

\$~10(2021)

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

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Decision delivered on: 07.12.2021

+ **W.P.(C) 702/2020 CM APPL. 24017/2020 & 9845/2021**

DR. SHIV RATAN SINGH & ANR

..... Petitioners

Through: Mr. Somnath Bhattacharya, Advocate.
versus

GOVT. OF NCT OF DELHI & ORS

..... Respondents

Through: Mrs. Avnish Ahlawat, Standing Counsel,
GNCTD.
Mr. Devesh Dubey, Advocate for
AICTE.

CORAM:

HON'BLE MR JUSTICE RAJIV SHAKDHER[Oral]

HON'BLE MR JUSTICE TALWANT SINGH

RAJIV SHAKDHER, J. (ORAL):

[Court hearing convened via video-conferencing on account of COVID-19]

1. This writ petition is directed against the order dated 17.10.2018, passed by the Central Administrative Tribunal [in short, "the Tribunal"], Principal Bench, New Delhi in OA No. 696/2017.
2. On 08.11.2021, when the matter had come up for hearing, we had recorded the controversy obtaining in the matter. For the sake of convenience, the relevant part of the said order is extracted hereafter:

"4. The petitioner is seeking payment of three non-compounded advance increments with effect from 24.12.2015 i.e., the date when they acquired their Ph.D. qualification.

4.1. The respondent no. 1/GNCTD has denied the request made by the petitioners on the ground that, they have reached Pay-Band 4, and that the said increments are available only to those who are in Pay-Band 3.

4.2. The respondent no.1/GNCTD, in this behalf, has relied upon AICTE's notification, dated 04.01.2016. [See page 135 of the case file.]

4.3. To be noted, what is not in dispute is that, the notification dated 04.01.2016 is based on an earlier notification of AICTE dated 05.03.2010. It appears that the said notification is not on record.

4.4. Be that as it may, the AICTE will place the aforesaid notification i.e., notification dated 05.03.2010 on record, for better appreciation of the matter.

5. We may note that, it is the assertion of the petitioners that they are entitled to increments, indicated above, as they had already acquired the Ph.D. qualifications, before issuance of the notification dated 04.01.2016.

5.1. To our minds, much would depend on as to whether the notification dated 04.01.2016 is clarificatory in nature or not.

6. List the matter on 25.11.2021.

CM No. 24017/2020

7. At this stage, our attention has been drawn to the above-captioned application filed by the petitioners, which would have significant impact on the outcome in the writ petition.

7.1. In effect, the petitioners seek to bring on record a notification dated 20.05.2020, issued by the AICTE. Via this notification, the petitioners seek to bring to the fore the following clarification:

4.	Whether three advance increments shall be applicable as an incentive for acquiring a Ph.D. degree during service?	In the clarification dated 04th January 2016 it has been clarified at Sr. No. 25 that the advance increments for Ph.D. are not allowed for the incumbents who are in PB-4(Rs.37400/--67000/-). However, this clarification shall be applicable for those acquiring Ph.D. degree after the date of publication of AICTE clarification dated 4th January, 2016.
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8. Having regard to the petitioners' claim that the above-mentioned document is a notification of AICTE itself, for the moment, the above-

captioned application can be disposed of with the direction that, the said notification will now, formally, form part of the record.

8.1. It is ordered accordingly.

9. However, opportunity is given to Mr. Devesh Dubey, who appears for the AICTE, to respond to the contents of notification dated 20.05.2020, as this would have an impact on the matter, given the claim of the petitioners, as noted above, that they acquired their Ph.D. qualifications on 24.12.2015 i.e., prior to the issuance of the notification dated 04.01.2016.

9.1. To demonstrate that they indeed acquired their Ph.D. qualifications in December 2015- the petitioners have relied upon the notification issued by the Mewar University, which is marked as Annexure CM-2 and is appended on page 16 of the above-captioned application. The petitioners' names are set forth on pages 25 and 26 of the application, at serial numbers 81 & 82.

9.2. Besides this, the petitioners have also relied upon the copies of the provisional degree certificate issued qua the Ph.D. qualifications obtained by them, which are appended to the rejoinder dated 14.12.2020, filed vis-a-vis the counter-affidavit of GNCTD, and are marked as Annexure RE-1 (Colly).

9.3. Mr. Dubey and Mrs. Avnish Ahlawat, who appears on behalf of the respondents, will take instructions keeping in mind the contents of the aforementioned documents. If the said documents, are genuine, prima facie, in our view, the petitioners ought to have been given the relief they seek from the respondents, in effect, GNCTD.

10. List the above-captioned application on 25.11.2021."

3. In view of what has been stated in the extract of the order dated 08.11.2021, we put to Mrs. Avnish Ahlawat, who appears on behalf of the respondent no.1/GNCTD, as to whether they have considered the matter.

3.1. Mrs. Ahlawat, counsel for respondent no.1/GNCTD says that, in view of the fact that the petitioners had obtained Ph.D. qualification on 24.12.2015 i.e., prior to the date of issuance of notification dated 04.01.2016 and in view of the clarification issued by AICTE, via notification dated 20.05.2020, the petitioners will be entitled to three non-compounded advance increments, with effect from 24.12.2015.

3.2. The statement of Mrs. Ahlawat is taken on record.

4. It is pertinent to note that Mr. Dubey does not dispute the fact that the

notification dated 04.01.2016, operates prospectively.

5. Given the aforesaid position, the writ petition is allowed and the impugned order of the Tribunal is set aside.

5.1. The petitioners will be granted three non-compounded advance increments, with effect from 24.12.2015.

5.2. We may record that the learned counsel for the petitioners says that he does not claim interest on the arrears payable to the petitioners, on the account of the aforesaid relief accorded to them.

5.3. Needless to add, the necessary relief will be afforded to the petitioners, as indicated above, with due expedition, though not later than eight weeks, from the date of the receipt of a copy of the judgment by respondent no.1/GNCTD.

6. The amended memo of parties filed by the counsel for petitioners shall be taken on record.

7. Consequently, pending application(s) shall also stand closed.

8. Parties will act based on the digitally signed copy of this order.

RAJIV SHAKDHER, J

TALWANT SINGH, J

DECEMBER 7, 2021/d.negi