



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Reserved on: 11th May, 2026
Pronounced on: 01st July, 2026
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+ **W.P.(C) 8817/2018, CM APPL. 33903/2018, CM APPL. 28352-28353/2024, CM APPL. 1302/2025, CM APPL. 15737/2025 & CM APPL. 17015-17016/2026**

DR SMITA ARORA

.....Petitioners

Through: Mr. Sriram Parakkat, Mr. Anandhu S. Nair, Ms. Maneesha Sunilkumar, Mr. Arya Suresh, Advocates.

versus

GOVERNMENT OF NCT OF DELHI & ANR.

.....Respondents

Through: Mrs. Avnish Ahlawat, SC for GNCTD Services with Mrs. Tania Ahlawat, Mr. N.K Singh, Ms. Aliza Alam and Mr. Mohnish Sehrawat, Advocates.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

JUDGMENT

SANJEEV NARULA, J.:

1. The Petitioner, Dr. Smita Arora, teaches in the department of Kriya Sharir at Chaudhary Brahm Prakash Ayurved Charak Sansthan “*CBPACS*”, an autonomous institution under the Government of NCT of Delhi. She was offered appointment on 22nd September, 2010 and joined on 28th October, 2010. Though the offer described the engagement as contractual, she has continued in the same institution and discipline, first through successive extensions and thereafter under interim protection in these proceedings.



The Controversy

2. The writ petition challenges the office order dated 11th August, 2018, whereby the Petitioner was informed that her contractual services as Assistant Professor, Kriya Sharir, would stand “*discontinued after 15 days of issuance*” of that order. She also seeks consequential directions for continuance in service and regularisation. The Respondents maintain that her appointment was never against a sanctioned post, that the only post of Lecturer, Kriya Sharir advertised in 2009 had been filled by the appointment of one Dr. Rakesh Roushan, and that the Petitioner’s later engagement was a contractual arrangement which conferred no right to regular appointment.

3. The controversy is narrow but consequential: whether the Respondents may treat the Petitioner as a mere contractual appointee against an unsanctioned post, despite her entry through a public recruitment process, her deployment in a core teaching discipline, and CBPACS’ own reliance on her presence for regulatory and academic purposes.

Factual Background

4. On 9th September, 2009, CBPACS issued an advertisement inviting applications for several posts, including fourteen posts of Lecturer in different departments. One post of Lecturer in Kriya Sharir was among the advertised vacancies. The advertisement prescribed the pay scale of INR 15,600-39,100 with Grade Pay of INR 5,400, NPA and other admissible allowances. The advertisement further stipulated that, in the event suitable candidates were not available, appointment of retired Government servants “*on contract basis will be considered*”.

5. The Petitioner applied for the post of Lecturer, Kriya Sharir. A screening test was conducted on 16th April, 2010. According to the



Respondents, twenty-two candidates were shortlisted. The Petitioner secured 75 marks and was placed at serial no. 6 in the result. The candidate placed at serial no. 1 secured 87 marks, while the candidates placed at serial nos. 2 and 3 secured 81 and 77 marks respectively. The candidates placed at serial nos. 4 and 5 also secured 75 marks each. The Petitioner was thereafter called for interview.

6. Interviews were conducted on 7th May, 2010. According to the Respondents, the Selection Committee selected Dr. Roushan for the post of Lecturer, Kriya Sharir. An offer of appointment was issued to him on 6th June, 2010 and he joined service on 9th July, 2010.

7. On 22nd September, 2010, the Petitioner was offered appointment as Lecturer, Kriya Sharir. The letter stated that the offer was made “*on the basis of the recommendation of the Selection Committee*”. It described the engagement as contractual, initially for eleven months, on consolidated remuneration comprising INR 15,600, Grade Pay of INR 5,400, NPA at 25%, HRA and DA in accordance with Government of NCT of Delhi orders. It also permitted termination by one month’s notice or salary in lieu thereof and stated that the engagement would not confer any right to regular appointment. The Petitioner accepted the offer and commenced her duties in Kriya Sharir on 28th October, 2010.

8. The contemporaneous record includes a communication dated 6th October, 2010 addressed by the Project Director of CBPACS to the President of the Central Council of Indian Medicine [“*CCIM*”] in the context of CBPACS’ request for permission to commence an Ayurvedic medical college. Referring to deficiencies pointed out by the regulatory authority, including shortage of teaching faculty, the communication recorded, under



the Department of Kriya Sharir, “*Lecturer: Dr. Smita Arora - Acceptance received*”. The communication further stated that CBPACS was in the process of establishing a “*State of the Art*” institution and that no compromise could be made with the quality of teaching faculty.

9. The Petitioner relies upon material relating to the 4th Meeting of the Governing Council held on 8th April, 2011. As per the record, the names of Dr. Roushan and the Petitioner were both reflected in relation to the Department of Kriya Sharir. The Petitioner’s position was shown against a post described as one which had “*not yet been sanctioned*”, while the salary arrangement was stated to be linked to the sanctioned post of Reader/Lecturer, Kriya Sharir. The record further indicates that a proposal for sanction of the post had been submitted.

10. On 27th August, 2012, the Petitioner’s engagement was extended for a period of three years from her initial date of joining, i.e., from 28th October, 2010 to 27th October, 2013, or till a regular incumbent joined. The extension was stated to have been granted pursuant to a decision taken by the Governing Council in its meeting held on 8th June, 2012.

11. The Petitioner’s engagement continued thereafter by order dated 22nd October, 2014, up to 31st December, 2014. Around the same time, the Petitioner instituted W.P.(C) 8000/2014 seeking, *inter alia*, reliefs concerning the nature of her appointment and continuance in service.

12. In W.P.(C) 8000/2014, this Court granted interim protection to the Petitioner on 19th November, 2014. Subsequently, on 22nd November, 2014, an order came to be issued terminating her services. The Petitioner thereafter initiated contempt proceedings, being CONT.CAS(C) 871/2014. In those proceedings, this Court stayed the operation of the termination order.



13. Thereafter, during the pendency of W.P.(C) 8000/2014, the Respondents placed before this Court an order dated 16th February, 2015, issued by the Services Department, Government of NCT of Delhi, stating that the services of contractual employees engaged in various departments and organisations under the Government would not be terminated until further instructions. Counsel appearing for the Respondents specifically stated that the said policy would also apply to CBPACS and that the Petitioner's services would not be terminated till further instructions. Recording the said statement, this Court disposed of W.P.(C) 8000/2014 on 13th October, 2015. While doing so, the Court directed that, in the event the Respondents decided to terminate the Petitioner's services, she would be given at least two weeks' advance notice before such termination was effected.

14. On 11th June, 2016, CBPACS issued Advertisement No. 01/2016 for various faculty posts, including one Unreserved post of Associate Professor/Reader, Kriya Sharir, and one OBC (Delhi) post of Assistant Professor/Lecturer, Kriya Sharir. The Petitioner applied only for the post of Associate Professor/Reader. The Respondents state that she was given age relaxation and weightage for contractual service; the Petitioner disputes the need for age relaxation. It is, however, undisputed that she was not selected.

15. The Petitioner, however, continued in her existing contractual engagement notwithstanding her non-selection in the 2016 recruitment process. On 23rd March, 2018, an office order was issued extending her engagement from 1st April, 2018 to 31st October, 2018. Around the same period, in response to an application under the Right to Information Act, 2005, information dated 27th April, 2018 was furnished regarding the faculty



position in the Department of Kriya Sharir. The information recorded five faculty members working in the department and referred to Assistant Professors with dates of joining as 9th July, 2010, 28th October, 2010 and 26th October, 2016. It also referred to sanctioned posts in Kriya Sharir at various levels, including Professor, Associate Professor and Assistant Professor posts for undergraduate and postgraduate courses. Thereafter, the Petitioner submitted a representation dated 2nd May, 2018 seeking consideration against a vacant post of Associate Professor.

16. On 11th August, 2018, the impugned office order was issued. By the said order, the Petitioner was informed that her contractual services as Assistant Professor, Kriya Sharir, would stand discontinued upon expiry of fifteen days. The order referred to the order dated 13th October, 2015 passed in W.P.(C) 8000/2014, and stated that it was being issued in compliance therewith, since the said order contemplated issuance of a notice.

17. Aggrieved thereby, the Petitioner instituted the present writ petition. On 23rd August, 2018, this Court stayed the operation of the impugned order till the disposal of the writ petition.

18. During the pendency of the writ petition, the Petitioner filed CM APPL. 57815/2024 seeking continuation of service. On 1st October, 2024, counsel appearing for the Respondents, on instructions, stated that the Petitioner's contract would be renewed and that a formal office order would be issued within one week. Recording the said statement, the Court disposed of the application and observed that the Petitioner would continue to receive all benefits admissible to her as a contractual employee.

19. Pursuant to the statement recorded on 1st October, 2024, an order of the same date was issued extending the Petitioner's engagement from 1st



August, 2024 to 30th June, 2025. The order described the nature of appointment/post as “*Contractual/Un-sanctioned*”.

Petitioner’s Contentions

20. Mr. Sriram Parakkat, counsel for the Petitioner, in support of the petition, makes the following submissions:

20.1. The Petitioner entered service through a public recruitment process initiated by Advertisement No. 16/2009 dated 9th September, 2009. She applied for the post of Lecturer, Kriya Sharir, appeared in the screening test, qualified therefor, and was called for interview. The offer of appointment dated 22nd September, 2010 expressly records that it was issued “*on the recommendation of the Selection Committee*”. The Petitioner cannot, therefore, be characterised as a “*back-door*” entrant or as an appointee engaged *dehors* a competitive selection process.

20.2. The description of the appointment as contractual in the offer cannot be viewed in isolation from the surrounding circumstances. The advertisement itself did not describe the post of Lecturer, Kriya Sharir as contractual. The institution, thereafter, projected the Petitioner before the CCIM as Lecturer, Kriya Sharir. Reliance is placed upon the communication dated 6th October, 2010 addressed to the CCIM, wherein the Petitioner was reflected as Lecturer, Kriya Sharir with “*acceptance received*”.

20.3. The contemporaneous record demonstrates that the Petitioner’s engagement was throughout within the knowledge and approval of the competent authority of CBPACS. Reliance is placed upon the proceedings of the Governing Council and the successive extension orders issued from time to time. The Governing Council itself approved her continuation and recognised the salary arrangement linked to the sanctioned post of



Lecturer/Reader in Kriya Sharir. If the institution failed to obtain sanction for an additional post or to regularise its cadre structure, the consequences thereof cannot be visited upon the Petitioner after she had rendered long and uninterrupted service.

20.4. The Petitioner's appointment was not merely the result of an administrative arrangement but was treated by CBPACS itself as necessary for compliance with the regulatory requirements governing commencement and continuance of the Ayurvedic college. The Petitioner formed part of the faculty strength relied upon by CBPACS for obtaining and maintaining regulatory approvals.

20.5. Parity is claimed with the faculty members who obtained relief in *Amrish Chanana & Ors. v. GNCTD & Anr.*¹ and *Arun Kumar v. GNCTD & Anr.*². Several faculty members who entered service through the same recruitment process and under comparable circumstances were ultimately treated as regular appointees. No intelligible basis exists for extending the benefit of those decisions to other appointees emerging from the same institutional recruitment process while continuing to treat the Petitioner alone as a contractual employee.

20.6. The Respondents have themselves adopted inconsistent positions regarding the status of the post occupied by the Petitioner. While at one stage it was represented that her salary was being drawn against a sanctioned post and that her services were required for the functioning of the institution, the Respondents now contend that she was never appointed against a sanctioned post. Such shifting stands cannot defeat the Petitioner's claim

¹ W.P.(C) 1045/2013.

² W.P.(C) 1965/2013.



after more than a decade of continuous service.

20.7. Insofar as the events of 2016 are concerned, the Petitioner participated in the recruitment process for the post of Associate Professor/Reader, Kriya Sharir. Although she was not selected, certain irregularities have subsequently come to light in relation to that recruitment process. Reliance is placed upon the enquiry record referred to in the written submissions to contend that the process itself was subjected to adverse scrutiny. The fact that the Petitioner was unsuccessful in that recruitment exercise cannot extinguish her pre-existing claim arising out of the 2009 recruitment process and her subsequent continuation in service.

20.8. The impugned office order dated 11th August, 2018 is arbitrary and unsustainable in law. The order was issued when the Petitioner's engagement already stood extended up to 31st October, 2018. It assigns no reason for the proposed discontinuance and merely purports to operate as a notice. Compliance with a notice requirement cannot substitute a lawful decision based upon relevant considerations, particularly where the action has the effect of terminating a long-standing engagement.

20.9. Reliance is placed on *Dharam Singh & Ors. v. State of U.P. & Anr.*³ and *Pawan Sharma & Ors. v. GNCTD & Ors.*⁴, among other decisions, to advance three connected propositions. First, *Secretary, State of Karnataka & Ors. v. Umadevi (3) & Ors.*⁵ cannot be read as permitting public authorities to perpetuate contractual or temporary arrangements indefinitely while continuing to utilise employees against perennial institutional requirements. Secondly, where an employee has entered service through a

³ 2025 SCC OnLine SC 1735.

⁴ 2025 SCC OnLine Del 8313.



recognised selection process and has continued for a prolonged period because of the employer's own administrative arrangements, the Court may mould appropriate relief in the facts of the case. Thirdly, where the employer's failure to organise its cadre strength in accordance with law has prejudiced such an employee, relief may include, where warranted, creation of a supernumerary post or any other non-displacing measure consistent with the constitutional discipline of public employment.

Respondents' Contentions

21. Mrs. Avnish Ahlawat, SC for GNCTD (Services), appearing on behalf of the Respondents, opposes the present petition and contends as follows:

21.1. The advertisement dated 9th September, 2009 notified only one post of Lecturer, Kriya Sharir. The Petitioner participated in that recruitment process, but the Selection Committee selected Dr. Roushan. He was offered appointment on 6th June, 2010 and he joined on 9th July, 2010. Upon his joining, the only advertised and sanctioned vacancy of Lecturer stood filled. The Petitioner, who was not selected against that vacancy, could not claim any right flowing from the 2009 advertisement thereafter.

21.2. The screening-test result establishes that the Petitioner had no enforceable claim against the advertised vacancy. She secured 75 marks and was placed at serial no. 6. The candidate at serial no. 1 secured 87 marks, while the candidates placed above the Petitioner either obtained higher marks or stood ahead of her in the selection sequence. On this basis, at the highest, the Petitioner fell within the zone of consideration or in a waiting list. Once Dr. Roushan joined the post on 9th July, 2010, that waiting list, if any, stood exhausted and ceased to have any operative value.

⁵ (2006) 4 SCC 1.



21.3. The offer dated 22nd September, 2010 cannot be treated as an appointment against the vacancy advertised in 2009. By that date, the notified vacancy had already been filled. The offer was issued later and was expressly contractual in character: it was for an initial period of eleven months, permitted either party to terminate the engagement by one month's notice or pay in lieu thereof, and clearly stated that the engagement would not confer any right to regular appointment. The Petitioner accepted the offer and continued in service on those terms.

21.4. The Petitioner's appointment cannot even be treated as an irregular appointment capable of being protected under the principles recognised in service jurisprudence. No fresh advertisement was issued for appointment to a contractual post of Lecturer, Kriya Sharir after Dr. Roushan joined service. No separate recruitment process was conducted, and no sanctioned vacancy existed against which such appointment could be made. The appointment is therefore an illegal appointment made *dehors* the recruitment process and outside the framework of the applicable rules.

21.5. Reliance is placed upon advertisements issued by CBPACS on 4th August, 2010 and 24th November, 2011 for various contractual positions. Those advertisements demonstrate that whenever contractual appointments were required, vacancies were publicly notified and candidates were subjected to a selection process. No such advertisement was ever issued for a contractual post of Lecturer, Kriya Sharir. The appointment dated 22nd September, 2010 is therefore an isolated appointment made without any corresponding public process.

21.6. The subsequent references to the Petitioner in institutional records do not alter the character of her appointment. Administrative references



describing the Petitioner as Lecturer, Kriya Sharir, or the utilisation of her services by CBPACS, cannot create a sanctioned post or convert a contractual engagement into a regular appointment. The Governing Council record itself indicates that the post occupied by the Petitioner had “*not yet been sanctioned*”. Permission to draw salary from an available budgetary head or against another sanctioned post is an internal administrative arrangement incapable of creating any substantive right.

21.7. The Petitioner’s reliance on *Amrish Chanana* and *Arun Kumar* is misplaced. Those decisions concerned faculty members who had been appointed against sanctioned posts pursuant to a valid recruitment process. The present case stands on a different footing. The sole sanctioned post advertised in 2009 had already been filled by Dr. Roushan, and the Petitioner was thereafter engaged contractually without any separate advertisement or selection process.

21.8. The earlier petition filed by the Petitioner, being W.P.(C) 8000/2014, did not result in any declaration that she had been regularly appointed or that she possessed any right to regularisation. The petition was disposed of on 13th October, 2015 based on the statement made with reference to the governing policy concerning contractual employees. The Court neither adjudicated upon the merits of the Petitioner’s claim nor restrained the Respondents from discontinuing her services indefinitely. It merely directed that, if a decision was taken to terminate her services, at least two weeks’ notice should be given before such termination. The impugned order dated 11th August, 2018 was issued in compliance therewith.

21.9. The Petitioner also participated in the recruitment process initiated through Advertisement No. 01/2016. The Petitioner applied for the post of



Associate Professor/Reader, under the Unreserved category, but was not selected. The Petitioner was granted age relaxation as well as weightage for the period spent in contractual service yet failed to secure selection. Having been unsuccessful in a regular recruitment process, she cannot obtain the same result through writ proceedings.

21.10. The appointments made pursuant to the 2016 recruitment process cannot be unsettled in the present proceedings. Candidates selected through the prescribed recruitment process have entered service against the notified posts. The Petitioner cannot be accommodated by displacing any such incumbent or by granting precedence over candidates selected in accordance with the applicable rules. Any such direction would prejudice persons who are not parties to the present proceedings.

21.11. The Petitioner has continued in service after 23rd August, 2018 solely by virtue of the interim protection granted by this Court. Such continuation cannot create any substantive right, nor can the passage of time during the pendency of the proceedings be relied upon to claim regularisation.

21.12. The order dated 1st October, 2024 extending the Petitioner's engagement from 1st August, 2024 to 30th June, 2025 does not advance her case. The extension was granted in the backdrop of the pending writ petition and the subsisting interim orders passed by this Court. The order itself describes the nature of the appointment/post as "*Contractual/Un-sanctioned*". The extension cannot, therefore, be treated as an admission of any regular right, sanctioned post, or entitlement to absorption.

21.13. An objection is also raised to the relief seeking creation of a post. Such creation falls within the executive domain and cannot ordinarily be issued in writ proceedings. The decision to create a post depends upon



multiple institutional considerations, including sanctioned strength, statutory requirements, cadre structure and administrative necessity.

21.14. Reliance is placed upon the decisions in *Umadevi, State of Karnataka & Ors. v. M.L. Kesari & Ors.*⁶, *Sunil Kumar Yadav & Ors. v. State of Jharkhand & Ors.*⁷ and *Sh. Ankur Garg v. Delhi Technological University*⁸. On the strength of these authorities, it is contended that regularisation is impermissible where the initial appointment was not made against a sanctioned post or through a constitutionally compliant recruitment process. The length of service, institutional necessity, or continuation under interim orders cannot cure an appointment that was illegal at its inception.

Issues for Consideration

22. On the basis of the pleadings and rival submissions, the following issues arise for consideration:

- (i) Whether the Petitioner's engagement pursuant to the offer of appointment dated 22nd September, 2010 constituted an illegal appointment *dehors* the constitutional scheme of public employment, as contended by the Respondents, or an irregular but legally cognisable engagement traceable to the recruitment process initiated by Advertisement No. 16/2009, as contended by the Petitioner.
- (ii) Whether the Petitioner can claim any right to regular appointment against the post of Lecturer, Kriya Sharir advertised on 9th September, 2009, after the appointment of Dr. Roushan against the said post.
- (iii) What is the legal effect, if any, of the Petitioner's participation and non-selection in the recruitment process initiated by Advertisement No.

⁶ (2010) 9 SCC 247.

⁷ SLP (C) No. 4881/2023.



01/2016, and whether any relief in the present petition can trench upon that recruitment process or the appointments made pursuant thereto.

(iv) Whether the impugned order dated 11th August, 2018, discontinuing the Petitioner's engagement is sustainable in law.

(v) Whether the Petitioner's continuation in service under the interim orders passed in the present proceedings has any bearing upon her entitlement to substantive relief.

(vi) If the impugned action is found to be unsustainable, what relief, if any, can be granted having regard to the scope of Articles 14 and 16, the rights of regularly appointed faculty members, and the limits of judicial review in matters concerning creation of posts and regularisation.

Discussion & Reasons

Scope of the Controversy and Limits of the Present Adjudication

23. The threshold enquiry is straightforward. If the Petitioner's engagement was "illegal" in the *Umadevi* sense, equity cannot cure it: long service, institutional need or hardship cannot validate a constitutionally impermissible entry. But if she was qualified, entered through a public process, was considered by the Selection Committee, and was then used by CBPACS for a regular teaching function, the Court must examine whether the defect lay in the employer's failure to lawfully structure and sanction its teaching establishment, and whether relief can be moulded without infringing Articles 14 and 16 of the Constitution.

24. Three events must be kept distinct. First, the recruitment process initiated by Advertisement No. 16/2009. Secondly, the Petitioner's offer of appointment dated 22nd September, 2010. Thirdly, the recruitment process

⁸ W.P.(C) 19665/2025.



initiated in 2016. Each carries its own legal consequence. If merged, the narrative either wrongly suggests that the Petitioner was regularly appointed against the 2009 vacancy or wrongly portrays her as wholly outside any public recruitment process. Neither characterisation is accurate.

25. The first of these events is the recruitment process initiated by Advertisement No. 16/2009. The advertisement notified one post of Lecturer, Kriya Sharir. According to the Respondents, that post was filled when Dr. Roushan joined service on 9th July, 2010. The appointment of Dr. Roushan is not under challenge in these proceedings. The Petitioner's claim must, therefore, be examined without treating that vacancy as subsisting or adjudicating upon Dr. Roushan's service rights.

26. That conclusion, however, does not dispose of the Petitioner's case. Although she cannot claim appointment against the sole vacancy advertised in 2009, her later engagement cannot be viewed as wholly detached from that recruitment process. She had applied pursuant to Advertisement No. 16/2009, appeared in the screening test, qualified for interview and was considered by the Selection Committee. The offer dated 22nd September, 2010, which refers to the recommendation of the Selection Committee, must therefore be examined in that limited but material context.

27. The second event concerns the offer of appointment dated 22nd September, 2010. It records that the offer was made "*on the recommendation of the Selection Committee*". At the same time, it describes the engagement as contractual, fixes the initial tenure at eleven months, provides for termination by notice or salary in lieu of notice, and states that the engagement would not confer any right to regular appointment. These stipulations cannot be ignored. They limit the nature of the relief that may



ultimately be granted. Their presence, however, does not by itself conclude the character of the engagement.

28. The character of an appointment is not always exhausted by the label employed in the appointment letter. In *Vinod Kumar & Ors. v. Union of India & Ors.*⁹, the Supreme Court observed that the essence of employment and the rights flowing therefrom cannot be determined merely by the initial terms of appointment where the actual course of employment has evolved significantly over time. The Court further observed that the employees' continuous discharge of duties akin to those of regular employees, coupled with their selection through a process substantially resembling regular recruitment, distinguished their case from the “back-door” or “illegal” appointments considered in *Umadevi*. In *Jaggo v. Union of India & Ors.*¹⁰, the Supreme Court likewise emphasized that long and uninterrupted service cannot be brushed aside merely by describing the initial engagement as “part-time” or “contractual”. The Court emphasised that the true character of the engagement must be assessed in the light of the employee's sustained contribution, the integral and perennial nature of the work performed, and the absence of any “illegal” or “surreptitious” entry.

29. *Umadevi*, therefore, does not require the Court to disregard either the manner in which an employee entered service or the employer's own subsequent conduct. *M.L. Kesari* reiterates the distinction recognised in *Umadevi* between “illegal” and “irregular” appointments. Whether the present case falls within either category cannot be determined by isolating a single clause of the appointment letter from the surrounding record. Here,

⁹ (2024) 9 SCC 327.

¹⁰ 2024 SCC OnLine SC 3826.



although the offer letter dated 22nd September, 2010 describes the engagement as contractual, it also records that it was issued “*on the recommendation of the Selection Committee*”. The character of the engagement must therefore be assessed on the whole record, rather than by treating the contractual stipulation as conclusive.

30. The third event is the recruitment process initiated through Advertisement No. 01/2016. The advertisement notified one post of Associate Professor/Reader, Kriya Sharir under the Unreserved category and one post of Assistant Professor/Lecturer, Kriya Sharir under the OBC (Delhi) category. The Petitioner participated in the selection process for the post of Associate Professor/Reader but was unsuccessful. That circumstance, however, does not conclude the present controversy. The legality of the 2016 recruitment process, the Petitioner’s challenge thereto, and the appointments made pursuant thereto must be examined in the proceedings where those issues directly arise. For the purposes of the present writ petition, the 2016 recruitment has only a limited bearing. It demonstrates that the Petitioner cannot claim appointment against the post of Associate Professor/Reader in these proceedings and that any relief granted herein must not disturb appointments made pursuant to the 2016 recruitment process.

31. The enquiry is therefore narrower than the reliefs claimed. This Court is not reopening the 2009 recruitment process, nor examining the validity of the 2016 recruitment. The question is confined to whether the Petitioner’s engagement under the offer dated 22nd September, 2010, though contractual in form and not against the 2009 advertised vacancy, bore sufficient nexus with the earlier public recruitment process, the regulatory record, the



institutional decisions and the continuing teaching requirement to prevent the Respondents from treating her as a mere contractual employee removable by bare notice.

32. This also answers the Respondents' submission that the Petitioner's continuation rests only upon interim orders passed by this Court. Continuation under interim protection cannot, by itself, create a right to regularisation. The Petitioner's claim, however, does not arise merely from the period subsequent to 23rd August, 2018. By the time the impugned order came to be stayed, she had already served CBPACS for nearly eight years. The legality of the impugned action must therefore be assessed based on the institutional record as it existed prior to the grant of interim protection.

Legal Framework governing Regularisation and Public Employment

33. With the aforesaid limits in mind, it is appropriate to examine the legal principles governing the issue. The starting point remains *Umadevi*. Public employment must ordinarily rest upon sanctioned posts, prescribed qualifications, open competition and selection by the competent authority. A court cannot invoke equitable considerations to create a parallel route into public service, nor can long continuance, by itself, cure an appointment made in derogation of Articles 14 and 16 of the Constitution. The principle protects not only the public employer but equally those eligible candidates who await a fair opportunity to compete.

34. However, *Umadevi* does not place every defective appointment beyond correction. Service jurisprudence recognises a distinction between an "illegal" appointment and an "irregular" appointment. Not every departure from the prescribed procedure necessarily stands on the same footing. Whether an appointment is so fundamentally defective as to be



treated as illegal, or whether it suffers from curable procedural irregularities, depends upon the nature of the departure viewed in the context of the governing recruitment framework.

35. It is settled that regularisation cannot be directed in disregard of the governing recruitment rules, the sanctioned strength, or the rights of eligible candidates awaiting consideration. Those principles undoubtedly apply in the present case. Their application, however, depends upon the true character of the Petitioner's engagement as disclosed by the entire recruitment record. In that context, it is material that the advertisement dated 9th September, 2009 did not describe the post of Lecturer, Kriya Sharir as contractual, though it separately contemplated contractual appointments of retired Government servants if suitable candidates were unavailable. The significance of the contractual stipulation contained in the Petitioner's offer of appointment must, therefore, be assessed in the context of the recruitment process as a whole and the subsequent institutional record. There is no explanation forthcoming from the Respondents as to why, notwithstanding the aforementioned advertisement, the Petitioner's appointment was described as contractual.

36. On the present record, the Petitioner's case falls between the two clear categories. It is not a case of regular appointment against a sanctioned and advertised vacancy. By the time the offer dated 22nd September, 2010 was issued, the vacancy advertised in 2009 had already been filled upon the appointment of Dr. Roushan. Further, no fresh advertisement preceded the Petitioner's contractual engagement. These facts preclude the Court from holding that the Petitioner stood regularly appointed from the date of joining or from placing her on the same footing as a candidate selected against a



sanctioned advertised post.

37. Equally, the record does not permit the Court to treat the Petitioner as a private or patronage appointee. Her engagement remained traceable to Advertisement No. 16/2009. The offer dated 22nd September, 2010 expressly referred to the recommendation of the Selection Committee. CBPACS then represented to the CCIM that, in Kriya Sharir, “*Lecturer: Dr. Smita Arora - Acceptance received*”. The Governing Council later recorded her continuance while noting that the post had “*not yet been sanctioned*”. She thereafter discharged the same teaching function for years. These facts place the case outside the category of a “*back-door*” appointment.

38. The Petitioner neither created the sanctioned strength of the institution nor concealed her status or misrepresented her qualifications. CBPACS selected from a pool generated through its own public recruitment process, utilised her services for a regular academic function, relied upon her presence while addressing regulatory requirements, and continued the arrangement over successive years. If the institution required a teacher in the Department of Kriya Sharir on a continuing basis, it was for CBPACS and the Government to have the post sanctioned. Nonetheless, they continued to extend the Petitioner’s contractual engagement on multiple occasions without the post being sanctioned.

Consideration of the Precedents relied upon by the Parties

39. The Respondents first rely upon *Ankur Garg*. That decision turned upon a materially different route of entry into service. The employee in that case had not entered service pursuant to any public advertisement inviting applications from eligible candidates or through any open selection process. His engagement traced back to an individual application addressed to the



Vice-Chancellor, followed by its internal processing as a contractual arrangement. This Court held that such an engagement could not be regularised merely because the employee had continued in service for a long period. The principle is unexceptionable. It does not, however, govern a case where the employee entered the field of consideration through a public advertisement, underwent screening and interview, and was thereafter appointed with reference to the Selection Committee's recommendation.

40. The Respondents also rely upon *Sunil Kumar Yadav*. In that case, the Supreme Court held that the claim for regularisation could not be granted as it would amount to direct absorption into a State cadre post by bypassing the statutory recruitment framework and thereby create a “*new mode of recruitment not sanctioned by law*”. The present case, however, does not concern a claim for direct absorption into a different cadre by bypassing a separate statutory source of recruitment. It concerns the Petitioner's engagement in the same institution, the same department and the same teaching function.

41. The Petitioner, on the other hand, places considerable reliance upon the decision of this Court in *Amrish Chanana*. That decision arose out of appointments made to teaching posts in the very same institution. After examining the principles flowing from *Umadevi*, the Court first found that the appointments under consideration had been made against sanctioned posts, vacancies existed, the appointees possessed the prescribed qualifications, and recruitment had been undertaken through a public advertisement followed by an open process of selection. It was in that factual backdrop that the Court held that the appointments could not be treated as mere contractual engagements merely because of the language



employed in the appointment letters.

42. The subsequent decision in *Arun Kumar* only adopted the ratio of *Amrish Chanana* after recording that the Petitioner therein had likewise been appointed against a sanctioned post through a regular recruitment process pursuant to a public advertisement, and that the appointment letter was materially the same as the one considered in *Amrish Chanana*. On that basis, the Court extended the same relief.

43. The Petitioner's reliance on *Dharam Singh* raises a distinct, though related, aspect of the law. That decision does not dilute the constitutional discipline laid down in *Umadevi*. It recognises that where the State itself acknowledges a continuing institutional requirement, continues to utilise the same workforce over a prolonged period, and yet fails to place that requirement on a lawful sanctioned footing, the controversy may not be reducible to a simple plea for regularisation. Creation of posts ordinarily lies within the executive domain; yet a refusal to address an admitted and continuing need is not immune from judicial scrutiny for arbitrariness. The recent decision in *Sukhendu Bhattacharjee & Ors. v. State of Assam & Ors.*¹¹ reiterates that *Umadevi* is not a "blanket barrier" and cautions against a rigid application of its principles divorced from the facts of the case, which would defeat the very principles of fairness and non-arbitrariness. It also recognises that, where the facts so warrant, relief may be moulded in a manner that does not prejudice regularly appointed employees, including, if necessary, by creation of supernumerary posts. Thus, any relief in the peculiar facts of the present case must, nevertheless, remain exceptional and carefully confined so as not to disturb an existing recruitment process or



become a general route around Articles 14 and 16 of the Constitution.

44. *Pawan Sharma* reflects a similar calibrated approach. The Division Bench of this Court examined whether the employees’ engagement, though described as contractual, was preceded by a process substantially resembling regular recruitment, whether they possessed the prescribed qualifications, were appointed against sanctioned posts, discharged essential and perennial functions, and had rendered long, uninterrupted and blemish-free service. It concluded that the contractual description of the engagement could not, by itself, defeat the substantive character of the employment or the employees’ claim to relief. When the matter reached the Supreme Court, the direction for regularisation was not interfered with¹². It was, however, clarified that the relief would not disturb the *inter se* seniority of persons who had entered service through regular recruitment in the intervening period, and directed that the petitioners therein be placed below such regularly appointed employees.

45. Applying these principles, the Petitioner cannot be branded a “*back-door*”, patronage or wholly private appointee. Her engagement was traceable to Advertisement No. 16/2009; the offer dated 22nd September, 2010 referred to the Selection Committee’s recommendation; CBPACS projected her to the CCIM as Lecturer, Kriya Sharir; and the Governing Council recorded both her continuance and the fact that sanction for the post was pending. The contractual label therefore does not erase the institutional reality: CBPACS treated her as part of its teaching faculty and used her for a continuing academic function.

¹¹ Civil Appeal No. 4514/2025 & other connected matters.

¹² *GNCTD & Anr. v. Pawan Sharma & Ors.* Civil Appeal No. 7837/2026, SLP (C) No. 17750/2026.



Validity of the Impugned Order dated 11th August, 2018

46. The conclusion reached above is reinforced by the manner in which the impugned office order came to be issued. By order dated 23rd March, 2018, the Petitioner's engagement had already been extended up to 31st October, 2018. The impugned order dated 11th August, 2018 nevertheless sought to discontinue her services upon expiry of fifteen days, thereby bringing the engagement to an end before the extended term had expired. The Respondents' own application for vacation of the interim order [C.M. No. 15737/2025] also proceeds on the footing that the Petitioner's engagement had been extended, even though it elsewhere states that the contract had expired on 31st March, 2018.

47. The impugned order also assigns no reason for the discontinuance. It merely refers to the order dated 13th October, 2015 passed in W.P.(C) 8000/2014 and assumes that issuance of notice was sufficient compliance. That assumption is misplaced. The earlier order recorded the Respondents' statement that the Services Department policy concerning contractual employees would apply to the Petitioner and that her services would not be terminated till further instructions. The requirement of two weeks' advance notice was only a procedural safeguard. It did not dispense with the need for a lawful, fair and reasoned decision based on relevant considerations.

48. A public employer may discontinue a contractual engagement in accordance with law. But when an employee has served for years in the same department, was protected earlier on the basis of a Government policy and was treated in the institution's own record as faculty relied upon for regulatory purposes, a bare notice without reasons is not fair administrative action. The Respondents were required to consider those circumstances



before deciding to discontinue the Petitioner's engagement.

49. The Respondents' submission that CBPACS was effectively paying two salaries against one sanctioned post also cannot conclude the matter. The Court is not directing appointment against an existing post on that basis. The point is narrower: if CBPACS required the Petitioner's services for a continuing academic function, and if Kriya Sharir remained a recurring teaching discipline within the institution, any mismatch between sanctioned strength and actual academic need had to be addressed by CBPACS and the Government in accordance with law. That mismatch could not, by itself, justify a bare, unreasoned discontinuance of an employee whose services the institution had consistently utilised.

Conclusion

50. The impugned office order dated 11th August, 2018 therefore cannot stand. It treated the Petitioner as a terminable contractual appointee without engaging with the material circumstances that made her case exceptional: her entry through a public recruitment process, the appointment letter's reference to the Selection Committee's recommendation, CBPACS' own regulatory reliance on her as teaching faculty, and her long service in the same discipline without displacing any regularly selected incumbent.

51. A remand for fresh consideration would, in the peculiar facts of the present case, be an inadequate remedy. At the same time, the constitutional limits are clear: the Petitioner can neither be regularised by fitting her into the 2009 or 2016 vacancies, nor can she be placed above regularly recruited faculty. The subsequent evolution of the sanctioned cadre cannot be permitted to defeat the limited relief to which the Petitioner is otherwise found entitled. Equally, the Court cannot direct her absorption against an



existing sanctioned post to the prejudice of regularly appointed faculty. The appropriate course, therefore, is to direct her prospective absorption against a personal supernumerary post, which gives effect to the institutional obligation recognised above while preserving the existing cadre, recruitment process and *inter se* seniority of regularly appointed employees.

Relief

52. The writ petition is partly allowed in the following terms:

A. IMPUGNED ORDER AND SCOPE OF DECLARATION

(i) The office order dated 11th August, 2018 discontinuing the Petitioner's contractual services is quashed.

(ii) The Petitioner shall not be treated as regularly appointed against the post of Lecturer, Kriya Sharir filled by Dr. Roushan pursuant to the advertisement dated 9th September, 2009.

(iii) The Petitioner shall not claim appointment, seniority or consequential benefits against the post of Associate Professor/Reader, Kriya Sharir advertised under Advertisement No. 01/2016 on the strength of this order. Any proceedings concerning that recruitment shall be decided independently.

B. CREATION OF PERSONAL SUPERNUMERARY POST AND ABSORPTION

(iv) The Government of NCT of Delhi, CBPACS and the Governing Council of CBPACS shall, within eight weeks from the date of this order, create a personal supernumerary post of Assistant Professor/Lecturer, Kriya Sharir, or its equivalent nomenclature, for the Petitioner.

(v) Upon creation of that post, the Petitioner shall be absorbed against it prospectively from the date of this order.

(vi) The post shall remain personal to the Petitioner and shall lapse upon



her retirement, resignation, absorption against a regular sanctioned vacancy in accordance with law, or cessation of service for any other lawful reason.

(vii) The Respondents shall issue the consequential order of absorption within two weeks of the creation of the personal supernumerary post.

C. SENIORITY, PAST SERVICE AND MONETARY CONSEQUENCES

(viii) The Petitioner shall not claim seniority over Dr. Roushan or any other faculty member regularly appointed before the date of this order. She shall be placed below all such regularly appointed faculty members in the relevant discipline/department/cadre.

(ix) The Petitioner's past service from 28th October, 2010 shall count only for teaching experience and continuity of institutional service. It shall not confer retrospective seniority or retrospective regularisation.

(x) From the date of absorption, the Petitioner shall receive the pay, allowances and service benefits attached to the post of Assistant Professor/Lecturer, Kriya Sharir, or its equivalent nomenclature, in accordance with the applicable rules. While fixing pay, the Respondents shall protect the pay and emoluments actually drawn by her immediately before absorption. Any approval required for such protection shall be processed and decided within the period specified above.

53. In the above terms, the present writ petition and all pending applications stand disposed of.

SANJEEV NARULA, J

JULY 01, 2026/ab