keep on replacing teaching faculty at short intervals, it will have deleterious consequences on the quality of education that would be imparted to the students. The argument of learned Senior Counsel for the

respondents is, therefore, specious and deserves to be rejected outrightly.

19) So far as the judgment of this Court in **Afshan Majid & Ors** case (supra), relied upon by learned Senior Counsel appearing for the respondents, is concerned, this Court had no occasion to consider the ratio laid down by the Supreme Court in **Munish Gupta's** case (supra), obviously because the said judgment was delivered only in the year 2022. Similarly, in **Rajani Kumari & Ors** case (supra) also, the ratio laid down in **Munish Gupta's** case (supra) has not been considered.

20) So far as judgment of Madhya Pradesh High Court in **Rajeev Singh and Ors.** case (supra) is concerned, in the said case the post of Data Entry Operator had been created only for two years. It is in those circumstances that the Court held that the State had no interest of creating any permanent post of Data Entry Operator, as such, the contract of the writ petitioners therein could not have been extended beyond the prescribed period.

21) For what has been discussed hereinbefore, there is no doubt in holding that the faculty engaged on academic arrangement basis or contractual basis to impart education to the students cannot be replaced by a similar

arrangement after conclusion of the contract period or after conclusion of the academic session. They can be replaced only by regularly selected/appointed candidates. Merely because the candidates have executed undertakings wherein they have declared that they will not claim regularization and that they would adhere to the terms and conditions of the advertisement notice(s) does not give a licence to the respondent institutes to resort to hire and fire policy. Having regard to the consistent legal position on the subject, notwithstanding the undertakings executed by the writ petitioners, they cannot be replaced by a similar arrangement. They can be replaced only by filling up the posts on substantive basis in accordance with the relevant rules. It is also clear that the respondent institutes cannot be forced to continue the candidates engaged on academic arrangement/contractual basis in perpetuity in case there is no requirement for the respondent institutes to make such engagements/arrangements.

22) In the light of the aforesaid legal position on the subject, the fact situation in individual writ petitions is required to be analyzed.

23) WP(C) No.708/2023

23.1) Through the medium of this writ petition, the petitioner has challenged advertisement notice dated

31.01.2023 issued by the respondent University to the extent of inviting applications for filling up of two positions of contractual lecturers in the discipline of Foreign Language for the Session 2023. The petitioner claims to be working as a contractual lecturer with the respondent University in the said discipline having been engaged as such since the academic session 2018.

23.2) In view of the legal position discussed hereinbefore, the writ petition is disposed of with a direction to the respondents not to replace the petitioner with a similar arrangement till such time regular selection to the post, which the petitioner is holding, is made in accordance with the relevant Recruitment Rules. The respondents shall, however, be at liberty to dispense with the services of the petitioner on the ground of non-performance or on disciplinary grounds.

24) WP(C) No.249/2025

24.1) The petitioner, through the medium of present writ petition, has challenged advertisement notice dated 09.01.2025 issued by the respondent University to the extent of inviting applications for engagement of contractual Assistant Professors on academic arrangement basis for Session 2025 in the discipline of Electrical

Engineering. The petitioner claims to have been engaged on academic arrangement basis in the aforesaid discipline in the year 2023 and is stated to be working as such till date.

24.2) In view of the legal position discussed hereinbefore, the writ petition is disposed of with a direction to the respondents not to replace the petitioner with a similar arrangement till such time regular selection to the post, which the petitioner is holding, is made in accordance with the relevant Recruitment Rules. The respondents shall, however, be at liberty to dispense with the services of the petitioner on the ground of non-performance or on disciplinary grounds.

25) WP(C) No.209/2021
WP(C) No.376/2024

25.1) The writ petitioners claim to be working as Lecturers/Assistant Professors on contractual basis in various disciplines with the respondent University. The petitioners claim that they have been appointed on academic arrangement basis and are working as such since the year 2020.

25.2) Vide writ petition bearing WP(C) No.209/2021, the petitioners have sought a direction upon the respondents that they should not be replaced by a similar arrangement

whereas vide writ petition bearing WP(C) No.376/2024, they have challenged advertisement notification dated 15.01.2024, whereby applications have been invited by the respondent University for engagement of contractual Lecturers for academic Sessions 2024 in respect of the disciplines in which the petitioners are presently working.

25.3) In view of the legal position discussed hereinbefore, both these writ petitions are disposed of with a direction to the respondents not to replace the petitioners with a similar arrangement till such time regular selection to the posts, which the petitioners are holding, is made in accordance with the relevant Recruitment Rules. The respondents shall, however, be at liberty to dispense with the services of the petitioners on the ground of non-performance or on disciplinary grounds.

26) WP(C) No.612/2025

26.1) The petitioner claims to be working as contractual Assistant Professor in the discipline of Urdu with the respondent University in South Campus, Anantnag, for the last eight years. He has laid challenge to the advertisement notice dated 09.01.2025 issued by respondent University, whereby fresh applications have been invited for engagement of contractual Assistant Professors for the

academic Session 2025 in the discipline in which the petitioner is presently working.

26.2) In view of the legal position discussed hereinbefore, the writ petition is disposed of with a direction to the respondents not to replace the petitioner with a similar arrangement till such time regular selection to the post, which the petitioner is holding, is made in accordance with the relevant Recruitment Rules. The respondents shall, however, be at liberty to dispense with the services of the petitioner on the ground of non-performance or on disciplinary grounds.

27) WP(C) No.608/2023

27.1) The petitioner claims to be working as contractual Lecturer in Iqbal Institute of Culture and Philosophy, University of Kashmir since the year 2022. He has challenged advertisement notice dated 31.01.2023 issued by the respondent University, whereby applications have been invited for engagement of contractual Lecturers for the Sessions 2023 in the aforesaid discipline.

27.2) The petitioner has, besides laying challenge to the aforesaid advertisement notice on the ground that he cannot be replaced by a contractual/academic arrangement, also contended that the criteria prescribed in

the advertisement notice as regards the desirable qualification/specialization is irrational.

27.3) Since the writ petition involves determination of an additional issue, therefore, the same is directed to be delinked for its separate consideration. It is, however, provided that the interim order passed in the writ petition shall continue till next date of hearing.

27.4) The Registry shall renotify this writ petition on 25.08.2025.

28) WP(C) No.665/2023

28.1) The petitioner claims to be working as an Assistant Professor against the sanctioned post in the discipline of Civil Engineering in the respondent University on contractual/academic arrangement basis. She has laid challenge to advertisement notice dated 31.01.2023, whereby applications for engagement of contractual Lecturers for the academic Sessions 2023 in the discipline in which she is presently working.

28.2) In view of the legal position discussed hereinbefore, the writ petition is disposed of with a direction to the respondents not to replace the petitioner with a similar arrangement till such time regular selection to the post,

which the petitioner is holding, is made in accordance with the relevant Recruitment Rules. The respondents shall, however, be at liberty to dispense with the services of the petitioner on the ground of non-performance or on disciplinary grounds.

29) WP(C) No.283/2023

29.1) The petitioner claims to be working as a Contractual Lecturer in the Department of Law, University of Kashmir, since the year 2022. She has, besides seeking a direction upon the respondents not to replace her with a similar arrangement, sought regularization of her services.

29.2) The relief of regularization claimed by the petitioner, being a “service matter” as defined under Section 2(q) of the Administrative Tribunals Act, is cognizable by Central Administrative Tribunal. Therefore, the writ petition is transferred to the Central Administrative Tribunal, Srinagar, for its disposal in accordance with law. Till such time the matter is considered by the Tribunal, the interim order passed by this Court on 15.02.2023 shall remain in operation.

29.3) The Registry shall transmit the record of this petition to the Central Administrative Tribunal, Srinagar, where the parties shall appear on 04.08.2025.

30) WP(C) No.362/2023

30.1) Initially this writ petition was filed by four writ petitioners but later on, two of the writ petitioners withdrew the writ petition and presently it is confined to petitioners Dr. Ashaq Hussain and Dr. Baseerat Hamza only. They claim to be working as Lecturers in various disciplines with the respondent University since the year 2022. The petitioners have laid challenge to advertisement notice dated 31.01.2023 to the extent of their disciplines, whereby applications have been invited for engagement of contractual Lecturers for the academic Sessions 2023.

30.2) In view of the legal position discussed hereinbefore, the writ petition is disposed of with a direction to the respondents not to replace the petitioners with a similar arrangement till such time regular selection to the posts, which the petitioners are holding, is made in accordance with the relevant Recruitment Rules. The respondents shall, however, be at liberty to dispense with the services of the petitioners on the ground of non-performance or on disciplinary grounds.

31) WP(C) No.129/2023

31.1) The petitioners claim to be working as contractual Lecturers on academic arrangement basis with the

respondent University in various disciplines since the year 2022. They have sought a direction upon the respondents to allow them to continue as contractual Lecturers and not to replace them by another set of contractual engagees.

31.2) In view of the legal position discussed hereinbefore, the writ petition is disposed of with a direction to the respondents not to replace the petitioners with a similar arrangement till such time regular selection to the posts, which the petitioners are holding, is made in accordance with the relevant Recruitment Rules. The respondents shall, however, be at liberty to dispense with the services of the petitioners on the ground of non-performance or on disciplinary grounds.

**32) WP(C) Nos.3132/2023 & 543/2025
CCP(S) No.49/2024**

32.1) The petitioners claim to be working as Instructors on contractual basis in the discipline of Sculpture, Art History and Applied Art with the respondent University for the last several years against sanctioned posts.

32.2) Vide writ petition bearing WP(C) No.3132/2023, the petitioners have sought a direction upon the respondents not to initiate fresh selection process for the engagement of contractual Lecturers in the aforesaid disciplines whereas

vide writ petition bearing WP(C) No.543/2025, they have laid challenge to advertisement notice dated 05.02.2025 issued by the respondent University, whereby applications have been invited for engagement of contractual Assistant Instructors/Instructors on academic arrangement basis for Session 2025 in the disciplines in which the petitioners are working.

32.3) In view of the legal position discussed hereinbefore, both the writ petitions are disposed of with a direction to the respondents not to replace the petitioners with a similar arrangement till such time regular selection to the posts, which the petitioners are holding, is made in accordance with the relevant Recruitment Rules. The respondents shall, however, be at liberty to dispense with the services of the petitioner on the ground of non-performance or on disciplinary grounds.

32.4) Since the main writ petition(s) stand already disposed of, as such, the interim orders out of which contempt petition bearing CCP(S) No.49/2024 has arisen, have merged with the final order. The contempt proceedings, therefore, do not survive for any further consideration and the same are, accordingly, closed. The contempt petition shall stand disposed of.

33) WP(C) No.731/2022
WP(C) No.706/2023

33.1) The petitioner claims to be working as Lecturer on contractual basis in the discipline of Arabic in the respondent University since the year 2017.

33.2) Vide writ petition bearing WP(C) No.731/2022, the petitioner has sought a direction upon the respondents that she should not be disengaged till such time the post held by her is filled up in accordance with rules on substantive basis. Vide writ petition bearing WP(C) No.706/2023, the petitioner has laid challenge to advertisement notice dated 31.01.2023 issued by the respondent University, whereby applications have been invited for engagement of contractual Lecturers for academic Sessions 2023 in the discipline in which the petitioner is working.

33.3) In view of the legal position discussed hereinbefore, both these writ petitions are disposed of with a direction to the respondents not to replace the petitioner with a similar arrangement till such time regular selection to the post, which the petitioner is holding, is made in accordance with the relevant Recruitment Rules. The respondents shall, however, be at liberty to dispense with the services of the petitioner on the ground of non-performance or on disciplinary grounds.

34) WP(C) No.321/2023
WP(C) No.126/2024
WP(C) No.527/2025

34.1) WP(C) No.321/2023 has been filed by Aaqib Hussain, who claims to be working as a contractual Lecturer in the Department of Computer Science Engineering since the year 2022.

34.2) WP(C) No.126/2024 had been initially filed by above named Aaqib Hussain and eight more writ petitioners, out of whom two writ petitioners, namely, Ishfaq Ahmad Dar and Waseem Gulzar, have withdrawn the writ petition. The writ petition is being now prosecuted by petitioners, namely, Aaqib Hussain, Dr. Ashaq Hussain Sofi, Dr. Baseerat Hamza, Sania Qadri, Dr. Kaleem Ahmad Najar, Dr. Arjumand Rasool and Naiyara Khan. They claim to be working as contractual Lecturers against the sanctioned posts in the discipline of Mechanical Engineering, Physics, Mathematics, Chemistry and Civil Engineering.

34.3) WP(C) No.527/2025 has been filed by Aaqib Hussain, Dr. Ashaq Hussain Sofi, Dr. Baseerat Hamza, Sania Qadri, Dr. Kaleem Ahmad Najar, Dr. Arjumand Rasool and Naiyara Khan. By virtue of the said writ petition, they have challenged advertisement notice dated 09.01.2025 issued by the respondent University, whereby applications have

been invited for engagement of contractual Assistant Professors for academic Session 2025 in the disciplines in which the petitioners are stated to be worked.

34.4) In view of the legal position discussed hereinbefore, all these three writ petitions are disposed of with a direction to the respondents not to replace the petitioners with a similar arrangement till such time regular selection to the posts, which the petitioners are holding, is made in accordance with the relevant Recruitment Rules. The respondents shall, however, be at liberty to dispense with the services of the petitioners on the ground of non-performance or on disciplinary grounds.

**35) WP(C) No.269/2023,
WP(C) No.621/2024
CCP(S) No.206/2024**

35.1) WP(C) No.269/2023 has been filed by Dr. Rukhsana Rahim whereas WP(C) No.621/2024 has been filed by Dr. Rukhsana Rahim and Dr. Mohammad Amin Meer. Petitioner Dr. Rukhsana Rahim claims that she is serving on academic basis on the position of Urdu Lecturer in Iqbal Institute of Culture & Philosophy for the last three consecutive years whereas petitioner Dr. Mohammad Amin Meer has also claimed that he is working as a contractual Lecturer in the aforesaid discipline with the respondent

University since the year 2022. They have laid challenge to advertisement notices issued by the respondent University whereby applications have been invited for engagement of Lecturers on contractual basis for the academic Session 2023 and academic Sessions 2024, on the grounds that it is not open to the respondents to replace the petitioners with a similar arrangement and also on the ground that the desirable qualification/specialization prescribed by the respondent University in respect of the discipline of Iqbal Institute of Culture and Philosophy is not in accordance with the requirements of the job.

35.2) Since these writ petitions involve determination of an additional issue, therefore, the same are directed to be delinked for their separate consideration. It is, however, provided that the interim orders passed in the writ petitions shall continue till next date of hearing.

35.3) List along with **WP(C) No.608/2023** on 25.08.2025.

**36) WP(C) Nos.322/2023
WP(C) No.3290/2023
WP(C) No.169/2024
WP(C) No.2983/2024
CCP(S) Nos.62/2024 & 88/2025**

36.1) The petitioners in these writ petitions claim to be working as contractual Lecturers on academic arrangement basis in the Department of Law/School of

Law, University of Kashmir, for the last more than five years.

36.2) Vide WP(C) No.322/2023, the petitioners have challenged advertisement notice dated 31.01.2023, whereby the respondent University has invited applications for engagement of contractual Lecturers on academic arrangement basis for the Session 2023 for 12 positions in School of Law. Vide WP(C) No.3290/2023, the petitioners have challenged communication dated 8th December, 2023, whereby, in response to their joint representation, the respondent University has informed them that the engagement of contractual Lecturers working on Court directions would be governed by the terms and conditions as envisaged in their previous engagement orders. Vide WP(C) No.169/2024, the petitioners have laid challenge to advertisement notice dated 05.01.2024 whereby the respondent University has invited applications for engagement of contractual lecturers on academic arrangement basis for the Session 2024 in respect of various subjects in the School of Law. Vide WP(C) No.2983/2024, the petitioners have challenged order dated 27th May, 2024, issued by the respondent University, wherein it has been provided that order dated 29.03.2024

issued in favour of nine contractual Lecturers in Department of Law shall be valid upto to the end of academic Session, 2024 or till the interim orders passed in the matter are vacated/modified by the High Court, whichever is earlier.

36.3) So far as the legal position as regards the permissibility of replacing the teaching faculty of an educational institution engaged on contractual basis or academic arrangement basis by a similar arrangement is concerned, the same, as already discussed hereinbefore, is beyond any cavil, inasmuch it is not permissible for an institute to resort to hire and fire policy and to replace contractual/temporary arrangement by a similar arrangement. The replacement can only be resorted through regularly appointed staff/teaching faculty. However, in the present case, the affidavits filed by the respondent University raise additional issues which are required to be dealt with separately.

36.4) It has been contended by the respondent University that they have invited applications for vacant posts of Assistant Professors and have almost culminated the process of filling up these vacant posts on substantive basis, therefore, the respondent University cannot be forced

to continue with the engagement of the petitioners whose terms of engagement are strictly governed by the terms and conditions laid down in the advertisement notice(s) pursuant to which they had submitted their applications. In the affidavit filed by the respondent University, it has been submitted that the last regular appointments were made in the year 2017 and the process of regular appointments did not take place until issuance of notification dated 19.12.2023, in terms whereof the vacant positions in various subjects including the subjects of the petitioners were put to advertisement. It has been submitted that in view of the appointment of Assistant Professor in various faculties on permanent basis, there is no need for contractual engagements on academic arrangement basis in the faculties of Law, Urdu, Arabic, Zoology and Institute of Culture & Philosophy. It has been submitted that the sanctioned strength of Assistant Professors is 354 and at present, 288 posts of Assistant Professors have been filled up whereas the process for filling up of 66 posts has been initiated. It has been further contended that even the petitioners herein have participated in the selection process initiated for filling up the posts on substantive basis.

36.5) Regarding the faculty of Law, the respondent University has taken a stand that it is drawing faculty from other departments for teaching law and non-law subjects which has been the practice adopted by the University so as to encourage inter-departmental faculty exchange for teaching inter-disciplinary subjects. It has been further submitted that the School of Law has an understanding with the School of Legal Studies, Central University of Kashmir and, therefore, a consistent practice of faculty exchange is being followed.

36.6) According to the respondent University, Dr. Hilal Ahmad Najar and Dr. Mudasar are serving as Senior Assistant Professor and Assistant Professor in the School of Legal Studies, Central University, Kashmir, and their services are being engaged in consonance with the understanding with the Central University of Kashmir. Similarly, services of Professor Mushtaq Ahmad Dar, who is teaching in the Department of Distance Education, University of Kashmir, are also being utilized. Besides this, the respondent University has submitted that in the past, the Department of Law had intake of more than 120 students for each programme of BA. LL.B and LL.B since 2017 batch onwards and now the student intake has been

reduced to about 65 students for each programme. It has been submitted that it is not necessary for introduction of every new course that a faculty ought to be sanctioned for it prior to the introduction. It has been further submitted that there are a number of courses being run within each department of the University where the faculty is drawn not only from the parent department but from other allied disciplines also to engage classes.

36.7) On the basis of the affidavits filed by the respondent University, it is being contended that it is not necessary for the respondent University to continue with the contractual engagement of the petitioners once the vacant posts in the Department have been filled up on substantive basis and the shortfall, if any, is taken care by visiting/guest lecturers from other departments/universities.

36.8) If we have a look at advertisement notice dated 19th December, 2023 so far as it relates to the Law Department, it is revealed that 03 posts of Assistant Professors have been advertised. The process of selection is stated to be at the final stage. If we have a look at the advertisement notice issued by the respondent University for the Department of Law for the academic Sessions 2023,

12 positions of contractual Lecturers were advertised, meaning thereby that in the year 2023, there was a requirement of 12 Lecturers in the Department of Law. It is the case of the respondent University that since the year 2017 uptill the year 2023, no advertisement notices were issued for filling up the posts of Assistant Professors on substantive basis, meaning thereby that the requirement of faculty at the time of issuance of advertisement notice in the year 2023 for filling up the posts on contractual basis was similar to the one as at the time of initiation of process of selection on substantive basis in December, 2023. In other words, there was requirement of 12 faculty members in the Law Department but the selection process on substantive basis is going on only in respect of three posts leaving a shortfall of nine teachers/lecturers. The respondent University, it seems, is trying to makeup this shortfall in the faculty by getting guest/visiting lecturers from other departments and other universities. The question arises as to whether such a methodology that is being adopted by the respondent University is, in any manner, going to benefit the student community and whether the same is permissible in law.

36.9) In order to find answer to the aforesaid question, it has to be noted that the Bar Council of India has issued Rules of Legal Education, 2008, for prescribing standards of legal education and recognition of degrees in law for the purposes of enrolment as advocates. It lays down guidelines with regard to academic infrastructure of institutes imparting education in law. The rules which are relevant to the context are reproduced hereinbelow:

15. Minimum Library requirement: *To start with, a Law Library shall have a set of AIR manual, Central Acts and Local Acts, Criminal law journal, SCC, Company cases, Indian Bar Review, selected Judgements on Professional Ethics and Journals with the back volumes for at least ten years and also such number of text books in each subjects taught during the period according to the minimum standard ratio of ten books for each registered students. For running integrated program, text books of such other subjects are also to be kept in the similar minimum ratio. The minimum investment in Library in each academic year must shall be Rupees Fifty thousand for one stream and Rupees One Lakh for both the streams.*

16 Whole time Principal/ Head/Dean: *There shall be a Principal for each constituent or affiliated Centre of Legal Education of a University and a Dean for the University Department, who shall have minimum prescribed qualification in law as prescribed by the UGC for respective position like Principal of a Centre of Legal Education or a Professor of Law to hold Deanship, as the case may be.*

17. Core Faculty: *There shall be sufficient number of full time faculty members in each Centre of Legal Education (i.e., Department, constituent or affiliated college) to teach each subject at all point of time for running courses who can be supported by part time or visiting faculty. Such a core faculty shall in no case be less than six in the first year of the approval with both streams in operation, eight in the second year and ten in the case of third year of law courses. In addition, for the integrated course there shall be adequate faculty in the subjects offered in the liberal educational subjects as*

part of the course by the institution. These faculties in the liberal educational discipline in Arts, Science, Management, Commerce, Engineering, Technology or any other discipline shall possess qualification as is required under the UGC guideline or under such other standard setting body as the discipline is allotted to by any Act, statute, or Rules of the Government of India or of a State.

For the Three Year Bachelor of Law degree course only with two sections without the Honour program, there shall be minimum of 4 core faculty in the first year six in the second and eight in the third year in addition to the Principal/Head or Dean as the case may be.

Provided that an institution intending to run any specialized or honours course must have at least three faculty in the group in which specialization and honours courses are offered.

Provided further that each full time faculty shall take as many classes in the subject or subjects as may be assigned to them on the basis of standard prescribed by 'the standard setting institution' like UGC.

Provided further, if any institution of a University, which was already affiliated to the University and approved to run professional courses of either scheme or both by the Bar Council of India after inspection of the University, falls short of required full time faculty, the new admission in courses may be required to remain suspended until new required number of faculty is procured. The University shall before starting a new academic session, notify which institutions are only be allowed to admit fresh students.

Provided further that if while inspecting the University it was found that in any institution of the University adequate number of full time faculty was not there in the staff, the Bar Council after giving notice to the University might give a public notice directing the University not to admit students in the new academic year in that institution.

36.10) From the perusal of aforesaid Rules, it is clear that an institute imparting education in law has to have a minimum library as prescribed in Rule 15. It has to be headed by a whole time Principal/Head/Dean having a minimum prescribed qualification in law as laid down by

the UGC. As per Rule 17, there has to be full-time faculty members in each Centre of Legal Education to teach each subject at all point of time for running courses who can be supported by part time or visiting faculty. Such a core faculty, in no case, can be less than six in the first year of the approval with both streams in operation, eight in the second year and ten in case of third year of law courses. In addition to this, in the case of integrated course, there has to be an adequate faculty in the subjects offered as part of the course by the institution. It is also provided that for three-year Bachelors Law degree course only with two sections, there has to be a minimum of four core faculty in the first year, six in the second and eight in the third year in addition to the Principal/Head or Dean.

36.11) In the instant case, if we have a look at the documents produced by the respondent University, there is a sanctioned strength of 14 Assistant Professors, 03 Associated Professors and 01 Professor in the Department of Law, out of which only 13 Assistant Professors are presently in place leaving a vacancy of 05 posts. The respondent University is running three years LLB course as well as five years integrated BA. LLB course. Besides this, the respondent University is also running the course of LLM

and PhD courses. The intake capacity for BA. LLB five-year course is 120 seats, the intake capacity in LLB three years course is 120 seats, intake capacity in LLB Supplementary shift is 66 seats and the intake capacity in LLM course is 24 seats.

36.12) In the face of the standards prescribed by Bar Council of India, as per the Rules of Legal Education, 2008, it is well nigh impossible for the respondent University to cater to the needs of student community with a teaching faculty of 13 people. It appears that it is for this reason that the respondent University has been engaging the faculty on contractual basis from time to time. It also appears that the respondent University has not till date created sufficient number of permanent posts so as to provide a permanent faculty to the student community which has compelled them to resort to contractual engagements on academic arrangement basis.

36.13) Learned Senior Counsel appearing for the respondent University has submitted that there is a difference between 'position' and a 'post'. On this basis, it has been contended that while a contractual employee can be allowed to continue till a post is filled up on substantive basis but a contractual appointee cannot be allowed to

continue if there is no substantive post in existence. It is being contended that because there are no vacant posts available in the Law Department, as such, the contractual engagement of the petitioners cannot be continued.

36.14) There can be no quarrel with the proposition of law that in service jurisprudence the terms “post” and “position” carry distinct legal and functional meaning. A “post” refers to a sanctioned cadre created by the competent authority and it has a designated pay scale, rank and duties. A “post” exists independent of the person who holds it. However, a “position” does not necessarily have a legal or sanctioned existence. A person may hold a position without holding a substantive post. Nonetheless, a position created for a specific purpose or period is based on the requirement of an employer. The fact that respondent University had advertised 12 positions of contractual Lecturers in the year 2023 means that there was requirement of 12 faculty members out of which, at best, the respondent University may have filled up three posts but still then, there is shortfall in the faculty of the respondent University so far as the Department of Law is concerned.

36.15) Having regard to the number of law courses which the respondent University is running and keeping in

view the intake capacity in such courses, it is imperative for the University to create a core faculty in accordance with the Rules of Legal Education, 2008. It is not a happy situation that the respondent University is running the show with *ad hocism* by engaging Lecturers on academic arrangement basis. It seems that they want to perpetuate this situation by getting visiting/guest lecturers from other Universities and other departments so as to avoid continuing the services of the petitioners. The respondent University, as already stated, cannot deny the fact that there is requirement of faculty in the Department of Law having regard to the number of courses which they are running and having regard to the huge intake capacity of students in these courses.

36.16) The action of the respondents in disengaging the services of the petitioners and replacing them by *ad hoc* arrangements like visiting lecturers and guest lecturers is nothing but a *malafide* exercise of power. By doing so, the respondent University intends to do away with the service contracts of the petitioners but in the process, they are also doing a great disservice to the students' community who are being left to the mercy of guest/visiting lecturers without there being any continuity. Instead of creating a core

faculty, as envisaged under Rule 17 of the Rules of Legal Education, 2008, the respondent University, it seems, is resorting to hire and fire policy which is detrimental to the interests of not only the petitioners but also to the larger interests of the student community.

36.17) In view of the aforesaid reasons, continuation of the contractual engagement of the petitioners who have by now gained sufficient experience, till such time a core faculty is created and put in place, would be in the interests of the student community. The same would also be in tune with the legal position that one *ad hoc*/temporary arrangement cannot be replaced by another arrangement of similar nature. This Court is of the view that dispensing with the engagement of the petitioners and replacing them with visiting/guest lecturers would amount to perpetuating *ad hocism* and indirectly doing an act which is impermissible in law.

36.18) Accordingly, the writ petitions are allowed and the respondents are directed to allow the petitioners to continue as contractual Lecturers in the Department of Law till such time the respondents create and put in place a core faculty for imparting education to the students in the Department of Law. However, the respondent University is

at liberty to dispense with the engagement of the petitioners on the grounds of non-performance or on disciplinary grounds.

36.19) Since the main writ petition(s) stand already disposed of, as such, the interim orders out of which the contempt petitions bearing CCP(S) Nos.62/2024 CCP(S) No.88/2025 have arisen, have merged with the final order. The contempt proceedings, therefore, do not survive for any further consideration and the same are, accordingly, closed. The contempt petitions shall stand disposed of.

24) Copies of this judgment be placed on each file.

(Sanjay Dhar)
Judge

Srinagar,
04.07.2025
“Bhat Altaf”

Whether the **order** is reportable: **YES/NO**