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

% *Date of Decision: 07th March, 2023*

+ **W.P.(C) 2865/2023**

INDERJEET SINGH

..... Petitioner

Through: Mr. Amit Singh Tanwar,
Advocate

versus

GOVT. OF NCT OF DELHI AND ORS.

..... Respondents

Through: Ms. Latika Choudhury,
Advocate for R-1 & 2.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

JUDGEMENT

JYOTI SINGH, J. (ORAL)

C.M. APPL. 11106/2023 (exemption)

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

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3. Present writ petition has been filed by Petitioner seeking suitable directions to the Respondents to convene a meeting of the Departmental Promotion Committee (DPC) to consider the Petitioner for promotion to the post of Principal in Nehru Adarsh Senior Secondary School/Respondent No.3 (hereinafter referred to as 'the School').

4. Petitioner was appointed on 03.03.1983 as a Lab Assistant in the School and promoted on 17.09.1990 to the post of Language Teacher (Hindi) and as PGT (Pol. Science) on 24.01.2003. Thereafter, Petitioner was promoted as Vice-Principal on 16.12.2016 in the pay

scale of Rs.9300-34800 PB-3 with Grade Pay Rs.5400.

5. It is averred in the writ petition that after the retirement of the erstwhile Principal, the post fell vacant on 30.04.2021. Since the School is a Government Aided School, the Director of Education (DOE) is the authority empowered to convene DPCs for the purpose of promotion of teachers as well as appointment of Principal. Accordingly, the School requested the Directorate of Education to constitute a DPC for filling up the post of Principal.

6. It is further averred that *vide* letter dated 02.03.2022, DOE constituted a DPC, however, no date was fixed for the meeting. The School again *vide* letter dated 07.05.2022 repeated the request for convening the DPC, however, till date no DPC has been held *albeit* some efforts were made in the meantime to hold the meetings, which did not fructify.

7. The grievance of the Petitioner is that Petitioner has a right to be considered for promotion once the post is vacant and he is eligible. Petitioner is the senior most teacher in the School and has been working dedicatedly as an Officiating Principal since the post fell vacant on 30.04.2021. It is a mandate and an obligation of the School and the DOE to ensure that DPCs are convened on time so that the employees who are eligible are considered on time and the Administration does not suffer.

8. Issue notice.

9. Ms. Latika Choudhury, learned counsel accepts notice on behalf of Respondents No.1 and 2 and ensures, on instructions, that the DPC shall be convened but time may be granted since the Respondents are currently involved in the Board Examinations.

10. It is an undisputed fact that the School is a Government Aided School and therefore the responsibility to constitute a DPC and ensure that a meeting is convened at the earliest for filling up the post of Principal, rests entirely on DOE. This obligation is clearly spelt out in the DoPT O.M. dated 10.04.1989, which provides Consolidated Instructions for the functioning, compositions as well as 'frequency' at which DPCs should meet. Relevant para of the O.M. is as follows:-

"PART-II

FREQUENCY OF MEETINGS

Frequency at which DPC should meet

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.

Very often, action for holding DPC meeting is initiated after a vacancy has arisen. This results in undue delay in the filling up of the vacancy causing dissatisfaction among those who are eligible for promotion. It may be ensured that regular meetings of DPC are held every year for each category of posts so that an approved select panel is available in advance for making promotions against vacancies arising over a year."

11. This mandate was reiterated in the O.M. dated 23.04.2015, which is as follows:

“Subject:- Timely and advance action in convening of Departmental Promotion Committee meeting in terms of Model Calendar-regarding.

The undersigned is directed to state that with a view to having the approved select panels for promotion ready in advance in a time-bound manner, this Department has issued a Model Calendar for DPCs vide OM No. 22011/9/98-Estt. (D) dated 8th September, 1998 as modified vide OM No. 22011/4/2013-Estt.(D) dated 28.01.2015. An indicative pattern has been provided in the Model Calendar for various events involved in the pre/ post DPC related actions. All the Ministries/Departments have been impressed upon from time to time by this Department to adhere to the prescribed time-line so as to ensure that the panel is ready in time and is utilised as and when the vacancies arise during the course of the vacancy year.

2. Appointment Committee of Cabinet has viewed it seriously that the DPCs are not being convened in time. Delay in promotion affects the manpower planning and impedes the career progression of the employees. The delays in conduct of DPC negate the very purpose of the Model Calendar for DPCs issued vide Office Memorandum No.22011/9/98-Estt.(D) dated 8th September, 1998 as modified vide OM No. 22011/4/2013-Estt.(D) dated 28.01.2015.

4. The objective of timely promotions of employees in various Ministries/Departments can be achieved only by granting the promotion in time.

5. All the Ministries/Departments are, therefore, once again advised to ensure strict compliance of instructions in order to achieve the desired objectives of timely convening of DPCs/ preparation of approved select panels within the prescribed time frame.”

12. It would be profitable to refer to a recent DoPT O.M. dated 27.10.2016 in this regard, wherein it is emphasized that all Ministries/ Departments must adhere to prescribed timelines to ensure that the select panels are ready in time and utilized as and when vacancies arise during the course of the vacancy year. Noting the fact that many promotional posts are lying vacant due to abnormal delay in convening DPCs, Ministries/Departments have been advised to ensure strict compliance of Instructions, in order to achieve desired objectives of timely convening of DPCs.

13. The Supreme Court in ***Union of India v. N.R. Banerjee, 2016 SCC OnLine Del 4828***, has echoed the importance of holding of DPCs at regular annual intervals preferably, if necessary, on a fixed date in a year and I may quote the relevant para hereunder:-

“6. DPCs should be convened every year, if necessary, on a fixed date, i.e. 1st of April or May. In the middle of the para, by way of amendment brought on 13-5-1995, it postulates that very often action for holding DPC meeting is initiated after the vacancy has arisen. This results in undue delay in filling up of vacancies and causes dissatisfaction among those who are eligible for promotion. It may be indicated that regular meeting of DPC should be held every year for each category of posts so that approved select panel is available in advance for making promotions against vacancies arising every year. Under para 3.2, the requirement of convening annual meetings of the DPC should be dispensed with only after a certificate has been issued by the appointing authority that there are no vacancies to be filled by promotion or no officers are due for confirmation during the year in question. It would, thus, be seen that DPCs are required to sit every year, regularly on or before 1st April or 1st May of the year to fill up the vacancies likely to arise in the year for being filled up. The required material should be collected in advance and merit list finalised by the appointing authorities and placed before the DPCs for consideration. This requirement can be dispensed with only after a certificate is issued by the appointing authority that there are no vacancies to be filled by promotion, or that no officers are due for confirmation, during the year in question.”

14. From a reading of the judgment aforementioned and the DOPT O.M.s, it is clear that convening DPCs at regular intervals is an obligation in public interest as well as in the interest of the employees who are eligible and are awaiting consideration for promotion. In the present case, a very important post of Principal of a School is lying vacant since 30.04.2021, however, no DPC has been convened till date. Petitioner has a genuine grievance that being the senior most and eligible candidate, he has a right to be considered for promotion and therefore direction be issued to the Respondents to do the needful at the earliest.

15. Accordingly, the writ petition is allowed, directing the DOE/Respondents No.1 and 2 to ensure that DPC is convened for the post of Principal in the School, as expeditiously as possible and not later than ten weeks from today.

16. Needless to state, if the Petitioner is eligible in terms of the Rules applicable to the post of Principal, he shall be considered in accordance with law.

17. Writ petition is disposed of with the aforesaid directions.

MARCH 07, 2023/kks

JYOTI SINGH, J

