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

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Date of Decision: 21st December, 2022

+ W.P.(C) 17467/2022 and CM APPL. 55740/2022

AMRISH KUMAR NAVNITLAL GAJJAR Petitioner
Through: Mr. Abhik Chimni, Mr. Ch.
Animes Prusty and Mr. Mukul Kulhari,
Advocates.

versus

JAWAHARLAL NEHRU UNIVERSITY Respondent
Through: Ms. Monika Arora and
Mr. Yash Tyagi, Advocates for UOI.

CORAM:
HON'BLE MS. JUSTICE JYOTI SINGH

JUDGEMENT

JYOTI SINGH, J. (ORAL)

1. Present petition has been filed by the Petitioner seeking directions to the Respondent University to convene a Departmental Promotion Committee (DPC) and consider the candidature of the Petitioner for the post of 'Senior Technical Assistant' at the University Science Instrumentation Centre (USIC), for which the Petitioner is eligible since 2010.

2. The grievance of the Petitioner, succinctly put, is that Petitioner is eligible for promotion to the post of Senior Technical Assistant in USIC from the year 2010 and the vacancy exists from 31.05.2011, yet despite a passage of 11 years, Respondent has not convened a DPC. The Cadre Recruitment Rules for Non-Teaching Posts and other Academic Posts of Jawaharlal Nehru University (Rules) provide that an employee will be eligible for promotion to the post of Senior

Technical Assistant after completion of 5 years' regular service on seniority-cum-fitness basis. Relevant rule is as under:-

10	Method of recruitment whether by direct recruitment or by promotion or by deputation/absorption and percentage of the post to be filled by various methods.	75% by promotion on seniority cum fitness basis from Technical Assistants with five years' regular service and fulfilling minimum educational/ technical qualifications to be prescribed by the School/ Centre with training experience in laboratory technique of the subject concerned failing which by deputation 25% per cent by Direct recruitment failing which by deputation
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3. It is contended by the learned counsel for the Petitioner that Petitioner has been preferring representations to the Respondent to consider his case for promotion since the year 2012 but there has been total inaction on the part of the University till date. Although, between 2016 to 2022, Respondent has convened DPCs for around 150 employees across various posts and schools of the University, however, no DPC was convened for the post in question.

4. Ms. Arora, learned counsel appearing on behalf of the Respondent, is unable to deny the fact that the vacancy for the post of Senior Technical Assistant exists from 31.05.2011 as contended by the Petitioner, on retirement of Mr. A.K. Bakshi and that no DPC has been convened for the said post despite lapse of 11 long years.

5. It is a settled law, as affirmed and reaffirmed in several judgments of the Supreme Court and this Court, as also embodied in O.Ms issued by the DoPT from time to time, that DPCs must be convened every year, if necessary, on a fixed date. It is also mandated by the DoPT that the Ministries/Departments should lay down a time schedule for holding DPCs under their control and the holding of the DPCs should be regularly monitored. In this context, I may allude to

DoPT O.M. dated 10.04.1989, relevant part of which is as under:-

“PART-II

FREQUENCY OF DEPARTMENTAL PROMOTION COMMITTEE MEETINGS

3.1 The DPCs should be convened at regular annual intervals to draw panels which could be utilized on making promotions against the vacancies occurring during the course of a year. For this purpose it is essential for the concerned Appointing Authorities to initiate action to fill up the existing as well as anticipated vacancies well in advance of the expiry of the previous panel by collecting relevant documents like CRs, Integrity Certificates, Seniority List, etc., for placing before the DPC. DPCs could be convened every year if necessary on a fixed date, e.g., 1st April or May. The Ministries/Departments should lay down a time schedule for holding DPCs under their control and after laying down such a schedule the same should be monitored by making one of their officers responsible for keeping a watch over the various cadre authorities to ensure that they are held regularly. Holding of DPC meetings need not be delayed or postponed on the ground that Recruitment Rules for a post are being reviewed/amended. A vacancy shall be filled in accordance with the Recruitment Rules in force on the date of vacancy, unless rules made subsequently have been expressly given retrospective effect. Since amendments to Recruitment Rules normally have only prospective application, the existing vacancies should be filled as per the Recruitment Rules in force.”

6. On 08.09.1998 DoPT issued another O.M. with reference to aforementioned O.M. dated 10.04.1989 and reiterated that DPCs should be convened at regular intervals and in this view, a time schedule was laid down for convening DPCs not only in time but in sufficient advance so as to utilize the prepared panel as and when the vacancies arise during the course of the vacancy year. Again by O.M. dated 21.09.2006, DoPT has emphasized on the importance of convening DPCs on time noting that delay in filling up vacancies adversely affects the functioning of the Government and insisted on following the model calendar for convening DPCs.

7. In the year 1997, the Supreme Court in ***Union of India v. N.R. Banerjee, 2016 SCC OnLine Del 4828***, taking note of the Guidelines

incorporated in the O.M. dated 10.04.1989 observed that the object

behind issuing the Guidelines was to ensure that the Government keeps the panels ready in advance so that vacancies arising from time to time are filled up amongst the candidates, whose names appear in the panel, without any delay. The Supreme Court also observed that Part II of the said Guidelines relates to frequency of meeting of the DPCs and para 3.1 of the O.M. indicates that DPCs should be convened at regular annual intervals to draw up panels in advance as this would not only help in smooth functioning of the Government but will also ensure that people who are eligible for promotion are not deprived of consideration and there is no stagnation and dissatisfaction amongst the employees.

8. From the aforementioned judgment of the Supreme Court, which has been subsequently followed in several other judgments, as well as from a reading of the DoPT O.Ms, some of which have been alluded to above, there is no gainsaying that it is important that DPCs are convened at regular intervals so that employees who are in the zone of consideration and eligible, do not suffer for want of consideration and functioning of the Government is not adversely impacted.

9. In the present case, this Court finds that the University is completely oblivious of this position of law and there is no justification or plausible explanation forthcoming for not convening a DPC for as long as 11 years from the date the vacancy arose.

10. At this stage, learned counsel for the Respondent, on instructions, submits that DPC for the post of Senior Technical Assistant shall be convened by the Respondent within a period of 8 weeks from today.

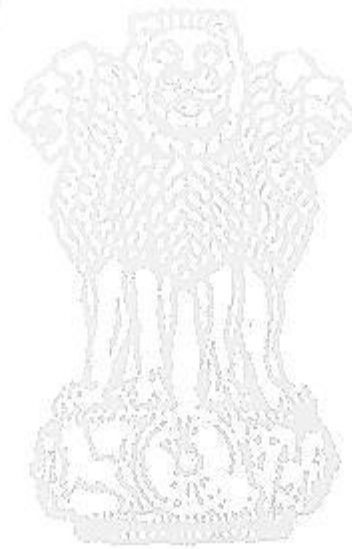
11. Taking the assurance given by Respondent to the Court on record, the writ petition stands disposed of along with the pending

application.

12. Needless to state that if the Petitioner has any surviving grievance, he is at liberty to take recourse to the remedies available to him, in law.

DECEMBER 21, 2022
MR

JYOTI SINGH, J



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