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

+ ***Date of Decision: September 17, 2019***

% **W.P.(C) 6720/2018 & CM APPL. 25492/2018**

PROF. S K ATREYA

..... Petitioner

Through: Mr. Sanjay Kumar Thakur, Adv. with
petitioner in person.

versus

UNION OF INDIA & ANR

..... Respondents

Through: Mr. Anil Soni, CGSC for R-1 with
Mr. Ankit Dwivedi, Advocate for
UOI.
Mr. Arjun Mitra, Advocate for R-2.

CORAM:

HON'BLE MR. JUSTICE A.K.CHAWLA

A.K. CHAWLA, J. (ORAL)

By the instant petition, the petitioner, in effect, seeks transfer/appointment to the post of Associate Professor or Professor from the post of Chief Design Engineer (Selection Grade), IDD Centre.

2. It emerges from the record that the petitioner, who initially joined IIT, Delhi as a faculty member in 1979, had come to be appointed to the post of Associate Professor sometime in the year 2000. On 26.10.2006, he came to be appointed as Chief Design Engineer (Section Grade), IDD Centre and he joined such post in the forenoon of the same day. At that point of time, the

post of Chief Design Engineer (Selection Grade) was a higher post than the post of Associate Professor. Sometime before the period of his superannuation on the post of Chief Design Engineer, which was to happen on attaining 62 years, the petitioner made an application to be transferred/reverted, in effect, to be posted to the post of Associate Professor. The cause for his seeking such reversion/appointment to the post of Associate Professor, appears to be on account of the fact that in the Scientific Design Department, of which, he was Chief Design Engineer (Selection Grade), the retirement age was 62 years, whereas, for the post of Associate Professor, the age of superannuation was 65 years.

3. It is the contention of the ld. counsel for the petitioner that the case of the petitioner should be treated at par with the case of another similarly placed person namely, Dr. I.P. Singh. In his submissions, Dr. I.P. Singh was transferred/appointed as Associate Professor from the post of Chief Design Engineer, though, he was also appointed on the same date or somewhere around the period the petitioner was appointed as Chief Design Engineer. Thus, according to him, the petitioner could not be discriminated against. Such plea of the petitioner, it comes to be pointed out by ld. counsel for the respondent, was duly considered by the Board of Governors of the respondents in its meeting dated 07.04.2018 and was rejected with the observations, as follows:

“The Board also considered the effect of FR 15(a) and the earlier decision in the case of Dr. I.P. Singh. As per FR 15(a), the employer is not bound to accept the request for reversion to a lower post. The case of Dr. I.P. Singh does not form a precedent which can apply to the present case, since the present request is highly belated and Dr.

I.P. Singh and Shri S.K. Atreya had been appointed at around the same time. The recommendations of the DFB and Professorial committee also mark a difference in these cases.

The Board of Governors after careful perusal of all facts and records decided that the case does not hold any merit to revert or transfer Shri S.K. Atreya to the lower post of Associate Professor at this belated stage, specifically when Shri S.K. Atreya will be retiring on attaining the age of superannuation on 30.06.2018, as Chief Design Engineer (Selection Grade).”

4. During the course of hearing, the ld. counsel for the petitioner was specifically queried as to when did Dr. I.P. Singh make a request for being reverted back, transferred or appointed afresh to the post of Associate Professor. The counsel for the petitioner however has been at pains to point out from the record. But for such ground of parity, nothing comes to be pointed out, which would vest a legal right in the petitioner to assert the claim he makes. It also transpires that the petitioner has superannuated from the post of Chief Design Engineer on 30th June, 2018 and no more in the service of the respondents.

5. The petitioner occupying the higher post of Chief Design Engineer since 26.10.2006, cannot be said to be either having any lien on the post of Associate Professor, which he earlier occupied nor can be said to be vested with any right to seek appointment afresh to the post of Associate Professor. Much less, on the purported ground of parity with Dr. I.P. Singh. Simply, at a later point of time, the terms of appointment or retirement for the two posts have come to vary, it cannot vest any right with the petitioner to claim reversion. It appears that the petitioner has been taking chances to avail the

best financial benefits inasmuch as when the higher post of Chief Design Engineer suited him, he chose it, and now, when the other post, which he had earlier relinquished became attractive to him on account of age of retirement, he chooses to opt for that post. This is not permissible. Be that as it may, the administrative action of the respondents in a case of the kind, does not invite exercise of extraordinary jurisdiction of this Court.

6. For the forgoing reasons, this Court does not see any merit in the instant petition and the same is dismissed. Pending application stands disposed off accordingly.

SEPTEMBER 17, 2019

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A.K. CHAWLA, J.

