

\$~16, 17 & 24

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

%

Date of order : April 03, 2018

+

W.P.(C) 3607/2017 & CM No.15853/2017

VIKAS SHARMA

..... Petitioner

Through: Mr.A.K.Bhardwaj and Mr.Nishant Prateek,
Advocates

versus

MOTILAL NEHRU COLLEGE (EVENING)

& ANR

..... Respondents

Through: Mr.Sumit Rajput and Mr.Amresh Mathur,
Advocates for R-3
Mr.Mohinder J.S.Rupal, Mr.Prang Newmai
and Ms.Slomita Rai, Advocates for DU

+

W.P.(C) 8239/2017

JAMIL MALIK

..... Petitioner

Through: Mr.S.K.Tyagi, Advocate

versus

MOTILAL NEHRU COLLEGE (EVENING)

UNIVERSITY OF DELHI & ANR

..... Respondents

Through: Mr.Santosh Kumar and Mr.Abhinav
Sharma, Advocates for R-2

+

W.P.(C) 3158/2018 & CM Nos.12530-32/2018

SH. SHYAM

..... Petitioner

Through: Mr.Siddhant Srivastava, Advocate

versus

MOTILAL NEHRU COLLEGE (EVENING)

AND ANR.

..... Respondents

Through: Mr.Mohinder J.S.Rupal, Mr.Prang Newmai
and Ms.Slomita Rai, Advocates for DU

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER
(ORAL)

1. Petitioners in the above captioned three petitions, had applied for the post of Senior Technical Assistant (Computer), Senior Assistant and Computer Lab Attendant in pursuance to advertisement of 9th December, 2014 and it is the case of petitioners that they had qualified the written examination and their names find mention in the select lists issued in March and May, 2016 and they were to be called for interview. It is not in dispute that Department of Personnel and Training of Ministry of Personnel, Public Grievances and Pension vide office memorandum of 29th December, 2015 discontinued holding of interview for the junior level post in Government of India and the said office memorandum stood adopted by respondent-University vide office memorandum of on 2nd December, 2016. Prior thereto, respondent-college vide its Communication of 16th May, 2016 had called upon the respondent-University to provide the names of external experts of the Selection Committees as the validity of the empanelment for appointment was to lapse in July, 2016. Respondent-college had also requested the respondent-University to convey a special approval of the university, so that the validity of the advertisement in question continues even after expiry of 18 months. Aforesaid Communication of 16th May, 2016 of respondent-college stands rejected by the respondent-University on

23rd June, 2016 by a cryptic order. What has been said by the respondent-University in its rejection order of 23rd June, 2016 is that recruitment process cannot go beyond 18 months. It has been so said in respect of the non-teaching staff posts.

2. With the consent of learned counsels for the parties, the above captioned three petitions have been heard together and are being decided by this common order.

3. It is matter of record that after the counter was filed by the respondents, petitioner-Vikas Sharma has placed on record additional documents in November, 2017. Reliance has been placed upon *University Non-Teaching Employees (Terms and Conditions of Service) Rules, 2013* and minutes of the Executive Council meetings to make out a case that the bar of 18 months would not apply where appointments are made in respect of non-teaching staff. Since authenticity of the additional documents so filed cannot be determined in writ proceedings, therefore, it is deemed appropriate to permit petitioners to make a concise and effective representation seeking reconsideration of the cryptic order of 23rd June, 2016 of respondent-University as the *University Non-Teaching Employees (Terms and Conditions of Service) Rules, 2013* permit the Executive Council of the University of Delhi to grant relaxation of any provision of the recruitment rules. The respondent-University is also required to clarify as to whether the EC Resolution No.628 dated 17.03.1983; No. 656 dated 15.02.1985; No. 5(1) dated 20.05.1989 and No. 140 dated 10.02.2004 as amended on 14th November, 2013 would apply to non-teaching posts as the said resolution appears to be in the context of teaching posts.

4. In the peculiar circumstances of these cases, the writ petitions and the

applications are disposed of with permission to petitioners to file concise representations within a week to respondent-University. Upon receipt of such representations, the Competent Authority shall pass a speaking order thereon, within a period of six weeks and the fate of the representations be made known to petitioners within a week thereafter, so that petitioners may avail of the remedy as available in law, if need be. Needless to say, if process for filling up the posts in question is not continuing, then it be not proceeded with, till fate of the Representations is conveyed to petitioners.

With aforesaid directions, these petitions and the applications are disposed of.

Dasti.

(SUNIL GAUR)
JUDGE

APRIL 03, 2018
mamta