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

+ **W.P.(C) 4076/2022 & CM APPL. 12116/2022**

DHRUW KANT JHA

.....Petitioner

Through: Dr. Amit George, Advocate.

versus

**NETAJI SUBHAS UNIVERSITY OF TECHNOLOGY
& ORS.**

.....Respondents

Through: Ms. Avnish Ahlawat, Standing Counsel with Mr. Nitesh Kumar Singh, Ms. Laavanya Kaushik, Ms. Aliza Alam and Mr. Mohnish Sehrawat, Advocates for Respondent No.1/NSUT.

Ms. Latika Choudhary, Advocate for Respondent No.2.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

12.12.2024

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1. This writ petition has been preferred on behalf the Petitioner under Article 226 of the Constitution of India laying a challenge to the order dated 07.12.2021 passed by Respondent No.1 with consequential directions to release the leave encashment and other pensionary benefits including as also permit the Petitioner to avail CGHS facilities as granted to other employees of Respondent No.1, with arrears and interest.

2. Dr. Amit George, learned counsel for the Petitioner submits that Petitioner had earlier filed W.P.(C) 665/2014 with several other Petitioners seeking relief of regularisation as also grant of minimum pay scale and other



allowances at par with regular employees working with the Government of NCT of Delhi.

3. Petitioner has been working with Respondent No.1/Netaji Subhash University of Technology for the last over 33 years, initially on ad-hoc basis as Janitor *albeit* appointed through the regular process of selection pursuant to recommendation of Selection Committee held on 30.11.1988. Respondent No.1 invited application for recruitment to the post of Library Assistant in December 2001 against which the Petitioner applied as a departmental candidate through proper channel. On being selected an offer of appointment was issued to the Petitioner on 07.03.2002 as per the terms of which retirement benefits were assured.

4. It is stated that in the earlier round of litigation, when W.P.(C) 665/2014 was pending and was listed on 10.09.2014, Respondent No.1 issued an order dated 12.05.2014 regularising services of 41 employees including the Petitioner. Basis this order, the writ petition was disposed of with respect to the relief of regularisation and as for grant of minimum pay scale and other allowances at par with Delhi Government employees, liberty was granted to the Petitioners to file fresh proceedings. Respondent No.1, however, did not regularise the Petitioner and issued the impugned order dated 07.12.2021 stating that all his pending dues on retirement will be released once his case for regularisation is finalised.

5. Learned counsel for the Petitioner submits that having once passed an order on 12.05.2014 regularising the Petitioner on the basis of which his writ petition was disposed of recording satisfaction of the grievance pertaining to regularisation, it is not open to Respondent No.1 to take a stand that Petitioner is not entitled to retiral benefits pending his regularisation. It is



also pointed out that office order dated 12.05.2014 was issued with the approval of the Chairman of the Board of Governor of Respondent No.1 and no contrary action can be taken by any authority in the Institute.

6. Ms. Ahlawat, learned Standing Counsel for the Respondent, however, takes a stand that the office order dated 12.05.2014 was issued without the approval of the Board of Governors and had no legal effect and which is why the pensionary benefits have not been released to the Petitioner on the basis of his status as a regular employee.

7. Having heard learned counsel for the parties, in my view, there is merit in the contention of the Petitioner that vide office order dated 12.05.2014 services of 41 employees in the Institute were regularised and basis this order the writ petition filed by the Petitioner being W.P.(C) 665/2014 was disposed of recording accord and satisfaction qua the relief of regularisation. The office order has merged with the judicial order dated 10.09.2014 and Respondent No.1 is bound to implement the same in letter and spirit. It is not open to Respondent No.1 to go behind this order and open the issue of regularisation once again.

8. Accordingly, this writ petition is allowed, quashing order dated 07.12.2021 with a direction to Respondent No.1 to treat the Petitioner as a regular employee in terms of the order dated 12.05.2014, as indicated therein.

9. At this stage, Court is apprised that a dispute in relation to pay fixation is pending in a batch of petitions before this Court in which Petitioner is also a party. Needless to state that the pensionary benefits shall be released on the basis of undisputed salary and allowances and subject to the outcome of the pending writ petition, making it clear that pendency of



the said writ petitions will not come in the way of the Petitioner to receive the amounts on the pre-revised salary.

10. Writ petition stands disposed of along with the pending application.

JYOTI SINGH, J

DECEMBER 12, 2024

B.S. Rohella