

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) No.1964/2015

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3rd March, 2015

DR. REHAN AHMAD KHAN

..... Petitioner

Through: Mr. Rakesh Gaur, Adv.

versus

JAMIA MILIA ISLAMIA CENTRAL UNIVERSITY & ANR.

..... Respondents

Through: Mr. Manpreet Kaur, Adv. for R-1.

Mr. Arjun Karkaoli, Adv. for R-2.

CORAM:

HON'BLE MR. JUSTICE VALMIKI J.MEHTA

To be referred to the Reporter or not?

VALMIKI J. MEHTA, J (ORAL)

1. By this writ petition filed under Article 226 of the Constitution of India, the petitioner, whose technical resignation on 27.5.2011 was accepted by the respondent no.1, seeks the relief that he should be granted pension under the Old Pension Scheme instead of the New Pension Scheme.

2. The facts of the case are that the petitioner was appointed originally with the respondent no.1/Jamia Milia Islamia Central University vide appointment letter dated 16.7.2002 only on a purely temporary

appointment against the leave vacancy of one Dr. Shamshad Ahmad Naginvi. Petitioner after serving in the temporary position, was subsequently appointed on probation w.e.f 27.10.2005 and thereafter confirmed to his post w.e.f 27.10.2006.

3. Admittedly, when the petitioner was appointed on probation in 2005 and then confirmed in 2006, it was the New Pension Scheme which was prevalent and not the Old Pension Scheme. New Pension Scheme became applicable w.e.f 1.1.2004 and all employees who were appointed after 1.1.2004 were to be governed by the New Pension Scheme.

4. The appointment of the petitioner on a purely temporary basis in 2002, does not give any benefits except in terms of the temporary appointment letter and any service benefit which the petitioner claims is only such which can only be available to him after he was regularly appointed to the post and when the petitioner was confirmed as a lecturer w.e.f 27.10.2006 the Old Pension Scheme was no longer extant.

5. Contention of the counsel for the petitioner placing reliance upon para 13 of the temporary appointment letter dated 16.7.2002 that the petitioner will be governed by GPF-cum-pension-cum-gratuity scheme is misplaced because this clause has to be read alongwith the other clauses of

this appointment letter and para 1 of which makes it clear that the appointment is purely on temporary basis. Even the earlier part of the letter makes it clear that petitioner was appointed against the leave vacancy of Dr. Shamshad Ahmad Naginvi. Since it is an undisputed position on record that it is not as if the petitioner was confirmed on the post to which he was appointed vide letter dated 16.7.2002, and therefore, petitioner's appointment on 16.7.2002 not being on a regular basis with the respondent no.1-University, the service benefits of regular appointment will only flow to the petitioner after his confirmation in 2006, and when admittedly not the old but the New Pension Scheme was applicable as from 1.1.2004.

6. Dismissed.

MARCH 03, 2015
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VALMIKI J. MEHTA, J.