

**BEFORE THE UTTARAKHAND PUBLIC SERVICES TRIBUNAL  
BENCH AT NAINITAL**

Present: Hon'ble Mr. Rajendra Singh

----- Vice Chairman(J)

Hon'ble Mr. A.S.Rawat

-----Vice Chairman(A)

**CLAIM PETITION NO. 37/NB/DB/2021**

Dr. Atul Saxena, aged about 49 years, s/o Shri Shiv Nath Saxena, R/o Type-IV, B-2, Government Medical College, Haldwani, District-Nainital.

.....**Petitioner**

vs.

1- State of Uttarakhand through Principal Secretary, Department of Medical Education and Family Welfare, Government of Uttarakhand, Dehradun.

2- Director, Medical Education, Chandar Nagar, Dehradun.

3- Principal, Government Medical College, Rampur Road, Haldwani, Nainital.

4- Dr. Mohan Singh Deopa, S/o not known to the petitioner, presently working as Assistant Professor, Microbiology, Ram Murti Medical College, Bareilly, UP.

5- Dr. Rajeev Srivastava, S/o not known to the petitioner, presently working as Casualty Medical Officer, Government Medical College, Haldwani, District-Nainital.

6- National Medical Commission (formerly known as Medical Council of India), Pocket-14, Sector-8, Dwarka, Phase-I, New Delhi-110077.

.....**Respondents**

Present: Ms. Swati Verma, Advocate for the petitioner

Sri Kishore Kumar, A.P.O. for the respondents no. 1 to 3

Sri B.S.Karki, Advocate for the respondent no. 4

Sri D.N.Sharma, Advocate for the respondent no. 5.

**JUDGMENT**

**DATED: AUGUST 19, 2025**

**Per: Hon'ble Sri A.S.Rawat, Vice Chairman (A)**

By means of present claim petition, the petitioner seeks the following reliefs:

*“i) To issue an order or direction to set aside/ quash the impugned order dated 12<sup>th</sup> May ,2021*

*ii) To issue an order or direction to the respondents to provide the benefit of designation of Assistant Professor to the petitioner as was given to Dr Mohan Singh Deopa from 22-12-2016 to 27-12-2018 or in the alternative to issue a direction to the respondents to cancel the said experience certificate issued to Dr. Mohan Singh Deopa.*

*iii) To issue an order or direction to set aside the Senior Residents orders of Dr. Rajeev Srivastava and to direct the respondents for recovering the salary and allowance paid to Dr. Rajeev Srivastava.*

*(iv) To issue an order or direction to the respondents to provide the benefit of designation of Assistant Professor to the petitioner as was given to the other similarly situated persons or in the alternative to issue a direction to the respondents to cancel all orders by which benefit of designation of Assistant Professor was given to similarly situated persons.*

*v) To award the cost of the petition in favour of the applicant.”*

2. Brief facts of the case are as follows:

2.1 The petitioner was appointed as Casualty Medical Officer at Uttaranchal Forest Hospital Trust (Declared as Uttarakhand Forest Hospital Trusts Government Medical College Haldwani) in the pay scale of Rs. 8000-13500/ on 02-03-2007 and he joined on the same date. On the same date, Dr. Mohan Singh Deopa was also appointed and he joined on 19<sup>th</sup> April, 2007.

2.2 The services of the petitioner as well as Dr. Mohan Singh Deopa were confirmed on completion of probation period of two years vide order dated 23.3.2010. The petitioner was sanctioned study leave for pursuing M.D. course at Sri Ram Murti College, Bareilly, which was for a period of three years and the petitioner was relieved on 4<sup>th</sup> July, 2013 for pursuing the said course.

2.3 After completion of the course in 2016, the petitioner requested for utilization of his services as Assistant Professor in Forensic Medicine Department, Government Medical College. Vide order dated 1<sup>st</sup> October, 2016, he was allowed to discharge the duties at the Forensic Medicine Department for three days, i.e. for Monday, Tuesday and Wednesday, and for rest of the days, as Casually Medical Officer in the Casualty Department, however later on, the said order was cancelled on 29-12-2018.

2.5 Similarly, Dr. Mohan Singh Deopa was also allowed to undergo M.D. course and on his representation, he was posted as Assistant Professor, Microbiology vide order dated 22-12-2016. The petitioner is seeking the same benefit as has been provided to Dr. Mohan Singh Deopa, as both, the petitioner as well as Dr. Mohan Singh Deopa were appointed vide same order and were allowed to undergo the M.D. course by the respondent no. 1 to 3. The information provided to the petitioner that on the basis of the M.D. qualification, many doctors have been designated as Assistant Professor.

2.6 The petitioner claimed benefit from the respondents of the order which was provided to Dr. Mohan Singh Deopa designating him as Assistant Professor. The petitioner also claimed benefit of the order by which several similarly situated persons were provided the benefit of designation of Assistant Professor. The petitioner was also aggrieved by the fact that instead of utilizing the services of the petitioner as Assistant Professor, one Sri Arjeet Datta was appointed on contractual basis as Assistant Professor. The petitioner, as such, aggrieved by the action of the respondents, filed a writ petition no. 281 of 2017 (S/B) before the Hon'ble High Court, Nainital with the prayer that the appointment of Dr. Arjeet Datta on contractual basis be quashed and the case of the petitioner be considered for designation as Assistant Professor in the Forensic Department from the date when the said benefit was provided to Dr. Mohan Singh Deopa and other similarly situated employees. The petitioner had also prayed that the

respondents be directed to consider and decide the representation of the petitioner.

2.6 The Hon'ble Court passed an order on 29<sup>th</sup> October, 2018 directing the respondents to consider the representation of the petitioner. The writ petition of Dr. Rajeev Srivastava was also decided with the writ petition of the petitioner.

2.7 The representation of the petitioner was rejected on 27-12-2018 and the order dated 22-12-2016 by which Dr. Deopa was designated as Assistant Professor was cancelled, the representation of the petitioner was as such, rejected by stating that as the benefit granted to Dr. Mohan Singh Deopa was withdrawn, as such, the said benefit cannot, now be claimed by the petitioner. As the case of the petitioner was only considered viz-a-viz Dr. Mohan Singh Deopa, but was not considered viz-a-viz other similarly situated persons, as such, a contempt petition was filed by the petitioner, however, on 15-5-2019 the said contempt petition no. 252 of 2019 was dismissed by the Hon'ble Court by giving liberty to the petitioner to challenge the said order dated 27-12-2018.

2.8 The petitioner through the information sought under Right to Information Act, came to know that the State Government on 27-12-2018 had cancelled the order dated 22-12-2016 in case of Dr. Mohan Singh Deopa, however, the Principal of the Government Medical College, Haldwani provided the benefit of more than two years' service as Assistant Professor to Dr. M.S. Deopa on his resignation from the Government Medical College and on the basis of **experience certificate**, Dr. Deopa joined as Assistant Professor, Microbiology at Rammurti Medical College, Bareilly.

2.9 The petitioner submitted a detail representation before the respondent no. 1 on 3rd February, 2021 highlighting the irregularities done by the respondents in rejecting the case of the petitioner for designation as Assistant Professor viz-a-viz similarly situated employees. Without application of mind and in a routine manner, the

representation of the petitioner has been rejected vide order dated 12th May, 2021 without giving any finding as to how the experience certificate was issued to Dr. Deopa, when the order dated 27-12-2018 of cancelling the earlier order was passed in his case.

3. Opposing the claim petition, the official respondents no. 1, 2 & 3 have filed C.As./W.S. separately, mainly stating therein that-

3.1 The petitioner was appointed, as Casualty Medical Officer in the Teaching Hospital of respondent no.3 Medical College, which is a non-teaching post, whereas, Assistant Professor is a teaching post and both having different cadres. The respondent no.3, Medical College and its teaching hospital namely Dr. Sushila Tiwari Memorial Forest Hospital, Haldwani.

3.2 The petitioner was sanctioned study leave for 3 years to pursue MD/MS course, the applicant/petitioner furnished a surety bond at the time leaving for pursuing MD Forensic Medicine. Further. It is specifically mentioned in the surety bond furnished by the applicant that conferment of the MD course on the applicant shall not create any right to claim accelerated promotion, transfer to different post or award monetary benefits and the applicant had to work as per previously assigned job/designation. The minimum qualification for teachers in Medical Institutions Regulations, 1998 has been amended on 05/06/2017, wherein clause-6 has been substituted, where under it has been laid down the pre-condition for appointment to Assistant Professor, which is being reproduced as under:-

**Assistant Professor-** *A post graduate qualification MD/MS in the concerned subject and as per the TEQ Regulations 3 years Junior Resident in a recognized medical college in the concerned subject and one year as Senior Resident in the concerned subject in a recognized medical college.*

**Senior Resident-** *Senior Resident is one who is doing his/her residency in the concerned post graduate subject after obtaining PG degree (MD/MS) and is below 40 years of age.*

3.3 The petitioner does not have the requisite experience of one year as Senior Resident in the concerned subject from a recognized medical college, as such he cannot be appointed as an Assistant Professor. The petitioner was appointed as Casualty Medical Officer which is a non-teaching post, therefore, the petitioner cannot claim right in respect of aforesaid teaching post, which is entirely different cadre as per the provision in the service rules dated 23.01.2014.

3.4 The representation dated 03.02.2021 of the petitioner for designating him as Assistant Professor was rightly rejected vide order dated 12.05.2021, passed by respondent no. 1.

3.5 The petitioner is not entitled to claim appointment as Assistant Professor in terms of surety bond furnished by him for pursuing MD Forensic Medicine course. However, the petitioner on his request to work in the department of Forensic Medicine was permitted vide order dated 01.10.2016 to work in Forensic Medicine Department for 3 days in a week and rest 3 days had to work as Casualty Medical Officer in the Casualty Department. Subsequently, due to administrative reasons, this arrangement was discontinued vide order dated 29.12.2018.

3.6 Dr. Mohan Singh Deopa, Casualty Medical Officer was eligible for the post of Assistant Professor Microbiology at that time, as per Minimum Qualification for Teachers in Medical Institutions Regulations, 1998 and as well as Uttarakhand Medical Education Service Rules, 2014. Therefore, Dr. Mohan Singh Deopa was engaged as Assistant Professor Microbiology on purely temporary and stop gap arrangement in the interest of the Institution vide order dated 22.12.2016. Subsequently, this stop gap arrangement was cancelled vide order dated 27.12.2018.

3.7 Dr. Mohan Singh Deopa, Casualty Medical Officer was engaged as Assistant Professor in the Microbiology Department purely on temporary basis in the Institutional interest. However, the petitioner cannot claim the same as a matter of right in terms of surety

bond furnished by him and secondly, due to amendment dated 05.06.2017 to Minimum Qualification for Teachers in Medical Institutions Regulations, 1998 effective from 08.06.2017.

3.8 The post graduate MD/MS degree holders were designated as Assistant Professor in respective specialties vide order dated 04.01.2016, 17.02.2016 and 24.02.2016 being eligible for the post of Assistant Professor at that time, as per minimum qualification prescribed by Medical Council of India for medical faculty. The petitioner cannot compare himself with other doctors who had been eligible for Assistant Professor and accordingly designated as Assistant Professors in the Institutional interest.

3.9 The judgment and order dated 29.10.2018 passed by the Hon'ble High Court of Uttarakhand in Writ Petition no.281 (SB) of 2017 was duly complied with vide order dated 27.12.2018. Dr. Mohan Singh Deopa and petitioner being Casualty Medical Officers belonged to Casualty/Emergency ancillary services of the Medical College/Hospital. Whereas, other PG doctors are concerned with clinical field of the medicine, particularly, in the teaching hospital of the Medical College, which is part and parcel of the teaching activities of the medical students. Therefore, the petitioner cannot compare himself with other PG doctors, who are related to clinical activities of the hospital.

3.10 Dr. Mohan Singh Deopa, Casualty Medical Officer was assigned the work of Assistant Professor in the Microbiology Department purely on temporary basis as a stop-gap arrangement vide order dated 22.12.2016, subsequently was repatriated to his original post as Casualty Medical Officer vide order dated 27.12.2016. Since, Dr. Mohan Singh Deopa has worked as Assistant Professor for a period of 2 years, accordingly, he was issued **experience certificate** after his repatriation to Casualty Department is just and proper.

3.11 Dr. Rajeev Srivastava, Casualty Medical Officer had DNB(Diploma of National Board) qualification as on 31.12.2000 from St. Stephen's Hospital, Delhi, thereafter, Dr. Rajeev Srivastava applied for pursuing residency training from Government Medical College, Haldwani. Therefore, Dr. Rajeev Srivastava was allowed to undergo residency training in respondent no-3, Medical College as Senior Resident from 21.12.2015 vide Government order dated 11.12.2015, in addition to his day-to-day normal duties as Casualty Medical Officer.

3.12 The petitioner is not eligible for appointment as Assistant Professor as per amendment dated 05.06.2017 to Minimum Qualification for Teachers in Medical Institutions Regulation, 1998.

3.13 Dr. Mohan Singh Deopa, Casualty Medical Officer assigned the work of Assistant Professor in the Department of Microbiology vide order dated 22.12.2016 on purely temporary basis. His engagement as Assistant Professor was cancelled vide government order dated 27.12.2018. Whereas, petitioner, on his request was permitted to work Forensic Medicine Department of for 3 days a week and rest 3 days had to work as Casualty Medical Officer in the Casualty Department vide order dated 01.10.2016. Subsequently, due to administrative reasons this arrangement of working of the petitioner was revoked vide order dated 29.12.2018. It is pertinent to mention here that due to amendment dated 05.06.2017 to minimum qualification for Assistant Professor, the petitioner is not eligible for the post of Assistant Professor.

3.14 The present claim petition is not maintainable at the instance of the petitioner and liable to be dismissed with costs.

4. C.A./W.S. has also been filed on behalf of private respondent no. 4, in which, it has been stated that-

4.1 The respondent no. 4 had acquired MD Microbiology on 26.05.2015 from Rohilkhand University, Bareilly, for which study leave



was granted by respondents 1 to 3. Subsequently, he was assigned the work of Assistant Professor, Microbiology purely on temporary basis vide order dated 23.12.2016 by the Principal of respondent no-3, Medical College, pursuant to Government Order dated 22.12.2016. However, this temporary arrangement was cancelled vide order dated 29.12.2018 pursuant to Government order dated 27.12.2018. Accordingly, the respondent no. 4 resumed duties on his substantively appointed post of Casualty Medical Officer with respondent no.-3. The respondent no. 4 was eligible for Assistant Professor, Microbiology, as per Minimum Qualification for Teachers in Medical Institutions Regulations, 1998, however, the minimum qualification has been amended on 05.06.2017 and made effective from 08.06.2017. As per the amended rules, for the post of Assistant Professor, one year Senior Residency experience in the concerned subject from a recognized medical is a must after post graduate MD/MS qualification.

4.2 Since the respondent no. 4 had worked as Assistant Professor in Microbiology Department of respondent no.-3 for more than 2 years, accordingly an **experience certificate** was issued in his favor vide letter dated 25.02.2019. The respondent no.4 thereafter worked in the Casualty Department of respondent no.-3 Medical College, as Casualty Medical Officer from 30.12.2018 to 30.06.2020. On relieving from service of respondent no-3 Medical College, he joined Shri Ram Murati Smark Institute of Medical Sciences, Bareilly, as Assistant Professor, Microbiology on 01.07.2020. The answering respondent is no way concerned with the present claim petition of the petitioner, which is causing unnecessary harassment to him. Therefore, in the interest of justice, it is prayed that an order be passed to set free and separate the answering respondent from the array of opposite parties in the present claim petition.

5. Similarly, C.A./W.S. has also been filed on behalf of private respondent no. 5 and it has been stated that-

5.1 Dr Mohan Singh Deopa's appointment was cancelled and sent back to casualty department and the petitioner and respondent No 5 were not allowed to be considered for the post of Assistant Professor despite the order of the Hon'ble High Court. The respondent No 5 has obtained the post graduate qualification "Diploma of National Board" in the specialty of General Surgery from a well-recognized institute 'National Board of Examinations' and the degree issued by the same is also recognized by National Medical Commission and presently degree obtained by respondent No. 5 is totally at par with MD/MS degree given by various universities. The copy of certificate issued by **National board of examinations** clearly mentions that **'respondents degree shall be "equivalent" in all respects to the corresponding post graduate qualifications and the super specialty qualifications granted under Para 37(2) of the National Medical Commission Act 2020'**.

5.2 After obtaining the post graduate degree, the respondents allowed him to undergo senior residency in the department of General Surgery from 21.12.2015. The respondent No.5 is eligible to be appointed as an Assistant Professor and the contention of the petitioner that respondent No. 5 did not possess the qualification to be appointed as a senior resident is baseless.

5.3 All the appointments whether of senior/junior resident or various faculty members in any Medical College are as per MCI/NMC norms which may be seen in various advertisements released by Govt, Medical College Haldwani/Doon Medical College where the qualifications and age requirements are shown as per NMC/MCI norms and not as per Medical Education Services Rules, 2014. The petitioner is not eligible for the post of Assistant Professor in any Medical College as he has not done one year Senior Residency after obtaining post graduate qualification in his specialty.

5.4 The eligibility of respondent No. 5 for the post of Senior Resident cannot be challenged as team of MCI has personally

checked all the documents and found eligible during their five MCI inspections (on 18 May 2016, 7 Sept 2017, 26 Feb 2018, 19 June 2018 and 7 March 2020) faced by the respondent during his tenure as a Senior Resident. Acceptance letter of the first inspection of the respondent No 5 dated 18.05.2016 can also be downloaded from National medical commission website. During his tenure as a Senior Resident, the respondent no 5 has discharged all his duties along with Senior Residency and he had discharged his duties in the department of casualty as and when ordered.

5.7 The petitioner has received full salary only of working as a Casualty Medical Officer, while the respondent no 5 has received his salary while discharging his full duty as a Senior Resident and beside that respondent 5 has also done duty in casualty department as and when ordered by higher authorities. The benefit of some work in the form of obtaining **experience certificate** cannot be provided to anybody without working for the same, as in this case, the petitioner has never worked either as a Senior Resident or Assistant professor.

6. Separate R.As, have been filed by the petitioner denying the contentions made in the C.A./W.S. filed on behalf of the official respondents no. 1 to 3 and private respondents no. 4 & 5. It is further submitted that the petitioner was also eligible as per the said regulations to be designated as Assistant Professor, however, he was denied the said benefit. The petitioner and the respondent no. 4, were sanctioned study leaves prior to coming into the force of Service Rules, 2014. Moreover, even after the promulgation of the Rules, 2014, Dr. S.C. Joshi was granted study leave. Dr. Rajeev Srivastava was given the benefit of Senior Residency Training of four years from the year 2015, though, there was no provision under the Rules, 2014, the benefit of which could be provided to Dr. Rajeev Srivastava. Thus, the official respondents have acted on their own in a totally whimsical manner and have provided the benefit of training or the benefit of Senior Residency Training or the designation of Assistant Professor to the candidates of their own choice as per their own wish.

6.1 The Principal of the College had given the certificate to respondent no. 4 against the government order. As per the note sheet and government order under which the respondent no. 4 was allowed to be designated as Assistant Professor, it was clearly provided that no benefit of any kind could have been given to the said respondent for working as Assistant Professor. The said benefit was granted by the Principal i.e. the respondent no. 3 on his own without taking any approval from the State Government as he was one of the surety to the bond executed by the respondent no. 4 and the condition of the said bond was also made favorable in favor of the respondent no. 4 and was in contravention to the condition, which was provided in the bond to the other employees including the petitioner, who had executed the bond for the study leave. Thus, it is clear that the respondent no. 3 was instrumental in providing benefit to the person of their choice.

6.2 Moreover, the said respondent, in para-8 of the Counter Affidavit, has stated that after 5<sup>th</sup> June, 2017, the minimum qualification prescribed by the Medical Institution Regulations, 1998 was amended and one year Senior Residency experience in the concerned subject from a recognized Medical College was must after PG, MD, MS qualification, however, it is strange that even after coming into force of the said amended Rules, the respondent no. 4 was allowed to continue as Assistant Professor. If the contention of respondent no. 4 is accepted that after 5<sup>th</sup> June, 2017, as per the amended regulation, one year Senior Residency experience in the concerned subject is must then it is strange as to how the respondent no. 4 was selected as Assistant Professor at the Ram Murti Hospital, Bareilly as the said institute is also covered by the MCI Regulations. Thus, the said respondent was selected as Assistant Professor in the Ram Murti Hospital, Bareilly due to the fact that the respondent no. 3 had granted the experience certificate of Assistant Professor to the respondent no. 4. The experience certificate issued to the respondent no. 4 is liable to be cancelled and the said respondent cannot be

provided any benefit of working as Assistant Professor on the basis of the said certificate. The claim petition is liable to be allowed.

7. Supplementary Counter Affidavit has been filed on behalf of respondent no. 4 to the Rejoinder Affidavit, mainly stating therein that-

7.1 The respondent no. 4 had obtained permission for pursuing M.D. (Microbiology) in July, 2012 and in lieu thereof, had furnished surety bond that after completion of the course, he shall serve for a minimum period of five (5) years to the State Government/State Government Medical Colleges, failing which, he will pay back the expenses incurred by the Government towards salary including leave salary plus other expenses (if any) as paid to the obligor towards studies training/ studies and a penalty of Rs. 15,00,000/- (Fifteen Lakh only). The respondent no. 4 has completed his M.D. Microbiology in May, 2015. Whereas, the petitioner had obtained permission for study leave to pursue M.D. (Forensic Medicine) in July, 2013 and in lieu thereof furnished bond. Further, the bond furnished by the petitioner specifies that conferment of M.D. Degree on the petitioner shall not create any right to claim accelerated promotion, transfer to different post or award monetary benefits and the petitioner had to work as per the last assigned job/designation. Therefore, there is clear cut distinction in the surety bond furnished by the petitioner and respondent no. 4, hence there is no parity in the bonds furnished by them. Therefore, the petitioner firstly cannot claim promotion/ placement as Assistant Professor (Forensic Medicine) on acquisition of M.D. (Forensic Medicine) in terms of surety bond furnished by him.

7.2 On the request of the petitioner, he was engaged in the Forensic Medicine Department for three days a week from 01<sup>st</sup> October, 2016, however for rest 3 days of the week, he had to work in the casualty department. Meanwhile, the minimum qualification for Teachers in Medical Institutions Regulations, 1998, was amended on 05.06.2017 vide which the qualification for the Asstt. Professor was changed as-**3 years Junior resident in a recognized Medical**

***College in the concerned subject and one year as Senior Resident in the concerned subject in a recognized Medical College is mandatory.***

7.3 Since the petitioner was working as Casualty Medical Officer and did not have one year experience as Senior Resident as per amended rules, he could not be considered for the post of Assistant Professor. The respondent no. 4 who had acquired M.D. (Microbiology) in May, 2015 had to render minimum 5 year service after completion of M.D. Course for transfer to other college as per surety bond furnished by him. Moreover, the respondent no. 4 was assigned the work of Assistant Professor (Microbiology) vide order dated 23.12.2016 purely on temporary basis prior to amendment notification dated 05.06.2017, hence. he was and is eligible for appointment as Assistant Professor.

8. Replying the Supplementary Counter affidavit filed on behalf of respondent no. 4, the petitioner has also filed Supplementary R.A. stating therein that-

8.1 During pendency of the claim petition, the petitioner came to know that in the case of Dr. Rajeev Srivastava, that a blatant illegality has been committed by the respondents. The benefit of the post of Assistant Professor has been availed by Dr. Mohan Singh Deopa and in similar manner, Dr. Rajeev Srivastava has been provided the benefit of Senior Resident for which he was otherwise not entitled.

8.2 Dr. Rajeev Srivastava was asked to discharge the duties as Casualty Medical Officer (CMO) along with his working as Senior Resident, however, he had not discharged the duties as Casualty Medical Officer. The said stand taken by the petitioner is substantiated from the documents, which have been received under Right to Information Act, which clearly demonstrate that Dr. Rajeev Srivastava has not performed his duties as Casualty Medical Officer. The pay data from 21<sup>st</sup> April, 2015 to 20<sup>th</sup> December, 2015 would demonstrate that Dr. Rajeev Srivastava has worked as Casualty Medical Officer,

however, from 21.12.2015 onwards till 20.07.2016, it has been shown that he is on study leave despite the fact that no study leave was sanctioned to him as per the information received under the RTI Act. It was shown at point no. 06 that from 21.12.2017 to 05.01.2018, there is no proof available with the department of Surgery about the working of Dr. Rajeev Srivastava as Senior Resident. Moreover, there is no pay data available from 21.12.2017 to 20.01.2018 in Casualty Department about the working of Dr. Rajeev Srivastava as Casualty Medical Officer. Similarly, the Incharge, Department of Casualty on 10.07.2017 had provided the information under R.T.I. that Dr. Rajeev Srivastava had not worked in department of Casualty from 21.12.2015 till 10.07.2017.

8.3 The then Principal Shri C.P. Bhaisora on 11<sup>th</sup> August, 2017 issued an experience certificate to Dr. Rajeev Srivastava that he had worked as Senior Resident from 21.12.2015 to 20.12.2016 whereas, he was absent on 15.10.2016, thus, it cannot be said that complete one year period was spent on training by Dr. Rajeev Srivastava. Thus, to provide illegal benefit to Dr. Rajeev Srivastava, a false experience certificate was issued by the then Principal to Dr. Rajeev Srivastava certifying that he had worked from 21.12.2015 to 20.12.2018 for the entire period of three years.

8.4 The above referred facts clearly establish that the Principal of the College had not only given the experience certificate to Dr. Mohan Singh Deopa, but has also shown the complete working to Dr. Rajeev Srivastava as Casualty Medical Officer against the record and it goes to show the collusion of the Principal of the college with the private respondents.

9. We have heard learned Counsels of the parties and perused the records.

10. Learned Counsel for the petitioner argued that the petitioner after completing MD in Forensic Medicine and Toxicology requested the respondent No 3 to attach him as Asstt. Professor in Forensic and

Medicine Department. But instead of posting him, he was allowed to take classes for three days in a week from 01.10.2016 to 29.12.2018 and for rest of three days, he worked as Casualty Medical Officer in the Casualty Department. Whereas, Dr Mohan Singh Deopa was engaged as an Asstt. Professor for w.e.f. 22.12.2016 to 27.12.2018 after completion of MD in Microbiology.

Learned Counsel for the petitioner further argued that many doctors in Doon Medical College Hospital have been designated as Asstt. Professor on the basis of MD qualification. The posting order of Dr. Deopa was cancelled and he was reverted back to the post of the Casualty Medical officer. But, the Respondent No 3 gave him the experience certificate of working as Asstt. Professor on the basis of which he got appointment as Asstt. Professor in Ram Murthy Smark, Institute of Medical Sciences, Bareilly. Similarly, Dr Rajiv Srivastava was not eligible to be appointed as Senior Resident, but he was allowed to work as Senior Resident along with his regular duty of Casualty Medical Officer. Although, documents made available through RTI did not support his claim. The Principal Medical College, Haldwani has given experience certificate of Asstt. Professorship to Dr Deopa despite the fact that the order of posting as Asstt. Professor was cancelled by the Government. He has been benefited by the certificate given to him. In view of the facts mentioned above, the claim petition is liable to be allowed.

11. Learned Counsel for the respondent No 4 (Dr. Mohan Singh Deopa) argued that the respondent was engaged as the Casualty Medical Officer in 2010. He was permitted by the Medical College to pursue M.D.(Microbiology) from Ruhilkhand University, Bareilly, which he completed in 2015. He was posted as Asstt. Professor on temporary basis against the existing vacancy with the condition that as soon as the regular appointment is made, he will be reverted back to the Casualty Medical Officer. He was posted as per Minimum Qualification for Teachers in Medical Institute Rules, 1998 of MCI



(hereinafter referred to as MCI Rules). MCI amended the eligibility criteria for the post of Asstt. Professor in 2017 which are as follows:

***MD/MS/PG is discipline with three years experience as Junior resident and one year experience as the senior resident.***

11.1 Learned Counsel for the respondent no. 4 further argued that respondent no. no. 4 did not have the required eligibility criteria for appointment as Asstt. Professor as per aforesaid MCI Rules of 2017 and his engagement was cancelled in 2018. Whereas, the petitioner did not have the qualification as per the MCI Rules of 2017 and he was not posted as Asstt. Professor. The petitioner cannot claim the benefit of designation as he was not holding the post of the Asstt. Professor. The petitioner is seeking relief for giving him designation whereas, the respondent has given the Experience Certificate to Dr. Mohan Singh Deopa of working as Asstt. Professor for two years. So, based on the facts, his claim petition is liable to be dismissed.

12. Learned Counsel for the respondent no. 5 submitted that the Counter Affidavit filed by the respondent No 5 may be accepted as his argument. It has been submitted that he has Diploma of National Board (DNB) which is equivalent to the post graduate degree MD/MS as accepted by MCI/NMC and various Universities also. He has undergone Training of Senior Resident and worked as Casualty Medical Officer side by side. He was eligible for the post of Asstt. Professorship. He has further submitted that the petitioner was not eligible for the post of Asstt. Professor, he took classes three days in a week and worked as the Casualty Medical Officer in the Casualty ward, but he did not work as a Asstt. Professor. So, claim petition is liable to be dismissed.

13. Learned A.P.O. has argued that the petitioner was not posted as Asstt. Professor, he taught for three days in week and for rest of the three days, he worked as Causality Medical Officer. Whereas, Mr. Mohan Singh Deopa was appointed by the Govt. as Asstt. Professor

as temporary basis. He held the post from 22.12.2016 to 27.12.2018. He was reverted back to the post of Casualty Medical Officer, as he was not eligible as per the MCI Rules of 2017. Dr Rajiv Srivastava was eligible to undergo training as Senior Resident as per the Rules. The petitioner cannot be given the designation of the Asstt. professor as he has not worked on the post. Moreover, he was not eligible for appointment to the post of the Asstt. Professor. The claim petition is liable to be dismissed.

14. Based on the arguments of Learned Counsels for the parties and perusal of the record, we find that the petitioner was appointed as the Casualty Medical Officer and on his request, he was allowed to take classes for three days in a week and for the rest of the three days he attends hospital as Casualty Medical Officer. He did not have the required qualification to be posted as the Asstt. Professor as per the MCI Rules of 2017. The respondent No 4 (Dr Deopa) was appointed as Asstt. Professor in 2014, as requirement of one year experience as Senior Resident was not there as per the extant Rules of 2014. The appointment of Dr. Deopa was temporary and he was reverted back to his post of Casualty Medical Officer, as he was not eligible to hold the post of the Asstt. Professor as per the amended MCI Rules of 2017. He was given certificate of the experience of working as Asstt. Professor by the Principal of the Medical College, which was issued based on the facts. Dr Rajiv Srivastva was eligible to undergo the training of Senior Resident. He remained Senior Resident along with his regular duty of Casualty Medical Officer.

15. Thus, it is crystal clear that the private respondent no. 4 was appointed as Assistant Professor on temporary basis from 22.12.2016 to 27.12.2018, for which, the respondent no. 3 issued Experience Certificate to him. The petitioner cannot be given designation of Asstt. Professor on the basis of Experience Certificate given to Dr. Mohan Singh Deopa, as he was never appointed as Asstt. Professor. The Secretary, Medical Health and Medical Education has rightly rejected the representations dated 03<sup>rd</sup> February, 2021 of the petitioner vide

impugned order dated 12.05.2021. Hence, the petitioner is not entitled to any relief and the claim petition is liable to be dismissed.

**ORDER**

The claim petition is hereby dismissed. No order as to costs.

**RAJENDRA SINGH**  
VICE CHAIRMAN (J)

**A.S.RAWAT**  
VICE CHAIRMAN (A)

*DATED: AUGUST 19, 2025*  
*DEHRADUN*  
*KNP*