2026 INSC 220

**REPORTABLE**

**IN THE SUPREME COURT OF INDIA**
**CIVIL APPELLATE JURISDICTION**

**CIVIL APPEAL NO. ..... OF 2026**
**(Arising out of SLP (C) No.5108 of 2023)**

**ABHISHEK SHARMA ...APPELLANT (S)**

**VERSUS**

**THE STATE OF JAMMU AND KASHMIR & ORS. ...RESPONDENT(S)**

**WITH**

**CIVIL APPEAL NO. ..... OF 2026**
**(Arising out of SLP (C) No.5093 of 2023)**

**AND**

**CIVIL APPEAL NO. ..... OF 2026**
**(Arising out of SLP (C) No.12238 of 2023)**

**AND**

**CIVIL APPEAL NO. ..... OF 2026**
**(Arising out of SLP (C) No.2477 of 2025)**

**J U D G M E N T**

**VIKRAM NATH, J.**

**Civil Appeal @ SLP (C) No. 5108 of 2023, Civil Appeal @ SLP (C) No. 5093 of 2023 and Civil Appeal @ SLP (C) No. 12238 of 2023**

1. Leave granted.

2. The present appeals call into question the common judgment dated 22nd February, 2023, passed by the High Court of Jammu & Kashmir and Ladakh at Jammu[1] in a batch of intra-court appeals[2] along with connected writ petitions[3], whereby the learned Division Bench dismissed the said intra-court appeals and writ petitions and affirmed the order of the learned Single Judge rejecting the appellants' claim for regularisation of their services.

**FACTS OF PRESENT CASES: -**

3. The brief facts, in a nutshell, insofar as they are relevant for the disposal of the present appeals, are stated hereinafter: -

3.1. The respondent-State, *vide* order dated 14th December, 2009, issued SRO No. 384[4] titled "Jammu and Kashmir Medical and Dental Education (Appointment on Academic Arrangement Basis) Rules, 2009"[5]. The said SRO envisaged the

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[1] Hereinafter, referred to as "High Court".
[2] Letter Patent Appeal Nos. 30, 33, 34, 40, 80, 81, 192, 193 of 2018, LPA No. 76 of 2019, LPA No. 10 of 2020, LPA Nos. 80 and 81 of 2022.
[3] SWP No. 886 of 2018, Writ Petition (C) Nos. 4286 and 4364 of 2019.
[4] Hereinafter, referred to as "impugned SRO".
[5] Hereinafter, referred to as "2009 Rules".

appointment of personnels to posts relating to teaching staff, medical officers, nurses, para-medical, para-dental and technical staff in the Government Medical Colleges on academic arrangement basis.

3.2. In the interregnum, the respondent-State, on 29th April, 2010 enacted Jammu and Kashmir Civil Services (Special Provisions) Act, 2010,[6] which provided for the regularisation of employees appointed on an *ad hoc*, contractual or consolidated basis. It is pertinent to note that appointments made under the impugned SRO were expressly excluded from the categories eligible to seek regularisation of service under the said enactment.

3.3. Pursuant to the 2009 Rules, the present appellants were appointed thereunder to the posts of Junior Staff Nurse/Female Multipurpose Health Worker during the period between 2011 and 2013.

3.4. On 17th August, 2015 respondent No. 2, namely the Government Medical College, addressed a communication to the respondent-State, requesting that the posts occupied by the appellants be referred

[6] Hereinafter, referred to as "2010 Act".

to the Service Selection Board for undertaking the regular selection process.

3.5. In this backdrop, the paramedical staff, including the present appellants who had been appointed under the 2009 Rules, submitted a joint representation to respondent No. 2, i.e. the Government Medical College, seeking regularisation of their services and further requesting that their posts not be referred to the Service Selection Board.

3.6. Ultimately, an advertisement dated 1st September, 2015, was issued inviting applications for appointment on a regular basis to 1088 posts, which included the posts occupied by the present appellants.

3.7. Aggrieved thereby, the appellants approached the High Court by filing writ petitions seeking the benefit of regularisation under the 2010 Act. The learned Single Judge, by a common judgment dated 4th May, 2018, dismissed the writ petitions and declined the appellants' claim for regularisation in terms of the said Act.

3.8. Aggrieved by the said judgment, the appellants preferred intra-court appeals before the High Court

assailing the decision of the learned Single Judge. The learned Division Bench, by a common judgment dated 22nd February, 2023, dismissed the intra-court appeals along with the connected writ petitions, holding that the appellants were not entitled to regularisation under the 2010 Act.

4. It is in these circumstances that the appellants have approached this Court.

**ISSUE BEFORE THIS COURT: -**

5. The issue that, therefore, arises for our consideration is whether the respondent-State was justified in law in classifying the present appellants, who were engaged on an academic arrangement basis under the impugned SRO No. 384 of 2009, as a distinct class under Section 3 of the Jammu and Kashmir Civil Services (Special Provisions) Act, 2010, and thereby excluding them from the benefit of regularisation contemplated under the said enactment.

**SUBMISSIONS ON BEHALF OF THE APPELLANTS:**

6. Dr. Rajiv Nanda and Mrs. V. Mohana, learned Senior Counsel appearing on behalf of the appellants, vehemently assailed the impugned judgment of the High Court, contending, inter alia, as follows: -

6.1. That Section 9(b) of the 2010 Act expressly excludes persons appointed on an "academic arrangement" basis from its purview, thereby creating an arbitrary and unjustified classification between the appellants and other similarly situated employees engaged on an ad hoc, contractual or consolidated basis. It was contended that there exists no *intelligible differentia* distinguishing the appellants from such categories, nor any rational nexus between the said classification and the object sought to be achieved by the Act.

6.2. That the very object of the 2010 Act was to cure and regularise long-standing irregular appointments and to extend legal protection to employees who had been rendering service for considerable periods against substantive and essential posts.

6.3. That the appellants were appointed during the period 2011-2012 against clear and sanctioned vacancies, pursuant to a duly conducted, transparent selection process undertaken after verification of their eligibility, qualifications and experience in accordance with the applicable recruitment rules. It was further contended that the appellants have continuously discharged perennial and essential functions for a period exceeding a decade.

6.4. That the appellants have been discharging duties identical in nature, responsibility and continuity to those performed by regular employees, and that their functions are indispensable to the efficient functioning of the institutions under the respondent-State.

6.5. That the issuance of a fresh advertisement for the very posts presently occupied by the appellants was arbitrary, unreasonable and violative of Articles 14 and 16 of the Constitution of India[7]. It was contended that the respondent-State, having extracted perennial services from

[7] Hereinafter, referred to as "Constitution".

the appellants over several years, could not, without any justifiable basis, seek to displace them through a fresh selection process.

On these premises, learned Senior Counsel appearing for the appellants urged that the present appeals merit acceptance and that the impugned judgment of the High Court be set aside.

**SUBMISSIONS ON BEHALF OF THE RESPONDENT-STATE: -**

7. *Per contra*, Ms. Aishwarya Bhati, learned Additional Solicitor General appearing on behalf of the respondent-State, stoutly opposed the submissions advanced by the appellants and advanced the following submissions: -

7.1. That Section 3 of the 2010 Act was applicable only to specified categories of appointees who fulfilled the statutory cut-off conditions, and since the appellants were engaged on an academic arrangement basis, they did not fall within the ambit of the said provision so as to claim regularisation thereunder.

7.2. That the proviso to Rule 4 of the impugned SRO unequivocally stipulates that candidates

appointed thereunder shall not have any preferential claim to regular appointment through the normal process of recruitment.

7.3. That the appellants had furnished affidavits undertaking to abide by the terms and conditions of the impugned SRO, and thus, prior to joining service on an academic arrangement basis, they had voluntarily accepted the conditions governing their engagement. Having consciously assented to the said Rules, the appellants, it was contended, are estopped from questioning the consequences flowing therefrom.

7.4. That any regularisation of the appellants' services would operate to the prejudice of other eligible candidates, who may have refrained from applying on the legitimate expectation that the appointments were purely temporary and would subsist only until the regular recruitment process was undertaken.

7.5. That it is a settled position of law that temporary, contractual or ad hoc engagement does not confer any vested right to regularisation, and that regularisation cannot be claimed in

derogation of, or contrary to, the governing statutory rules.

On these grounds, the learned Additional Solicitor General appearing for the respondent-State submitted that the present appeals preferred by the appellants are devoid of merit and, accordingly, deserve to be dismissed.

**ANALYSIS AND DISCUSSION: -**

8. We have heard the learned Senior Counsel appearing on behalf of both parties and have carefully perused the material placed on record.

9. While dismissing the intra-court appeals preferred by the present appellants and affirming the order of the learned Single Judge, the learned Division Bench recorded the following findings: -

i. That the learned Single Judge rejected the appellants' claim for regularization under the 2010 Act on the ground that the said statute applied only to appointments made up to 29th April, 2010, being the appointed date under the Act.

ii. That the Rules under which the appellants were appointed were framed with the object of ensuring that the functioning of the Medical and Dental Colleges did not suffer on account of delays in the regular recruitment process.

iii. That the appellants were fully conscious of the condition that they would not be entitled to any preferential claim for regular appointment through the normal process of selection, and therefore could not subsequently seek regularization.

iv. That even assuming, for the sake of argument, that the appellants could be treated as contractual employees, their engagement was for a limited duration and it could not be said that the respondent-State had utilized their services for an unduly prolonged period.

10. At the very threshold, we find ourselves unable to concur with the reasoning adopted by both the courts below. The High Court failed to advert to the correct position of law. Once a specific challenge was mounted by the present appellants to the *vires* of the 2010 Act, on the ground that the same infringed the fundamental rights guaranteed under the

Constitution, it was incumbent upon the High Court to undertake a substantive examination as to whether the impugned provisions satisfied the constitutional threshold. Instead, the provisions were upheld as they stood, without any meaningful scrutiny or analysis as to their compatibility with the constitutional scheme. It is this perfunctory and truncated approach adopted by the courts below that has necessitated our examination of the validity of the challenge raised before us.

10.1. This Court, *vide* order dated 23rd June, 2023, passed in Civil Appeal arising out of SLP (C) No. 12238 of 2023, directed that *status quo* be maintained with respect to the appellants and all other similarly placed employees. Consequently, the appellants have continued in the service of the respondent-State throughout the pendency of the present *lis*.

10.2. The appellants were appointed during the period between 2011 and 2013 under SRO No. 384. The respondent-State enacted the 2010 Act, which provided for the regularisation of employees appointed on an *ad hoc*, contractual or

consolidated basis. The relevant provisions of the said enactment, insofar as they bear upon the controversy in question, are extracted hereinbelow: -

> "...
>
> **3. Application of the Act.**
>
> **The provisions of this Act shall apply to such posts under the Government as are held by any person having been appointed on ad hoc or contractual basis including those appointed on consolidated pay provided that such appointments have been made against the clear vacancies, but shall not apply to**: –
>
> (a) . . .
>
> (b) persons appointed on tenure posts co-terminus with the life of the project or Scheme of the State or Central Government, as the case may be, **and those appointed on academic arrangement for a fixed term in any Government Department** ;
>
> . . .
>
> **5. Regularization of ad hoc or contractual or consolidated appointees. –**

Notwithstanding anything to the contrary contained in any law for the time being in force or any judgment or order of any court or tribunal, the ad hoc or contractual or consolidated appointees referred to in section 3 shall be regularized on fulfilment of the following conditions, namely: –

(i) that he has been appointed against a clear vacancy or post;

(ii) that he continues as such on the appointed day;

(iii) that he possessed the requisite qualification and eligibility for the post on the date of his initial appointment on ad hoc or contractual or consolidated basis as prescribed under the recruitment rules governing the service or post;

(iv) that no disciplinary or criminal proceedings are pending against him on the appointed day; and

(v) that he has completed seven years of service as such on the appointed day:

Provided that the regularization of the eligible ad hoc or contractual or consolidated appointees under this Act shall have effect only from the date of such regularization, irrespective of the fact that such appointees have completed more than seven years of service on the

appointed day or thereafter but before such regularization:

**Provided further that any ad hoc or contractual or consolidated appointee who has not completed seven years' service on the appointed day shall continue as such till completion of seven years and shall thereafter be entitled to regularization under this Act**.

. . ."

**(emphasis supplied)**

Accordingly, Section 3 of the 2010 Act expressly excludes from its ambit persons appointed on an academic arrangement for a fixed tenure in any Government Department. By operation of Section 3(b) of the said Act, the respondent-State has sought to justify its policy decision of treating the present appellants as a separate category and denying them the benefit of regularisation under the 2010 Act.

10.3. The said provision was assailed by the present appellants by filing writ petitions before the High Court, wherein a specific prayer was made for issuance of a writ of *mandamus* declaring Section 3(b) of the 2010 Act, insofar as it excluded persons appointed on an academic

arrangement for a fixed term in any Government Department, as *ultra vires* the Constitution. The reliefs sought by the appellants in the writ petitions before the High Court were, accordingly, as follows: -

> **"**a) *Certiorari* so as to set aside and quash letter No. AHJ/ 2015/2014 dated 17-08-2015 to the extent it refers the posts held by the petitioners to SSRB with a consequential direction to quash the resultant advertisement Notice issued by SSRB bearing No.05 of 2015 dated 0109-2015 issued by respondent No.6 upto the extent of advertising the posts of FMPHW/Junior Grade Nurse (Item No.264 and Item No.267).
>
> b) *Certiorari*/*Mandamus* declaring part of Section 3(b) of Civil Services Special Provision Act, 2010 to the extent of providing those appointed on academic arrangement for a fixed term in any Government Department as *ultra-vires* the constitution and violative of Article 14 of the Constitution of India and quashing the same.
>
> c) Further writ of *mandamus* directing and commanding the respondents to allow the petitioners to continue within the Proviso 2 of Section 5 of the Civil Services Special Provision Act, 2010 to complete seven years of their service and submit their cases to Empowered Committee for regularization within the provision of

> said Act after completion of seven years.
>
> d) Writ of prohibition restraining the respondents 1, 2, 5 and 6 from filling up the posts held by the petitioners and particularly restraining respondent No.5 and 6 from Initiating any further selection process in respect of the posts advertised at item No.264 and Item No-267.
>
> e) Issue writ in the nature of *mandamus* declaring the provision of SRO 384 of 2009 dated 14-12-2009 is so far as it excludes the petitioners from seeking regularization as Female Multipurpose Health Worker, Junior/ Senior Staff Nurse be declared as unconstitutional and in violation to the mandate of Article 39 -D of the Constitution of India.**"**

10.4. The parameters on which the validity of a legislative enactment may be assailed have been consistently reiterated by this Court. A 3-Judge Bench of this Court, in ***Anjum Kadari and another v. Union of India and others***,[8] has authoritatively held that a law enacted by Parliament or a State Legislature can be invalidated by courts on two grounds alone, namely: (i) lack of legislative competence; and (ii) infringement of any of the fundamental rights

[8] (2025) 5 SCC 53

guaranteed under Part III of the Constitution or violation of any other constitutional provision.

10.5. Accordingly, Section 3(b) of the 2010 Act is required to be tested on the anvil of the principles laid down by this Court to determine its constitutional validity. It is not in dispute that the appellants do not assail the 2010 Act on the ground of lack of legislative competence of the respondent-State. Consequently, the sole issue that survives for consideration is whether the classification engrafted under Section 3(b) of the 2010 Act offends the fundamental rights guaranteed under Part III of the Constitution.

10.6. According to the appellants, the impugned provision expressly excludes persons appointed under an "academic arrangement", such as the present appellants, from its ambit. It is contended that this exclusion creates an artificial and arbitrary classification, resulting in an unjustified distinction between the appellants and other similarly situated employees engaged on an *ad hoc*, contractual or consolidated basis.

10.7. The 2010 Act, thus, creates two distinct classes of appointees, namely: those appointed on an *ad hoc*, contractual or consolidated basis, and those engaged on an academic arrangement.

10.8. More recently, a 7-Judge Bench of this Court, in ***State of Punjab and others v. Davinder Singh and others***,[9] had occasion to consider the permissibility of sub-classification within the framework of affirmative action, in the context of the equality mandate under Article 14 of the Constitution. While delineating the parameters governing the creation of classifications without transgressing the principle of equality before the law, this Court observed as follows: -

> **"84.** Article 14 employs two expressions — equality before the law and equal protection of the laws. Both different in content and sweep. "Equality before the law", an expression derived from the English Common law, entails absence of special privileges for any individual within the territory. **It does not mean that the *same* law should apply to everyone, but that the same law should apply to those who are similarly situated. The expression**

[9] (2025) 1 SCC 1

**"equal protection of the laws" means that among equals, laws must be equally administered. It enjoins the State with the power to reasonably classify those who are differently placed**. The mandate of "equal protection of laws" casts a positive obligation on the State to ensure that everyone may enjoy equal protection of the laws, and no one is unfairly denied this protection. **In essence, the guarantee of equality entails that all persons in like circumstances must be treated alike. That there must be a parity of treatment under parity of conditions. Equality does not entail sameness. The State is allowed to classify in a manner that is not discriminatory**. The doctrine of classification gives content to the guarantee of equal protection of the laws. Under this approach, the focus is on the equality of results or opportunities over equality of treatment.

**85. The Constitution permits valid classification if two conditions are fulfilled. *First*, there must be an intelligible differentia which distinguishes persons grouped together from others left out of the group. The phrase "intelligible differentia" means difference capable of being understood. The difference is capable of being understood when there is a yardstick to differentiate the class included and others excluded from the group. In the absence of the yardstick, the differentiation would**

> **be without a basis and hence, unreasonable. The basis of classification must be deducible from the provisions of the statute; surrounding circumstances or matters of common knowledge**. In making the classification, the State is free to recognise degrees of harm. **Though the classification need not be mathematical in precision, there must be some difference between the persons grouped and the persons left out, and the difference must be real and pertinent. The classification is unreasonable if there is "little or no difference". *Second*, the differentia must have a rational relation to the object sought to be achieved by the law, that is, the basis of classification must have a nexus with the object of the classification**."
>
> **(emphasis supplied)**

Article 14 of the Constitution, therefore, does not fetter the power of the State to frame classifications, for equals alone are entitled to equal treatment. Persons who are not similarly situated cannot claim parity. However, the said principle does not confer upon the State an unfettered licence to carve out artificial distinctions within a class of persons who are otherwise similarly situated. Any such artificial or unreasonable classification would strike at the

very core of the right to equality and violate the mandate of Article 14 of the Constitution.

10.9. Thus, for a classification to withstand constitutional scrutiny, two conditions are required to be satisfied. *First*, there must exist an *intelligible differentia*, namely, a rational and discernible basis which distinguishes one group of persons from another, founded on a real and relevant criterion. As observed in ***Davinder Singh*** (*supra*), in the absence of such a yardstick, the differentiation would be bereft of any rational foundation and would, therefore, be unreasonable. *Second*, the *differentia* so adopted, being the basis of the classification, must bear a rational nexus with the object sought to be achieved by the classification.

10.10. In the present case, the 2010 Act extends the benefit of regularisation to appointees engaged on an *ad hoc*, contractual or consolidated basis, whereas those appointed on an academic arrangement, such as the present appellants, are placed in a separate category and rendered

ineligible for the benefit of regularisation under the said enactment.

10.11. Appointments of a contractual nature were regulated by SRO No. 255 issued by the respondent-State on 5th August, 2003 titled "Jammu and Kashmir Contractual Appointment Rules, 2003". A comparative examination of the said 2003 Contractual Rules and the impugned SRO of 2009 governing appointments on an academic arrangement basis reveal that a substantial number of provisions contained therein are identical or closely similar in nature.

10.12. Rule 4 of both the sets of Rules pertains to appointments made thereunder. Rule 4(1) of SRO No. 384 of 2009 (the impugned SRO) and Rule 4(1) of SRO No. 255 of 2003 (the 2003 Contractual Rules) are identically worded. For the sake of clarity, the relevant extract is reproduced hereinbelow: -

| **SRO No. 384 of 2009 (impugned SRO, governing appointment on academic basis)** | **SRO No. 255 of 2003 (2003 Contractual Rules)** |
|---|---|

| | |
|---|---|
| **4. Appointment under these rules. –**<br><br>(1) Notwithstanding anything to the contrary contained in any rule or order for the time being in force relating to the method of recruitment and conditions of service for recruitment in any service, or to any post under the Government, the appointing authority may appoint persons to the posts mentioned under rule 3 on academic arrangement basis initially for a period of one year extendable upto maximum of six years (one year at a time and subject to good performance and conduct) or till selection/promotion is made in accordance with the rules of recruitment governing the respective posts, whichever is earlier:<br><br>Provided that the appointment under these rules shall not entitle the appointee to any preferential claim for regular appointment under normal process of selection/appointment.<br><br>. . . | **4. Appointment under these rules. –**<br><br>(1) Notwithstanding anything to the contrary contained in any rule or order for the time being in force relating to the method of recruitment and conditions of service for recruitment in any service, or to any post, under the Government, the appointing authority may appoint persons to the posts notified under Rule 3 on contract basis initially for a period of one year or till regular selection is made in accordance with the rules of recruitment governing the respective posts, whichever is earlier.<br><br>Provided that the appointment under these rules shall not entitle the appointee to any preferential claim for regular appointment under normal process of selection.<br><br>(2) the services of an appointee under these rules shall be terminable |

| | |
|---|---|
| (2) The services of an appointee under these rules shall be terminate before the expiry of the tenure appointment with one month's notice, from either side, or on payment of one month's salary in lieu of notice by the appointing authority.<br><br>(3) The appointee under these rules shall have to execute an agreement with the Government on the prescribed form appended as Form 'A' to these rules.<br><br>(4) The appointment on academic arrangement basis against a post shall be made only when in filling up the post according to relevant recruitment rules is likely to be time consuming. | before the expiry of the contractual period with one month's notice, form either side, or on payment of one month's salary in lieu of notice by the appointing authority.<br><br>(3) The appointee under these rules shall have to execute an agreement with the Government on the prescribed from appended as Form 'A' to these rules. |

10.13. A conjoint reading of the provisions of both the SROs reveals a striking degree of similarity. The first *proviso* to the impugned SRO as well as to the 2003 Contractual Rules is *pari materia*, inasmuch as both stipulate that appointments made thereunder shall not confer any preferential claim for regular appointment through the normal process of selection. Rule 2 of both the SROs

further provides that the services of an appointee may be terminated prior to the expiry of the tenure or contractual period, as the case may be, upon issuance of one month's notice or on payment of one month's salary in lieu thereof. Significantly, Rule 3 of both the SROs prescribes the execution of a formal agreement between the respondent-State and the appointee, and the language employed in the agreements under both the SROs is identical.

10.14. The sole distinction between the two sets of provisions lies in the tenure of engagement. The impugned SRO of 2009, governing appointments on an academic arrangement basis, prescribes a ceiling on the term of service, providing that such appointments shall be made for a period of one year, extendable up to a maximum of six years. In contrast, the 2003 Contractual Rules contemplate appointments for a period of one year or until a regular selection is made in accordance with the applicable recruitment rules, whichever is earlier.

10.15. In the present case, the appellants have already exceeded the six-year ceiling prescribed

under Rule 4(1) of the impugned SRO, by reason of the interim orders directing maintenance of *status quo*, initially passed by the High Court on 7th June, 2018, in the intra-court appeals and thereafter by this Court *vide* order dated 17th April, 2023. Had the respondent-State simply terminated the services of the appellants upon completion of six years, as contemplated under Rule 4(1), the appellants would have been rendered ineligible to claim the benefit of regularisation upon completion of seven years of service under the 2010 Act.

10.16. The question that, therefore, arises for our consideration is whether the criterion adopted by the respondent-State to treat the present appellants differently withstands scrutiny in the eyes of law, or whether the *differentia* sought to be carved out offends the equality principles enshrined in the Constitution.

10.17. We are unable to accede to the submission of the respondent-State that the criterion adopted to deny parity of treatment to the appellants is valid and legally sustainable. The exception

carved out under Section 3(b) of the 2010 Act could have been justified only if appointees engaged on an academic arrangement basis were inherently incapable of satisfying the conditions stipulated under the Act. However, once those conditions stand fulfilled, we find no cogent basis to deny such appointees the benefit of regularisation.

10.18. More so, such benefit would necessarily have to be extended by the respondent-State where the nature of duties discharged by appointees engaged on an academic arrangement basis is identical to the duties performed by those falling within the other categories rendered eligible for the benefit of regularisation.

10.19. Section 5(v) of the 2010 Act stipulates, as a necessary condition for regularisation, that an employee must have completed seven years of service as on the appointed day, namely 28th April, 2010. However, the second *proviso* to the said provision expressly acknowledges the possibility of subsequent fulfilment of the minimum requirement of seven years of service.

10.20. The second *proviso* further provides that an appointee who had not completed seven years of service on the appointed day shall continue in service until the completion of the requisite period of seven years and shall thereafter become entitled to regularisation under the Act. The beneficial tenor of the said provision manifests the intent of the respondent-State to avoid the enactment of measures that would have otherwise operated harshly against employees who, though short of the prescribed tenure on the appointed day, would subsequently fulfil the minimum requirement of seven years of service for availing the benefit of regularisation.

10.21. Accordingly, once the conditions stipulated under Section 5(i) to (v) of the 2010 Act stand satisfied, the appointee becomes entitled to seek regularisation of service at the hands of the State. In such circumstances, the nature of the initial engagement, whether on an academic arrangement, *ad hoc*, contractual or consolidated basis, would cease to be of determinative relevance.

10.22. Additionally, the very object underlying the enactment of the 2010 Act was to cure and regularise long-standing irregular appointments and to extend legal protection to employees who had been rendering service for prolonged periods against substantive and essential posts. The Act, therefore, cannot be construed or applied in a manner that arbitrarily excludes a class of employees, such as the present appellants, who are discharging identical duties under comparable conditions. Acceptance of the exclusion sought to be enforced by the respondent-State would not only defeat the legislative intent but would also result in invidious discrimination against a homogeneous class of workers.

10.23. The State is expected to act as a model employer and not as a hard-bargaining or avaricious negotiator. We deem it appropriate to record our serious disapproval of the manner in which the respondent-State proceeded to issue the impugned SRO of 2009. It is an undisputed position that SRO of 2003 was already in force, providing for appointments on a contractual basis under the respondent-State. In that backdrop, the

subsequent decision of the respondent-State to promulgate the impugned SRO of 2009 cannot be regarded as a benign or innocuous exercise. What was sought to be done was merely to repackage a substantially similar mode of engagement under a new nomenclature, namely "appointment on academic arrangement", while simultaneously imposing an artificial ceiling of six years on the tenure of such appointments.

10.24. To compound the matter, when the respondent-State did eventually act in the manner expected of a responsible employer by enacting the 2010 Act providing for regularisation of services, it once again carved out an exclusion by wholly denying appointees engaged on an academic arrangement basis the benefit of regularisation. Such a classification rests on considerations alien to settled constitutional jurisprudence and the equality mandate. By creating two categories, one comprising appointees on an academic arrangement basis and the other consisting of those engaged on a contractual, *ad hoc* or consolidated basis, the respondent-State has failed to establish any

reasonable nexus between the classification and the object sought to be achieved by extending the benefit of regularisation to the latter category alone.

10.25. Accordingly, we have no hesitation in holding that the respondent-State has not only failed to demonstrate any distinction in the nature of duties discharged by the appellants, but has, by engrafting the impugned exception in the 2010 Act, subjected the present appellants to invidious discrimination, thereby infringing their fundamental right to equality.

**Civil Appeal @ SLP (C) No. 2477 of 2025**

11. Leave granted.

11.1. The present appeal assails judgment dated 27th December, 2024, passed by the High Court in Writ Petition (C) No. 2535 of 2023, whereby the High Court dismissed the writ petition filed by the appellant-employees and upheld the order dated 4th September, 2023 passed by Central Administrative Tribunal, Bench, Srinagar in TA No. 204 of 2021.

11.2. The appellants in the present case are aggrieved by the same differential treatment being accorded by virtue of their appointment being on academic arrangement basis and thus, the case of the present appellants is entirely covered by the reasoning and discussion made by us earlier in this judgment.

**Civil Appeal @ SLP (C) No. 5108 of 2023, Civil Appeal @ SLP (C) No. 5093 of 2023, Civil Appeal @ SLP (C) No. 12238 of 2023 and Civil Appeal @ SLP (C) No. 2477 of 2025.**

**OUR CONCLUSIONS: -**

12. In light of the foregoing analysis and discussion, we summarise our conclusions as under: -

I. Nomenclature is not determinative of constitutional entitlement. Where employees appointed on an "academic arrangement" basis are similarly situated to those engaged on *ad hoc*, contractual or consolidated basis in terms of duties, tenure, conditions of service and mode of appointment, denial of equal treatment solely on the basis of nomenclature is impermissible under Article 14 of the Constitution of India.

II. The exclusion under Section 3(b) of the Jammu and Kashmir Civil Services (Special Provisions) Act, 2010 does not satisfy the test of reasonable classification. The said provision lacks an *intelligible differentia* and bears no rational nexus with the object of the Act, which is to regularize long-standing irregular appointments, and therefore results in invidious discrimination *qua* appointments on academic arrangement basis.

III. Fulfilment of statutory conditions under Section 5(i) to (v) of the 2010 Act is determinative of eligibility for regularization. Once such conditions are satisfied, the nature of the initial engagement, whether academic arrangement, *ad hoc*, contractual or consolidated, ceases to have any legal relevance.

IV. The second *proviso* to Section 5 of the 2010 Act is a beneficial provision and must receive purposive interpretation. Any construction which defeats the legislative intent of protecting employees who subsequently complete the qualifying service period is constitutionally unsustainable.

v. The State, as a model employer, cannot adopt artificial classifications to deny statutory benefits. Repackaging contractual engagements under a different nomenclature, while denying regularization, violates the equality mandate under Articles 14 and 16 of the Constitution.

**FINAL DIRECTIONS: -**

13. Accordingly, the judgments dated 22nd February, 2023 and 27th December, 2024, passed by the High Court of Jammu & Kashmir and Ladakh at Jammu in Letter Patent Appeal No. 81 of 2018 (along-with other connected and analogous appeals) and in Writ Petition (C) No. 2535 of 2023, respectively, are hereby set aside.

13.1. It is declared that Section 3(b) of the Jammu and Kashmir Civil Services (Special Provisions) Act, 2010, insofar as it excludes employees appointed on an academic arrangement basis from consideration for regularisation despite fulfilment of conditions under Section 5 of the Act, is unconstitutional and violative of Article 14 of the Constitution.

13.2. The respondent-State is directed to consider the cases of the appellants for regularisation in accordance with Section 5 of the 2010 Act, without reference to the nomenclature of their initial appointment, within a period of 4 weeks from the date of this judgment.

13.3. The benefit of this judgment shall extend to all similarly situated employees appointed on an academic arrangement basis who satisfy the statutory requirements under the 2010 Act.

14. Consequently, the present appeals stand allowed in aforesaid terms.

15. Pending application(s), if any, are disposed of.

**.....J.**
**[VIKRAM NATH]**

**.....J.**
**[SANDEEP MEHTA]**

**NEW DELHI;**
**MARCH 09, 2026**