
(2010) 07 J&K CK 0004

In the Jammu And Kashmir High Court

Case No : LPA No's. 288, 289 of 2009, CMP No's. 428 and 429 of 2009

Mohamad Afzal Bhat

APPELLANT

Vs

State and Others

RESPONDENT

Date of Decision : 12-07-2010

Acts Referred:

Constitution of India, 1950 — Article 227

Citation : (2010) 4 JKJ 939

Hon'ble Judges : Hasnain Massodi, J; Hakim Imtiyaz Hussain, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Massodi, J.—These two Letters Patent Appeals are directed against the judgement and order dated 11th December 2009, whereby Writ

Court has dismissed the writ petitions filed by the appellant registered as SWP No. 1024/2007 and SWP No. 1289/2009. The back ground facts,

discernible from the records, are as under:-

2. The appellant appointed as teacher in Education Department in the year 1995, was vide Government order No. 852-Edu of 2004 dated 21st

October 2004 sent on deputation as lecturer-Statistics/Statistician to Government Medical College Srinagar, for a period of two years. The

Government vide order No. 836-Edu of 2005 dated 31.12.2005 recalled the appellant from deputation. The appellant refused to leave the

deputation post and instead filed a writ petition registered as SWP No. 38/2006, which was later withdrawn by the appellant, claiming that his

grievances were set right, though no Government order rescinding the order No. 836-Edu of 2005 dated 31.12.2005, was placed before the

Court nor such order appears to have been issued by the Government. No interim direction was, either, passed by the Court in the writ petition.

The appellant nonetheless, of his own continued on the deputation post. The appellant was, thereafter, relieved of the deputation post vide order

dated 11th October 2006, and asked to report to his parent department i.e. Education Department. The Government in wake of order dated 11th

October 2006 ordered repatriation of appellant to his parent Department and posted one Fayaz Ahmad on deputation as Lecturer

Statistics/Statistician GMC, Srinagar in place of the appellant. The appellant on 26.7.2007 assailed the order dated 11th October 2006 through

the medium of SWP No. 1024/2007 and asked for quashment of relieving order No. PSMC/948-53 dated 11th October 2006 and also a writ of

mandamus commanding the respondents not to relieve the petitioner from the deputation post. The Writ Court on 26.7.2007 passed an interim

order directing the respondents to allow the appellant to continue till next date of hearing before the bench. Though Sh. Fayaz Ahmad posted as

lecturer Statistics in Government Medical College Srinagar, vide aforementioned order joined as such in the Government Medical College

Srinagar, the appellant managed to continue in Government Medical College. The respondent No.1, confronted with defiance of appellant issued

Government order No. 09-HME of 2008 dated 3rd January 2008 declaring the appellant deemed to have been relieved from Government

Medical College Srinagar. The appellant unmindful of the order managed to stay in Government Medical College and was even paid the salary.

The respondent No. 2 ultimately passed order No. 95-GS of 2009 dated 5.9.2009 whereby the appellant was once again relieved with effect

from 05.09.2009, and asked to report to Secretary to Government Education Department Civil Secretariat Srinagar for further duties. The

appellant aggrieved of the order dated 05.09.2009, filed one more writ petition registered as SWP No. 1289/2009. The appellant repeating the

averments, made in earlier writ petition registered as SWP No. 1024/2007, insisted that the order dated 5.9.2009 was nothing hut an effort by the

respondents to defeat the earlier writ petition i.e. SWP No. 1024/2007 and interim orders passed therein. The appellant insisted that the impugned

order was in the nature of punishment though camouflaged as a relieving order and was thus liable to be set aside. The Appellant sought a writ of

certiorari quashing the impugned relieving order No. 95 /GS/09 dated 05.09.2009 and also a writ of mandamus commanding the respondents not

to relieve the appellant in pursuant to the impugned order.

The averments made and issues involved in both the writ petitions bearing SWP No. 1024/2007 and 1289/2009 being identical with only

difference that in earlier writ petition the relieving order No. 95/GS/09 dated 05.09.2009 was sought to be quashed and the respondents

commanded not to relieve the appellant and in later writ petition the relieving order No. 95/GS/09 dated 05.09.2009 sought to be quashed and

respondents commanded not to relieve the appellant, the Writ Court took up both the writ petitions together and dismissed the writ petitions vide

judgement dated 11.12.2009, impugned herein.

3. The Writ Court judgement and order dated 11.12.2009 are assailed in two Letter Patent Appeals in hand. In LPA No. 288/2009 challenge is

thrown to the dismissal of SWP No. 1289/2009 whereas dismissal of SWP No. 1024/2007 is called in question in LPA No. 289/2009. The

grounds of attack set out in two appeals are identical and may be summarised as under :-

(I) That the Writ Court while holding that the appellant as deputationists has no legal right to continue in the Department to which he was sent on

deputation or seek his absorption in the Department and as such the appellant could not avoid being relieved from Government Medical College

Srinagar, failed to appreciate that the appellant under the impugned relieving orders and in particular the order impugned in SWP No. 1289/2009

was being relieved with a stigma on the allegations of misconduct--a course not permissible under law.

(II) That the Writ Court erroneously treated the Government order No. 836-Edu of 2005 dated 30.12.2005 as order recalling the appellant from

his deputation and failed to notice that the order No. 836-Edu of 2005 - dated 30.12.2005 merged with the subsequent orders and lost its force.

(III) That the Writ Court did not reach to the injustice made to the appellant; that the Court refused to exercise jurisdiction and power vested in it

under law and did not take notice of the fact that the relieving order dated 11.10.2006 was issued for collateral purpose and was an act of

surrender to the demand of Junior Doctors Association seeking repatriation of the

appellant on unjustified grounds.

(IV) That the judgement/order impugned in the appeals is bound to result in miscarriage of justice, for the reason that the impugned judgement and

order is likely to deprive the appellant of his absorption in Government Medical College, Srinagar.

(V) That the Writ Court has erroneously referred to withdrawal of the writ petition No. 38/2006 by the appellant when no such writ petition was

filed by the appellant nor later withdrawn.

4. We have heard Learned Counsel for the parties and have gone through the ' memoranda of LPA's No. 288/2009 and 289/2009 along-with the

documents appended therewith. We have also gone through the writ record.

5. The appellant admittedly is a teacher in the Education Department of the State Government and was sent on deputation to the Government

Medical College, Srinagar, vide Government order No. 852-Edu of 2004 dated 21st October 2004 for a period of two years. It appears that

Social & Preventive Medicine Department of Government Medical College Srinagar, having regard to its activities, requires services of a person

having expertise in Statistics, but to meet requirements instead of making any recruitment of a Statistician on substantive basis, the Department from

time to time borrows teachers from Education Department with the Statistics back ground for a fixed term/period and after the teacher so

borrowed completes its terms or is recalled earlier by the lending department, the teacher is relieved and asked to report back to his parent

Department to be replaced by some other teacher with the requisite expertise. This is what exactly has been done in the present case. The

appellant as already stated was sent on deputation to man the post available in the Government Medical College Srinagar for a fixed term of two

years, making it sufficiently clear to him that he was to come back to Education Department whenever he was recalled by his parent Department or

if not recalled earlier, when he completed the deputation period as laid down in Government order.

6. The appellant after joining his duty on deputation in October 2004, took a liking to it for the amenities attached to it and did not feel inclined to

go to his parent Department.

The Government vide order No. 836-Edu of 2005 dated 30.12.2005 i.e. one year

and a little more than two months after he joined at Government Medical College Srinagar, and before his deputation period came to be an end, recalled the appellant from deputation and asked him to report to his Administrative Department i.e. Education Department for adjustment. The appellant did not obey the Government order and continued to stick to his deputation. The appellant filed writ petition questioning Government order No. 836-Eduof 2005 dated 30.12.2005. The writ petition registered as SWP No. 38 of 2006 was withdrawn on 22.3.2006. The Principal Medical College Srinagar thereafter vide order No. PSMC/948-53 of 2006 dated 11th October 2006 relieved the appellant from Government Medical College Srinagar, Department of Social and Preventive Medicine, with effect from 11.10.2006. The appellant did not budge an inch and continued to stay on his deputation post. Needles to mention, that the relieving order dated 11.10.2006 almost coincided with the end of his deputation period. In other words the appellant having completed period of two years deputation in October 2006, least that was expected of the appellant, was to obey the order and report back to his parent Department. It is pertinent to point out, that the parent Department of the appellant i.e. Government Education Department expecting the appellant to report back after completing the deputation period more so, in wake of the relieving order dated 11.10.2006 vide Government order No. 1670-DSEK of 2006 dated 24th November 2006 posted the appellant as the lecturer in Government Higher Secondary School Chanapora. The appellant paying no heed to the relieving order dated 11.10.2006 and subsequent developments continued to stay at Government Medical College Srinagar without any fresh deputation order having been made or the term of deputation having been extended by the Competent Authority.

7. The appellant instead resorted to litigation and filed SWP No. 1024/2007 on 26.7.2007. The appellant succeeded in getting ad-interim order from the Court and managed his continued stay at Government Medical College Srinagar till the respondent Principal Medical College tired of machinations declared the appellant ""Persona Non-grata"" for Government Medical College Srinagar and relieved the appellant from Government Medical College vide order No. 95/GS/09 dated 05.09.2009 with effect from the

order i.e. 05.09.2009. The appellant again sought to invoke extra ordinary jurisdiction of this Court by filing writ petition registered as SWP No. 1289/2009.

8. The respondents in their replies to SWP No. 1024/2007 and 1289/2009, based on almost similar grounds, narrated how the appellant despite his having been repeatedly asked to report to his parent department, managed his continuation in Government Medical College Srinagar even against the orders from the Civil Court and by filing successive writ petitions before this Court. The respondents took the stand that the services of the appellant were not required by the Government Medical College Srinagar and appellant was accordingly relieved in terms of Order No.

95/GS/09 dated 05.09.2009. The respondents gave details of the omissions and commissions made by the appellant, instances of indiscipline and violation of Service Rules, once the appellant was emboldened by his successful efforts to manage his continuation in Government Medical College Srinagar, despite his having been served successive reliving orders.

9. The Writ Court is of the view that the appellant having regard to nature of Government order No. 852 dated 21.10.2004 whereby the appellant was sent on deputation to Government Medical College Srinagar, has no right to continue in the borrowing department or to seek absorption in the department. It would be apt to reproduce here under the observations of the Writ Court in this regard.

A person who is sent on deputation has neither any right to continue in the department to which he was deputed nor he has any legal right to seek absorption in such department. The service of deputation is governed by the rules and is to be treated in accordance with the rules. It appears that after being deputed on 21.10.2004 for a period of two years, the petitioner vide Government order No. 836-Edu of 2005, was ordered to be recalled. Petitioner who is an employee of the Government has to work at a place where he is ordered to work by his employer unless it is shown that the Government has issued the order in colorable exercise of powers or in breach of statutory of Rules or for malafide reasons, the said action can not be challenged.....

10. The Writ Court was not impressed by the case set up by the appellant that as allegations of misconduct had been levelled against, the appellant

he could not be relieved unless and until the allegations were looked into and an inquiry held against the appellant. In the opinion of the Writ Court,

repatriation of the appellant to his parent department and inquiry into alleged misconduct/disciplinary action, were two different matters and mere

fact that some disciplinary action was contemplated against the appellant would not stand in the way of borrowing department to relieve the

appellant or the Administrative Department to recall him from deputation. The Writ Court repelling the argument advanced by Learned Counsel for

the appellant and the case sought to be set up observed:-

Recalling petitioner from deputation and dealing with him in accordance with rules for some alleged misconduct are two different aspects and they

can not be overlapped.

Petitioner can be recalled from deputation, if the competent authority deems it proper and disciplinary action can be taken against him in

accordance with the mandate of Rules/Government orders occupying field.

The contemplated disciplinary action can not, in law, become a ground for quashing a relieving order.

11. There is no scope for any disagreement, with the conclusions drawn by the Writ Court, that a Government employee sent on deputation, has

no right to continue on deputation indefinitely and defy the order of his Administrative Department recalling him from deputation or the borrowing

department relieving him to report back to his parent department. A Government Employee on deputation can not ask for his continuation on a

deputation post on the ground that the some allegations of misconduct have been levelled against him and until and unless the allegations are

inquired into, the Government servant has a right to continue in the borrowing department. If such a plea is accepted, the easiest way for a

Government servant on deputation, keen to continue on deputation, irrespective of decision of his parent department or the borrowing department,

is to indulge in some misconduct, thereafter ask for an inquiry into the misconduct and claim a right to continue on deputation till the inquiry is

concluded. This is exactly, what was the design of the present appellant. When the appellant in SWP No. 1024/2009 amongst other reliefs sought

a writ of mandamus commanding the respondents to conduct an inquiry with regard to the aspersion made against the appellant. The Writ Court

has been right in holding that the right to serve on deputation and contemplated/ proposed inquiry/ disciplinary action against a deputationists are

two different issues to be taken care of by the Service Rules relevant thereto. A Government servant on deputation does not cease to be a

Government servant and the misconduct if any alleged against a Government servant while on a deputation, can be looked into and disciplinary

action taken against a Government servant even after he is repatriated and reports to his parent department. The plea that the appellant in the event

he is relieved from his deputation shall loose his right to be permanently absorbed in Government Medical College Srinagar, is specious and bereft

of any merit. The appellant after he is relieved is not estopped from competing for any position that may become available in Government Medical

College Srinagar, or any other department, if he otherwise fulfils the eligibility criteria prescribed for the post. If such a plea is accepted every

Government employee sent on deputation may yearn to become permanent part of the borrowing department and avoid his repatriation on the plea

that he finds a chance to be permanently absorbed in the department. The plea that Government order No. 836-Edu of 2005 dated 30.12.2005

recalling the appellant from deputation lost its force in view of developments subsequent there-to and that the Writ Court failed to appreciate this

aspect of the case making the judgement and order impugned herein liable to be set aside, is far from convincing and bereft of any merit.

The Government order No. 836-Edu of 2005 dated 30.12.2005, was not revoked at any point of time and the subsequent reliving or others

orders made, depict helplessness of the respondents against stubbornness recalcitrance and obstinacy of the appellant and do not dilute the effect

of the aforementioned order. It appears that the appellant while defiantly, refusing to leave Government Medical College Srinagar, and report to his

Administrative Department persuaded the respondent Principal Medical College, and other officers of the College to make orders like grant of

leave, regularisation of period of absence etc., and later made an effort in vain, that the appellant was being acknowledged to continue on

Deputation. These developments speak of the influence wielded by the appellant and do not strip the aforementioned relieving order of its force. It

may be recalled, that the appellant by his conduct created an extra ordinary situation for the respondents prompting, the respondents to pass

direction after direction, impressing upon the appellant to report to his parent department. The respondents in face of the defiant mood of the

appellant issued Government order No. 09-HME of 2008 dated 3rd January 2008 declaring the appellant deemed to have been relieved and

when the appellant remained un-faced, they were forced to issue Government order No. 95 dated 5.9.2009. The appellant can not disobey the

successive orders and thereafter make an attempt to derive benefit out of his disobedience. All other grounds taken in two Appeals are devoid of

any substance and do not enable the appellant to successfully throw challenge to the Writ Court judgement and order dated 11.12.2009.

12. We, for the reasons discussed, do not find any merit in the appeals and accordingly dismiss the LPA No. 288/2009 and LPA No. 289/2009.

13. This however, does not end the matter. The case in hand presents a shocking story --how the process of court can be abused by fraudulent

and deceitful means and the course of justice polluted with impunity.

14. The appellant as a teacher in Education Department expected to serve, like his colleagues in the Department, in different parts of the State

including far flung areas Managed to stay in the Principal City of the State, enjoying facilities and amenities including a rent free accommodation in

best urban environs, not available to his colleagues in the Education Department, by manipulating facts and deceitfully with-holding vital

information's from the Courts. The appellant to achieve his goals, a task seemingly still unfinished if left to the appellant, has disobeyed the

successive Government orders and managed to get his salary even after he was relieved and his reliever had joined against the deputation post little

realising that there was only one position of Lecturer Statistics/Statistician available in Social and Preventive Medicine, Department of Government

Medical College Srinagar, occupied after January 2007 by his replacement namely Fayaz Ahmad sent on deputation in his place to Government

Medical College Srinagar vide Government order No. 13-Edu of 2007 dated 15.1.2007 and his salary was not to be drawn against a non

available post. The appellant was not alone in pursuing his agenda and appears to have found ready accomplices within Government Medical

College Srinagar, to lend a helping hand to him and enable him to defy and disobey the Government orders and managed his continued stay in the

College.

The appellant very mischievously with-held in formations from the Writ Court which if disclosed would have dissuaded the Writ Court from

granting, ad-interim orders in SWP No.1024/2007CMP No. 290/2008 and 1810/2007 filed on 24.7.2007, used by the appellant as a tool to

defeat the Government orders, and also subsequent orders in contempt petition No.35/2008 in SWP No.1024/2007 including the order dated

25.8.2008 whereby the respondents were directed to release the salary to the appellant.

In order to lay bare the manipulations and fraud played by the appellant on the Court, it would be appropriate to point to some of important facts

with held by the appellant. The appellant did not disclose in his writ petitions :-

(i) that the appellant was vide Government order No. 836-Edu of 2005 dated 30.12.2005, recalled from deputation to Government Medical

College and that the appellant filed a writ petition bearing SWP No. 38/2006 assailing the aforementioned order and that the writ petition was

disposed of as withdrawn after the appellant informed the Court that his grievances were set right;

(ii) that the Government order No. 836-Edu of 2005 dated 30.12.2005 recalling the appellant from deputation to Government Medical College

Srinagar was neither withdrawn nor rescinded by the Competent Authority and that the Government order No. 836-Edu of 2005 dated

30.12.2005, thus continued to be in force;

(iii) that the Director School Education after appellant was relieved from his deputation post at Government Medical College Srinagar on

11.10.2006, posted the appellant vide order No. 1670-DSEK of 2006 dated 24.11.2006 as lecturer in Government Higher Secondary School

Chanapora, and that the appellant did not join at the new place of posting.

(iv) that the Government vide order No. 13-Edu of 2007 dated 15.1.2007 cancelled the deputation of the appellant to Government Medical

College Srinagar and sent one Shri Fayaz, Alnnad on deputation to Government Medical College Srinagar in place of appellant;

(v) that the appellant obtained an ad-interim injunction order against the relieving order dated 11.10.2006 from Small Causes court Srinagar.

(vi) that Shri Fayaz, on his being not allowed to join at Government Medical

College Srinagar on the ground that Small Causes Court had granted ad-interim injunction against the relieving order dated 11.10.2006; On 27th February 2007 filed an appeal with the leave of the Court against ad-interim injunction obtained by the appellant from the Court of Judge Small Causes, Srinagar;

(vii) that the order of Judge Small Causes in temporary injunction application filed by the appellant alongside the Civil suit was set aside by the 1st.

Appellate Court on 04.05.2007, and the respondents directed to allow, Shri Fayaz, Ahmad sent on deputation in place of the appellant to join and

relieve the appellant;

(viii) that the 1st. Appellate Court order dated 4.5.2007 was not obeyed constraining Shri Fayaz Ah in ad to file a contempt application and that

Shri Fayaz Ahamad was allowed to joint by the respondents on 09.05.2007, after the contempt petition was filed before the 1st. Appellate Court.

15. The above instances are only illustrative but not exhaustive of the deception and manipulations played by the appellant. The appellant by with-

holding important information from the Writ court has played fraud on the Court. The appellant has prosecuted a frivolous and vexatious litigation

for six long years and usurped the time resources that ought to have been given to bonafide and genuine justice seekers. The appellant and the

litigants like appellant by resorting to frivolous litigation make process of the Court and convert judicial proceedings into a tool to accomplish their

illegal designs. The appellant, as pointed out earlier, has managed, on the basis of successive vexatious proceedings, to occupy a post for six long

years when he had no right to continue at Government Medical College Srinagar, beyond the date when he was recalled from deputation or at the

most the date, when his term of deputation came to an end.

16. What must be response of the Court to such a situation? Is mere dismissal of the appeals enough in the circumstances and facts of the case and

allow the appellant to mock at and have a last laugh on helplessness of the Court?. Should the Court at least make the appellant realise and send

message to others, who like the appellant use or intend to use the judicial proceedings as a cover-up for their misdeeds and a tool to accomplish

their illegal objects, that they shall have to bear the consequences of vexatious litigation.

17. We find answer to the question in *Seema Dhamdhare, Secretary, M.P.S.C. v. State of Maharashtra and Others* AIR 2007 SC and

subsequent judicial pronouncements, on the subject.

18. The Appellate Court in *Seema Dhamdhare's* case (*supra*) while dealing with the menace of vexatious litigation, though in a different context,

lamented that the Court time was claimed by vexatious litigation which could be otherwise utilised for disposal of the genuine cases; The Court

observed:-

...[The] Court should do well not only to dismiss the petitions but also to impose exemplary costs. It would be desirable for the Courts to filter out

the frivolous petitions and dismiss them with costs as afore-stated so that the message goes in the right direction that petitions filed with oblique

motive do not have the approval of the Courts:

In *Padmawati and Others V. Harijan Sewak Sang*, (Delhi High Court CM(M) No. 449/2002 decided on 6.11.2008), the Court held the

petitioners liable to pay costs equivalent to the average market rent for the period the respondents by frivolous litigation had managed to retain the

subject matter of the litigation and quantified the amount of costs at Rs. 15,10,000/-. The Court emphasizing the need to discourage frivolous

litigation, so that the public confidence in the Institution/judiciary was reinforced held:-

9...[One] of the reasons for over-flowing of court dockets is the frivolous litigation in which the Courts are engaged by the litigants and which is

dragged as long as possible. Even if these litigants ultimately lose the case, they become the real victors and have the last laugh. This class of people

who perpetuate illegal acts by obtaining stays and injunctions from the Courts must be made to pay the sufferer not only the entire illegal gains

made by them as costs to the person deprived of his right and also must be burdened with exemplary costs. Faith of people in judiciary can only be

sustained if the persons on the right side of the law do not feel that even if they keep fighting for justice in the Court and ultimately when, they

would turn out to be a fool since winning a case after 20 or 30 years would make wrong doer a real gainer, who had reaped the benefits for all

those years. Thus, it becomes the duty of the Courts to see that such wrong doers are discouraged at every step and even if they succeed in

prolonging the litigation due to their money power, ultimately they must suffer the costs of all these years long litigation. Despite settled legal

positions, the obvious wrong doers, use one after another tier of judicial review mechanism as a gamble, knowing fully well that dice is always

loaded in their favour, since even if they loose, the time gained is the real gain. This situation must be redeemed by the Courts,

19. In Faridabad Complex Administration (now Municipal Corporation, Faridabad) and Another v. Raja Ram, (Punjab and Haryana High Court

CR.No. 2844/2010 decided on May 03, 2010, the Court after noticing that the petitioners by repeated rounds of frivolous litigation were adamant

to deprive the respondent of the fruits of litigation commenced a little less than 20 years back dismissed the petition with following observations:-

[It] is thus manifest that the petitioners are grossly abusing the process of the Court because they have not to pay from their own pocket for

incurring expenses on unnecessary and avoidable litigation. There has been grave misconduct on the part of the defendants at every stage of the

case. The judgements of the Court below are perfectly justified and do not suffer from any infirmity, much less illegality, so as to warrant

interference at the hands of this Court in exercise of power of superintendence under Article 227 of the Constitution of India. The revision petitions

is completely frivolous and meritless and deserves to be dismissed with heavy exemplary cost in order to curb such, frivolous litigation.

20. Having regard to the conduct of the appellant as discussed in detail, we are satisfied that this is a fit case where the appellant for all the deceit

committed by the appellant must be burdened with exemplary costs.

21. We accordingly while dismissing the Appeals order as under:-

(I) That the appellant is liable to pay exemplary costs that we quantify at Rs. 2.00 lacs, to be deposited within four weeks with the High Court

Registry for its onward remittance to Government treasury. The amount of the Rs. 2.00 lacs, we are conscious represents only a small part of

benefits, derived by the appellant by his continued stay at Government Medical College, Srinagar. However, the underlying idea being only to send

the message that vexatious and frivolous litigation can not be condoned or tacitly approved by the Court and not to punish the appellant; we restrict

the exemplary costs to the aforesaid amount. (II) That in case the appellant after

his joining on deputation as lecturer Statistics/ Statistician in Government Medical College Srinagar was given Government residential accommodation or that of the Government Medical College Srinagar and the appellant continued to occupy such accommodation after the period of his deputation came to an end, the rent paid by the Estates Department of the Government, to private accommodation of identical nature i.e. room space etc hired for Government employees, shall be recovered from the appellant with effect from 1.11.2006 till the date of retention/occupation of the said residential place and deposited in Government Treasury. The appellant if in possession of such Government/ College accommodation at present shall be evicted therefrom forthwith, so that the respondents may consider allotment of the accommodation to official/ officer entitled to such accommodation.

(III) That the respondent No.2, shall hold an inquiry into the acts of disobedience of the Government orders by the appellant and his acts of omission and commissions while on deputation till date, as may surface on scanning the record, within four weeks from the date, copy of this order is made available to the respondent No.2, and thereafter take such disciplinary action against the appellant as may be warranted under the facts and circumstances.

(IV) That the respondent No.1, i.e. Commissioner-cum-Secretary to Government Health and Medical Education Department shall hold/direct an inquiry in to the circumstances in which the appellant was allowed to continue in Government Medical College Srinagar, even after the appellant was recalled from deputation vide order dated 30.12.2005 and subsequently relieved vide order dated 11.10.2006, and even after his replacement Shri Fayaz Ahmad joined in Government Medical College Srinagar, and series of relieving orders made thereafter, so that he accomplices of the appellant if any within Government Medical College Srinagar and the Department of Social and Preventive Medicine are identified and dealt-with under law.

22. The appeals are dismissed accordingly.