



2024:DHC:8094-DB



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

+ **W.P.(C) 8914/2019**

LOKPAL SINGH NEGI

.....Petitioner

Through: **Mr. Sourabh Ahuja, Adv.**

versus

GNCT OF DELHI & ORS

.....Respondent

Through: **Ms. Avnish Ahlawat, Standing
Counsel with Mr. Nitesh Kumar Singh,
Ms. Laavanya Kaushik, Ms. Aliza Alam and
Mr. Mohnish Sehrawat, Advs.**

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

HON'BLE DR. JUSTICE SUDHIR KUMAR JAIN

JUDGMENT (ORAL)

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15.10.2024

C.HARI SHANKAR, J.

1. This writ petition arises out of judgment dated 24 April 2019 passed by the Full Bench of the Central Administrative Tribunal, Principle Bench, New Delhi¹. By the said judgment, the learned Tribunal decided a batch of Original Applications filed before it, of which OA 2693/2018 had been filed by the petitioner.

2. In an omnibus fashion, the learned Tribunal examined the aspect of whether a person who was asked to hold current duty charge of another post was entitled to the pay of the higher post. In deciding

¹ "the learned Tribunal", hereinafter



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the OAs, unfortunately, the learned Tribunal, even while acknowledging, in para 3, that the “arrangement was slightly different in different cases”, has decided all the OAs on the basis of the look after charge assignment in the case of Mr. R.K. Sabharwal, the applicant in OA 2557/2017. This is clear from para 6 of the impugned judgment, which reads thus:

“6. Through office order dated 11.11.2003, the applicant in OA No.2557/2017, was put in 'look after charge' of the post of CE(C). It reads as under:

"Shri R. K. Sabharwal, Supdt. Engg (Civil) on ad hoc basis, is hereby assigned the Look After Charge to the post of Chief Engg (Civil) in his own pay scale with immediate effect till further orders.

The above arrangement is subject to the following terms and conditions:-

- (i) The assignment is subject to the undertaking by the officer that he will not claim any undue benefit on this account;
- (ii) The appointment shall be purely on look after charge basis, as a matter of stop gap arrangement and shall not entitle the officer to claim any benefit on account of this order;
- (iii) The officer will draw his salary in his own pay scale and will not claim any additional pay/benefits for assignment of look after charge to the post of Chief Engineer (C);
- (iv) It will not confer any right to claim ad hoc/regular promotion or seniority to this post or any other service benefits whatsoever;
- (v) The period of service rendered on look after charge will not count as qualifying service for promotion to the higher grade/post for seniority;
- (vi) This stop-gap arrangement can be terminated at any time by the competent authority without



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assigning any reason therefor and giving any prior notice; and

(vii) This look after arrangement is also subject to outcome of any court case pending which has effect on this order.

2. Consequent upon assigning look after charge, Sh. R. K. Sabharwal is hereby directed to report to Engg-in-Chief for further duties.

This issues with the approval of the Commissioner."

From this, it is evident that the applicant was holding the post of SE(C) on ad hoc basis, and he was yet to be appointed on regular basis on that post. It was only on account of administrative exigencies, that he was assigned the look after charge of the post of CE(C), lest the said office remained unattended to. The conditions incorporated therein are clear to the effect that he shall not be entitled to claim any benefit on account of such arrangement, and that he shall continue to draw the salary in the post which he is holding in substantive capacity."

3. In the case of the present petitioner, no order, similar to that which has been passed in the case of Mr. R.K. Sabharwal, was issued. The order by which the petitioner was supposedly granted current duty charge of the post of Principal, reads thus:

"The Principal Secretary (TTE) is pleased to order the following transfer/postings:-

S.No.	Name of the Officer	Present posting	Transferred to as	Remarks
1.	Mrs. N. Gupta (Officiating Principal)	Officiating Principal, Ambedkar Polytechnic & BPIBS	Officiating Principal, Aryabhat Polytechnic (Current duty charge)	Vice Shri I.J. Garg, transferred
2.	Shri I J Garg, Ad-hoc Principal	Ad-hoc Principal, Aryabhat Polytechnic	Ad-hoc Principal, BPIBS	Vice Mrs. N. Gupta transferred

Signature Not Verified

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By: HARVINDER KAUR
BHATIA
Signing Date: 21.10.2024
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3.	Dr. (Mrs) Amita Dev, HOD (Computer Engg.)	HOD (Computer Engg.), Ambedkar Insti. Of Technology	Officiating Principal (current duty charge) Ambedkar Polytechnic & HOD (Computer Engg.) of Ambedkar Instt. Of Technology	Vice Mrs. N. Gupta transferred
4.	Shri L. S Negi, Lecturer (Selection Grade)	Lecturer (Selection Grade) (UC Civil Engg. Deptt. Pusa Polytechnic	Officiating Principal (current duty charge) GND Polytechnic.	Vice Shri K.C. Chaudhary posted back.

Shri K.C. Chaudhary, TPO is posted back to Aryabhat Polytechnic as TPO from where he is drawing his salary.

Mrs. Meera Passi, HOD (Humanities/Sciences) will henceforth send proposals/reports relevant to her assignment through Principal, Aryabhat Polytechnic.

These order shall come into force w.e.f. 01.08.2005. A compliance report should be furnished by all concerned officers by 01.08.2005 to the undersigned positively.”

4. The only reference to “current duty charge” in the case of the petitioner is in the parenthesised words against S.No. 4 in the table contained in the afore extracted office order dated 21 July 2005.

5. Mr. Ahuja, learned Counsel for the petitioner submits that, in fact, the petitioner was holding full charge of the post of Principal and was discharging all duties of the said post till his retirement on 30 September 2017.

6. Without entering into any other aspect of the matter, it is clear



that the case of the petitioner deserves differential treatment as compared to the case of Mr. R.K. Sabharwal, which seems to have been treated as the representative case by the learned Tribunal. It may have to be considered as to whether the mere use of the words “current duty” charge in parenthesis against the petitioner’s name in the Office Order dated 21 July 2005 can be treated as “current duty charge” within the meaning of FR 49(v), so as to disentitle the petitioner to the pay of the higher post of the Principal.

7. Mr. Ahuja has also sought to submit that the ground taken by the respondent, not to grant the pay of Principal to the petitioner was that the petitioner did not possess the Ph.D. qualification, which according to the respondent was essential for the post of Principal. He submits that this ground is no longer tenable in view of the order passed by the Supreme Court in *Gelus Ram Sahu v Dr. Surendra Kumar Singh*².

8. We are not expressing any opinion on this aspect of the matter, as it has not been considered by the learned Tribunal at all. We are of the view that the learned Tribunal was not justified in disposing of the petitioner’s OA treating it as one in the batch of OAs, which was disposed of by the learned Tribunal by the impugned judgment dated 24 April 2019.

9. Accordingly, the impugned judgment, insofar as it disposes of OA 2693/2018 filed by the petitioner, is quashed and set aside. OA

² AIR 2020 SC 1203



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2693/2018 stands remanded to the learned Tribunal for consideration and decision afresh in accordance with law after hearing the parties and in due compliance with the principles of natural justice.

10. Both sides will appear before the learned Tribunal on 4 November 2024.

11. The petition is allowed to the aforesaid extent.

C.HARI SHANKAR, J.

DR. SUDHIR KUMAR JAIN, J.

OCTOBER 15, 2024/N

Click here to check corrigendum, if any