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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Reserved on: 02.12.2020

Pronounced on: 21.12.2020

+ W.P. (C) 13715/2018 & CM 53541/2018, 51142/2019 &
27519/2020

RAVI KANT SINHA Petitioner

Through: Mr. Santosh Kumar Pandey,
Advocate

versus

JAWAHARLAL NEHRU UNIVERSITY Respondent

Through: Ms. Ginny J. Rautray and Mr.
Rachit Dhawan, Advocates

+ W.P. (C) 1018/2019 & CM 18526/2019 & 27379/2020

RAVI KANT SINHA Petitioner

Through: Mr. Santosh Kumar Pandey,
Advocate

versus

JAWAHARLAL NEHRU UNIVERSITY & ORS. Respondents

Through: Ms. Ginny J. Rautray & Mr. Rachit
Dhawan, Advocates for R-1
Ms. Shobhana Takiar, Advocate
for R-2 to 4.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

JUDGEMENT

1. There being a similitude of facts in both the writ petitions and the reliefs sought being connected to each other, the petitions are decided by a common judgement.

2. For the sake of brevity, the facts common to both the writ petitions and relevant to the issues arising are that the Petitioner was appointed as Assistant Registrar with the Respondent University (hereinafter referred to as 'University') on 22.05.2008 in PB-3 with Grade Pay Rs. 5,400/- and after 8 years of service was placed in Grade Pay of Rs. 6,600/- with effect from 22.05.2016.

3. University vide Advertisement dated 21.11.2015 invited applications for recruitment to two posts of Deputy Registrars in PB-3 with Grade Pay Rs. 7,600/- on Deputation/Short term contract basis. The University Officers' Association represented to the Vice-Chancellor on 24.11.2015 for immediate withdrawal of the Advertisement as the candidates in direct line of promotion in their respective feeder cadre were not eligible for applying. A request was made to grant adhoc promotions to 3 internal candidates namely, Shri Jagdish Singh (SC), Shri Manoj Kumar Manuj (Gen.) and the Petitioner in terms of DoPT OM dated 30.03.1988. University thereafter permitted the feeder cadre Officers to apply for the post and the name of the Petitioner was recommended. As per the Petitioner for the reasons best known to the University the process was scrapped on 21.06.2016 and no appointment was made.

4. Another Advertisement was published on 09.12.2017 inviting applications for the two posts of Deputy Registrar on Deputation/Short term contract basis. Petitioner objected thereto, by filing a representation on 18.06.2018 on the ground that the Rules did not permit the said appointments. However, the University appointed 4 candidates, against two advertised posts. According to the Petitioner all the candidates were

given appointments at two levels higher as they were in the Grade Pay of Rs. 5,400/- on the date of the interview. The appointments of 3 out of 4, namely, Shri Jwala Prasad, Shri Pilli Ajay Babu and Shri Gagandeep Singh are challenged in W.P. (C) 1018/2019.

5. The University once again advertised one post of Deputy Registrar on Deputation/Short term contract basis on 24.11.2018 and the Petitioner filed a representation on 12.12.2018 against the said Advertisement. The said Advertisement is challenged in W.P. (C) 13715/2018 as according to the Petitioner, being a feeder cadre internal candidate, more qualified and eligible, he was wrongly debarred from participating in the recruitment process.

6. Learned counsel for the Petitioner has challenged the Advertisement dated 24.11.2018 as well as appointments of the 3 Respondents named above and has also sought a direction to the University to appoint him as a Deputy Registrar on adhoc basis. The contentions raised can be summarized as follows:-

- a. The Recruitment Rules of the University provide only two modes of recruitment for the post of Deputy Registrar viz. 75% open recruitment and 25% promotion by seniority. There exists no other mode of recruitment and hence the Advertisement to recruit on Deputation/Short term contract basis is illegal. Relevant part of the Rules relating to Recruitment to Non-Teaching Posts as relied upon by the Petitioner is as under:-

*“19&20. RECRUITMENT TO THE POST OF DEPUTY
REGISTRAR/ DEPUTY FIANANCE OFFICER
(PAY SCALE Rs.3700-5700)*

a) 25 percent by promotion on the basis of seniority from A.O./A.R./A.F.O on completion of 8 years in the senior scale subject to 'Good' record of work and fulfilling minimum qualifications i.e. BA. or equivalent.

b) 75 percent by open recruitment through all India advertisement and selection.”

- b. University has arbitrarily and illegally appointed candidates who are outside the cadre and in the Grade Pay of Rs. 5,400/-, overlooking the fact that the Petitioner is an internal candidate completely eligible for the post and in a higher Grade Pay of Rs. 6,600/-.
- c. Advertisement dated 24.11.2018 is against the provisions of para 3.12.2 of DoPT OM dated 31.12.2010 relating to the Deputation Rules which limit the eligibility to those Officers who are in analogous post on regular basis or working in the next lower grade. On the other hand the Petitioner has been wholly excluded considering him ineligible on the ground that the appointment is on Deputation which does not allow feeder cadre internal candidates in direct line of promotion, to apply.
- d. In case the vacancies were required to be filled in the exigency of work, University should have resorted to adhoc promotions in terms of DoPT OM dated 30.03.1988 rather than resorting to appointments through Deputation, for which no provision exists in the Recruitment Rules. The DoPT OM clearly stipulates that whenever short term vacancies are caused by regular

incumbents proceeding on leave for more than 45 days, or on study leave, deputation etc. they may be filled by Officers on the panel. It further provides that in exceptional circumstances adhoc promotions may be resorted to by promotion of the officer in the feeder grade and may be done on the basis of seniority-cum-fitness after proper screening. Only those Officers who fulfill the eligibility conditions prescribed in the Recruitment Rules should be considered for adhoc appointments and if there are no eligible Officers, necessary relaxation should be obtained from Competent Authority in exceptional circumstances. Relevant para of the DoPT OM dated 30.03.1988 is as under:-

“NO. 28036/8/87-ESTT.(D)
GOVERNMENT OF INDIA
MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES
AND PENSIONS
DEPARTMENT OF PERSONNEL & TRAINING

New Delhi, the 30th March, 1988.

OFFICE MEMORANDUM

Sub: Ad-hoc appointment - Revision of instruction on.

The undersigned is directed to say that instructions have been issued from time to time by the Department of Personnel & Training requesting all Ministries/Department to fill all posts only in accordance with the prescribed procedure and Recruitment Rules on a regular basis. Consequently, Ministries/Departments are required to ensure that all appointments made on an ad-hoc basis are limited to posts which cannot be kept vacant until regular candidates become

available. However, it has been noted that appointments continue to be made on an ad-hoc basis and proposals are being received in this Department for regularization of these appointments on the grounds that the persons concerned have been working against these posts for a long time. This has led to instances where Courts and Tribunals have directed the Government to fix seniority after taking into consideration the period of service rendered on an adhoc basis. This unintended benefit of adhoc service has, therefore, been bestowed to a number of persons whose adhoc promotions have been made on the basis of seniority-cum-fitness, even though the Recruitment Rules for the post may have prescribed promotion by selection.

2. In view of the position explained above, it has been decided that the Ministries/Departments may not make any appointment on an adhoc basis including appointments by direct recruitment, promotion, transfer on deputation etc. the procedure to be followed in circumstances when adhoc appointments are presently frequently being resorted to, is explained below:-

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(iv) SHORTAGE IN DIRECT RECRUITMENT QUOTA:

Adhoc appointments are also made on the consideration that adequate number of qualified candidates are not available for filling the vacancies through the direct recruitment quota prescribed in the Recruitment Rules. In some cases even though, the required number of candidates are recommended by the Union Public Service Commission / Staff Selection Commission, some of them do not Join or they join to resign thereafter.

According, to the instructions contained in this Department's O.M. No.24012/34/80/Estt.(B) dated 20th February 1981, while notifying vacancies to recruiting agencies, especially the SSC, the appointing authority is expected to compute the total

number of vacancies talking into consideration the likely vacancies during the period beginning from the date of announcement of the examination in question upto the date of announcement of the subsequent examination so that the total number of posts to be kept vacant may be very few.

In spite of this, if some vacancies still remain unfilled, the following measures may be adopted:-

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(v) Whenever short-term vacancies are caused by the regular incumbents proceeding on leave for 45 days or more, study leave, deputation etc, of less than one year duration, they may be filled by officers available on an approved panel. Such a panel may be maintained taking into account not only the actual but also the vacancies anticipated over a period of 12 months in accordance with existing instructions of holding DPCs. Wherever an officer is not available on an approved panel the post may be kept vacant, as far as possible.

3. If the prescribed instructions are strictly adhered to, it may be seen that there will be very few cases where appointments need to be made on an adhoc basis. Such circumstances may be-

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In short term vacancies due to regular incumbents being on leave/deputation etc., and where the posts cannot be filled as per para 2(v), and cannot also be kept vacant.

4. In such exceptional circumstances adhoc appointments may be resorted to subject to the following conditions:-

(i) The total period for which the appointment/promotion may be made, on an adhoc basis, will be limited to one year only. The practice of giving a break periodically and appointing the

same person on an adhoc basis may not be permitted. In case there are compulsions for extending any adhoc appointment/promotion beyond one year, the approval of the Department of Personnel and Training may be sought at least two months in advance before the expiry of the one year period. If the approval of the Department of Personnel & Training to the continuance of the adhoc arrangements beyond one year is not received before the expiry of the one year period the adhoc appointment/promotion shall automatically cease on the expiry of the one year term.

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(iii) Where adhoc appointment is by promotion of the officer in the feeder grade, it may be done on the basis of seniority-cum-fitness basis even where promotion is by selection method as under:-

(a) Adhoc promotions may be made only after proper screening by the appointing authority of the records of the officer.

(b) Only those officers who fulfil the eligibility conditions prescribed in the recruitment rules should be considered for adhoc appointment. If, however, there are no eligible officers, necessary relaxation should be obtained from the competent authority in exceptional circumstances.

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7. All Ministries/Departments are requested to take action in accordance with the above mentioned instructions in respect of both Secretariat as well as non-Secretariat offices under them.

8. The receipts of this O.M. may kindly be acknowledged.

*(S.K. PARTHASHARATHY)
JOINT SECRETARY TO THE GOVERNMENT OF INDIA."*

e. In the past too, University has made ad-hoc promotions on the post of Deputy Registrar and appointed feeder cadre Officers, namely, Shri Jit Singh and Shri Sohan Lal. Shri Jit Singh was given adhoc promotion against temporary vacancy caused when Shri Yashwant Singh, a regular Deputy Registrar left for Deputation in another Department. In fact Shri Jit Singh was granted adhoc promotion though he did not fulfill the mandatory requirement of 15 years service in the feeder cadre (now reduced to 13 years) and the requirement was relaxed. Both the said Officers worked as ad-hoc Deputy Registrars for over one year. Significantly there is no denying to this past practice by the University.

7. Ms. Shobhana Takiar and Ms. Ginny J. Rautray appearing for the Respondents respectively in the two petitions have rebutted the submissions of the counsel for the Petitioner and raised several contentions which can be encapsulated as follows:-

a. With respect to the challenge to the Advertisement dated 24.11.2018 it is argued that the Advertisement is accordance with the Recruitment Rules as well as the provisions of the DoPT OMs relevant to the subject in the present writ petitions. The DoPT OM dated 03.10.1989 stipulates that departmental candidates who are in direct line of promotion and do not fulfill the eligibility criteria should not be considered by transfer on Deputation.

- b. The Executive Council of the University in its meeting held on 14.11.2011 had resolved that the Government of India Rules/Regulations/Instructions shall be adopted by the University in all service matters of its teaching and non-teaching employees, wherever the University Statutes/Rules/Regulations are silent. Minutes of the Meeting to the extent relied upon are as follows:-

“Resolved to approve the proposal for adoption of Govt. of India Rules/Regulations/Instructions in all service matters of JNU teaching and non teaching employees including inquiry, conduct and disciplinary rules, where the University Statutes/Rules/Regulations are silent.”

- c. The University Grants Commission vide letter dated 01.10.2014 has clearly stated that for promotion to the post of Deputy Registrar, total 13 years' service as Assistant Registrar is required, out of which 5 years regular service in Senior Scale is mandatory. Relevant part of counter-affidavit referring to the letter is as under:-

“4. That the University Grants Commission (hereinafter UGC) vide letter no. F.No 6-7/97 (JCRC) Vol-IV dated 1.10.2014 stated that promotion to the post of Deputy Register, total 13 years' service as Assistant Registrar is required out of which 5 years regular service in senior scale is required. The said letter is reproduced herein below for ready reference-

The undersigned is directed to state that on the request of the MHRD, UGC had constituted the Joint Cadre Review Committee (JCRC) to

recommend uniform staffing pattern, services conditions etc. of non-teaching staff (Group A, B, C & D) of Central Universities, UGC-maintained Deemed to be Universities and the colleges affiliated to Delhi University. The Report of JCRC containing its recommendations on 24 cadres (Non-teaching) were submitted to the MHRD vide letters dated 18.1.2008, 12.6.2009 and 23.9.2010. In this regard MHRD has conveyed its decision vide their letter No. F.No.19-16/2008-Desk (U) dated 7.05.2014 on the following aspects of the report.

(i) As per MHRD letter No. 1-32/2006-U.II/U(II) dated 31.12.2008, Deputy Registrar, in the pay scale of 15600-39100 with Grade Pay of 7600, on completion of 5 years is eligible to move to the Pay Band of Rs. 37400-67000 with a Grade Pay of Rs. 8700. MHRD has now approved the proposal to re-designate such Deputy Registrars as Joint Registrar, with the stipulation that the post will revert as Deputy Registrar when it falls vacant.

(ii) The requirement of 8 years' service in respect of Assistant Registrars who are placed in PB 3 with Grade Pay 6600, is reduced to 5 years' service for promotion to Deputy Registrar."

- d. Petitioner was appointed as Assistant Registrar on 22.05.2008 in PB-3 with Grade Pay of Rs. 5,400/-. After 8 years of service Petitioner was placed in Grade Pay of Rs. 6,600/- with effect from 22.05.2016 and does not fulfill the eligibility condition of 13 years' service as Assistant Registrar.

- e. Reliance of the Petitioner on the DoPT OM dated 30.03.1988 is misconceived as the OM itself stipulates that only those Officers who fulfill the eligibility conditions should be considered for adhoc appointments and the Petitioner does not have the mandatory eligibility service and thus does not meet the criteria laid down in the Recruitment Rules. Petitioner would complete the 13 years of service as Assistant Registrar on 21.05.2021 to be eligible for promotion to the post of Deputy Registrar.
- f. The Advertisement correctly advertised the posts of Deputy Registrar as they had fallen vacant on the incumbents holding the post joining higher posts in other Departments on Deputation basis, in consonance with the Government of India Rules. It was mentioned in the Advertisement that internal candidates who are in direct line of promotion in the respective feeder cadre shall not be eligible for consideration on Deputation basis and this is strictly in accordance with the DoPT OM dated 03.10.1989 which stipulates as under:-

“In a situation where the field of promotion consists of only one post, the method of recruitment by transfer on deputation (including short-term contract)/promotion is prescribed so that the departmental officer is considered alongwith outsiders. If the departmental officer is selected for appointment to the post, it is treated as having been filled by promotion. Otherwise, the post is filled by deputation/contract for the prescribed period. In other cases, where the field of promotion is adequate i.e. there are adequate number of sanctioned posts in the

feeder grade, promotion is provided if the first method or certain percentage of vacancies is earmarked for promotion and certain percentage for appointment by transfer on deputation or direct recruitment. In such cases, departmental officers in the feeder grade are considered for promotion when they are fully qualified for discharging the responsibilities of the higher post and satisfy the eligibility criteria. If the departmental officer is not considered eligible or fit for promotion, it will not be proper to consider him again for appointment by transfer on deputation. Deputation is actually an appointment outside the normal line. It has, therefore, been decided that the departmental officer in the feeder category who, according to the provisions in the notified recruitment rules, are in direct line of promotion should not be considered for appointment by transfer on deputation. Similarly, the deputationists shall not be eligible for being considered for appointment by provision.”

- g. In so far as appointments of the other candidates to the posts are concerned the stand of the Respondents is that Respondent Nos. 2 to 4 were appointed on Deputation/Short term contract basis in accordance with the Rules and Regulations. In 2018, 4 temporary vacancies had arisen due to serving Deputy Registrars leaving either on Deputation or lien and they were to be filled in two ways viz. (1) Deputation, by inviting Officers from other Organizations fulfilling the criteria required for Direct Recruitment by following the selection process as per Guidelines laid down by UGC/MHRD; (2) Ad-hoc promotion, from internal candidates in the feeder cadre fulfilling the eligibility criteria required for promotion based on seniority-

cum-fitness. Petitioner was lacking the eligibility criteria of 13 years of total qualifying service including 5 years in senior scale as Assistant Registrar. Since there were no eligible candidates in the feeder cadre and no candidate could be promoted on ad-hoc basis, even after relaxing one year in the required experience of 13 years, the University advertised the posts. After due screening by a Selection Committee, Respondent Nos. 2 to 4 and another Officer, namely, Sanjeev Kumar Jainath were appointed to the post of Deputy Registrar on Deputation basis.

- h. However, subsequently Dr. Jwala Prasad and Dr. Sanjeev Kumar Jainath left the services of the University on getting appointments in other Institutions, leading to arising of 2 temporary vacancies. Since there were 3 candidates from the feeder cadre having more than 12 years' experience, the University decided to consider them for ad-hoc promotion against the said 2 temporary vacancies. Shri Jagdish Singh and Shri Manoj Kumar Manuj were promoted by relaxing 7 and 8 months, respectively, with the approval of the Executive Council in its 287th Meeting dated 07.09.2020. Petitioner was 3rd in seniority and could not be appointed as there were only 2 temporary vacancies.
- i. The appointments of Shri Jagdish Singh and Shri Manoj Kumar Manuj are subject to the conditions that they shall be reverted to the substantive post on the date the vacancies cease to exist or as decided by the Competent Authority. The ad-hoc promotions

will not give a right to regular promotion and they shall not be entitled to payment of the allowances of the higher post. In case a further vacancy arises, similar treatment shall be accorded to the Petitioner by relaxing the shortfall in the qualifying service, required for appointment to the post of Deputy Registrar and ad-hoc promotion shall be granted.

8. Arguing in rejoinder, Mr. Santosh Pandey learned counsel for the Petitioner submits that the University has failed to justify the decision of publishing the Advertisement dated 24.11.2018. It is contended that once the Recruitment Rules do not provide deputation as a mode of appointment, the University cannot be permitted to make the appointments on deputation basis as the Recruitment Rules are statutory in nature. Learned counsel reiterates the arguments made in support of the challenge to the Advertisement and the appointments of Respondent Nos. 2 to 4.

9. It needs a mention here that during the course of hearing of the petition dispute arose between the parties, regarding the existence of vacancies under the direct recruitment and promotee quotas, respectively as well as the appointments made under the respective quotas, on ad-hoc/temporary basis. Both sides filed their respective affidavits on this issue.

10. The stand of the Respondent in the short affidavit filed was that there are 11 sanctioned posts of Deputy Registrars in the cadre and as per the Recruitment Rules, 8 posts are allocated to the open quota to be filled through Direct recruitment and 3 fall to the share of the Promotee quota.

Out of 8 Direct recruitment vacancies, 7 Deputy Registrars were working and 1 vacancy existed. Out of the 7 Deputy Registrars, 4 moved out on Deputation/lien, thereby creating 4 temporary vacancies. In the absence of any eligible candidate in the feeder cadre, the 4 vacancies were filled through Deputation. Thereafter, 2 Deputy Registrars out of these 4 left, giving rise to 2 temporary vacancies. Both the vacancies have been filled by adhoc promotions of internal candidates, relaxing the qualifying service and both are senior to the Petitioner. Thus, at present there is no vacancy to promote the Petitioner and he would have to wait till a vacancy arises.

11. *Per contra* the Petitioner had filed an affidavit controverting the said position. Petitioner had sought to explain the vacancy position by a tabular representation, according to which, Respondent Nos. 3 and 4 were appointed against Promotion quota against the posts on which Shri Sohan Lal and Shri Jit Singh had been promoted. It is reiterated that as against the 4 temporary vacancies arising in the Direct Recruitment quota, 2 vacancies have been wrongly filled by Deputation, as the same is impermissible in law being contrary to the mode of recruitment prescribed in the Recruitment Rules.

12. I have heard the learned counsels for the parties and examined their rival contentions.

13. Before proceeding further, it is important to highlight that due to the development that has taken place during the pendency of the present petitions, viz. Shri Jagdish Singh and Shri Manoj Kumar Manuj have been promoted as Deputy Registrars (adhoc) with effect from 11.09.2020, the complexion of the petitions has changed and the stand of the

Respondents that internal candidates could not be appointed, is no longer valid. Both the officers so appointed, were working as Assistant Registrars with the University and are thus internal candidates. Their adhoc promotions are however subject to the following conditions:

- “1. His promotion on Adhoc basis is initially for a period of one year (extendable as per rules) or till the post is filled up whichever is earlier.*
- 2. The adhoc promotion will not entail him any claim for regular services in the University.*
- 3. He will be reverted to his substantive post upon filling up of the post on regular basis or he retires from the services whichever is earlier.”*

14. The stand of the University is important on this aspect and as stated in the short affidavit is as follows:

“12. That to summarise the aforesaid, it is humbly submitted that-

- Out of 11 posts for Deputy Registrars, 8 are open quota i.e. to be filled through Direct Recruitment.*
- Out of 8 open quota 7 Deputy Registrars working under open quota in the University.*
- However, out of the said 7, 4 have moved out either on deputation or lien, thereby the University was left with 4 temporary posts.*
- Accordingly, the University filled the said above 4 vacant temporary posts through deputation. As there was no eligible candidate available in the feeder cadre with required experience of 13 years. Even the candidates in the feeder cadre not eligible considering the relaxation of one year. Out of the above 4 appointed 4 Deputy Registrars on deputation basis 2 left the services of the university on account of getting permanent position in other institutions i.e. lead to 2 temporary vacancies.*

- Accordingly, above 2 temporary vacancies were filled by Ad-hoc promotion of internal candidates by relaxing the qualifying service.
- Thus, since there were only two vacancies available for Ad-hoc promotions, the Petitioner could not be promoted due to being third in seniority.

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14. That it is therefore, evident that the said Ad-hoc promotions were made to temporary posts. In case a temporary vacancy further arises the candidature of the Petitioner will also be considered for Ad-hoc promotion following the recruitment rules of the university.”

15. It is significant to note, at the cost of repetition, that prior to the filing of the said Affidavit, the stand of the University was clearly that the Petitioner could not be appointed on adhoc basis on account of a bar under the provisions of the DoPT O.M. dated 03.10.1989. The defence set up was that Departmental candidates who are in the direct line of promotion and do not fulfil the eligibility criteria should not be considered by transfer on deputation. Additionally, it was also contended that as per the UGC Guidelines dated 01.10.2014, a total of 13 years of qualifying service as Assistant Registrar with 5 years regular service in the senior scale was required for the post of Deputy Registrar and since the Petitioner was appointed as Assistant Registrar on 22.05.2008 and came in the senior scale on 22.05.2016, he would be eligible only on 21.05.2021. However, after the University has promoted Shri Jit Singh and Shri Sohan Lal who are senior to the Petitioner as internal candidates in the direct line of promotion and have been granted relaxation in the qualifying service, in my view, it is no longer open to the University to take the above stand against the Petitioner. In fact, after the Affidavit, as

extracted above, the matter is now in a very narrow compass and the only question that the Court is called upon to decide is if there is a vacancy available for appointment of the Petitioner on adhoc basis to the post of Deputy Registrar.

16. It may be mentioned that the Petitioner in the writ petition has sought the relief of quashing the appointments of the private Respondents to the two temporary vacancies and a mandamus to consider the case of the Petitioner for the post of Deputy Registrar on 'adhoc' basis.

17. The admitted position between the parties is that the total sanctioned strength of the Deputy Registrars in the University is 11. The Recruitment Rules provide for only two modes of appointment, viz: Direct Recruitment and Promotion in 75% and 25% quota respectively. Thus 8 posts are in the share of Direct Recruitment quota and 3 in the Promotee quota. Out of the 8 Direct Recruitment posts, 7 Deputy Registrars were working and 1 vacancy was yet to be advertised. Out of the 7, 4 Deputy Registrars went on Deputation/Lien giving rise to 4 temporary vacancies. The University resorted to appointment by Deputation on the ground that no eligible internal candidate was available and made 4 appointments accordingly. 2 out of the 4 appointees on Deputation namely Dr. Jwala Prasad and Mr. Sanjeev Kumar Jainath left the services of the University on account of getting permanent positions in some other Institutions. The two vacant positions have now been filled by the two internal candidates senior to the Petitioner, as mentioned above.

18. Petitioner has contested the filling up of the vacancies on Deputation basis on threefold grounds and in my view, there is force in

the said contentions. The Recruitment Rules do not provide for appointment on Deputation basis and thus the appointment against the two temporary vacancies from outside candidates on Deputation basis is clearly in violation of the mode of recruitment under the Recruitment Rules. Petitioner is also right in his contention that ordinarily Deputation is from the officers holding analogous posts on regular basis or working in the next lower grade, while in the present case the private Respondents have been appointed being in the Grade Pay of Rs. 5,400/- while the Grade Pay of the post of Deputy Registrar is Rs. 7,600/-. Thirdly, the Petitioner has taken a categorical stand that in the past, the University has never resorted to appointment through Deputation in the post of Deputy Registrar and whenever the vacancy arose and there was delay in regular appointment, the practice was to appoint the Assistant Registrars from the feeder cadre on adhoc basis. Petitioner has also as an illustration pointed out the names of two such feeder cadre officers Shri Jit Singh and Shri Sohan Lal, who were given adhoc promotions against temporary vacancies caused when the regular Deputy Registrars left on Deputation. In fact, in the case of Shri Jit Singh, the mandatory requirement of 15 years of qualifying service (now reduced to 13 years) was relaxed. There is no rebuttal to the said averments except for a mere vague and evasive denial.

19. It is a settled law that appointments/promotions have to be strictly in the four corners of the Statutory Recruitment Rules. In the present case, the Rules do not envisage appointment to the post of Deputy Registrar through Deputation. The same principle would apply to filling up of even the temporary vacancies and it is not correct for the University

to argue that only because the vacancies were temporary it was open to the University to make appointments *de hors* the mandate of the Recruitment Rules.

20. The stand of the University to justify the appointments on Deputation basis was that no eligible internal candidate was available at the time when the process of deputation was initiated. Even this ground is no longer available to the University as according to its own case now, University has granted relaxation to the two internal candidates senior to the Petitioner and in case relaxation is granted to the Petitioner, he would be eligible. I find no reason to deprive the Petitioner from consideration for appointment on adhoc basis, only on the alleged ground of lack of vacancy. The Petitioner is identically placed as the two senior internal candidates and deserves to be considered against the temporary vacancies, filled by Deputation in violation of the Recruitment Rules.

21. Accordingly it is directed that the University shall consider the case of the Petitioner for granting relaxation in the qualifying service for eligibility to the post of Deputy Registrar, on adhoc basis, within a period of 4 weeks from today. Needless to state that once the relaxation is granted, the University shall consider the case of the Petitioner for appointment on adhoc basis in accordance with law and as per the terms of adhoc appointment. Since the present incumbents have already served a substantial period of their deputation, this Court does not deem it fit to quash the Advertisement or their appointments. In case the Petitioner is considered fit for appointment, University shall repatriate one of the Officers appointed against the temporary vacancy on deputation basis and issue appointment letter to the Petitioner.

22. Writ petitions are partly allowed in the above terms.
23. All pending applications are disposed of.

JYOTI SINGH, J

DECEMBER 21st, 2020

