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

+ **W.P.(C) 10921/2024 & CM APPL. 44977/2024**

MOHD. MUNAZIR ALAM

.....Petitioner

Through: Mr. Asish Nischal with Mr. Arun
Nischal and Mr. Shivam, Advocates

versus

**GOVERNMENT OF NCT OF
DELHI & ORS.**

.....Respondents

Through: Mr. Yeeshu Jain, ASC with Ms. Jyoti
Tyagi, Mr. Hitanshu Mishra, Advocates with Dr.
Rita Gupta, Zone-28 (DDE).

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

12.08.2024

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1. This writ petition has been preferred on behalf of the Petitioner under Article 226 of the Constitution of India seeking the following reliefs:

“i. Writ of Mandamus be issued to Quash and set aside the Impugned Order dated 17.04.2024;

ii. Respondents be directed to hold a Departmental Promotion Committee or a Review Department Promotion Committee, as the case may be, for considering the candidature of the petitioner, for promotion, to the post of Post Graduate Teacher (English);

iii. Directions be issued to the Respondents, to promote the petitioner to post of Post Graduate Teacher (English) w.e.f 01.07.2022 with all consequential benefits, if the Petitioner is found fit by the Department Promotion Committee or a Review Department Promotion Committee;

iv. Pass any other order (s) as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case;”

2. As stated in the writ petition, Petitioner joined Respondent No.3/ Anglo Arabic Senior Secondary School, as Trained Graduate Teacher ('TGT') (Maths) on regular basis on 01.10.1999 and was awarded a Masters



Degree in English in 2008. As per the applicable Recruitment Rules for the Lecturer in the Directorate of Education, notified on 10.07.1975 and as amended from time to time, Petitioner was eligible for consideration to the post of PGT (English) in 2013, as he had completed 5 years of regular service after acquiring the Masters Degree, but was not considered. On 01.07.2022, a vacancy arose in PGT (English) upon superannuation of Faizul Hasan on 30.06.2022. At this stage, Petitioner acquired a vested right for consideration for promotion. In the month of May, 2023, DPC was convened to consider eligible TGTs for promotion as PGTs, for vacancy year 2022.

3. It is stated that on 08.12.2023, Directorate of Education (DoE) issued an order reflecting the names of 614 TGTs/LTs/Misc. Category, who were promoted as PGTs but the name of the Petitioner did not figure therein. On 04.01.2022, Petitioner represented to the Respondents *inter alia* seeking consideration of his candidature. On 29.09.2022, DoE notified the revised Recruitment Rules titled '*Post Graduate Teachers (Hindi, Sanskrit, Urdu, Punjabi, Bengali, Agriculture, Biology, Chemistry, Commerce, Economics, English, Geography, History, Horticulture, Mathematics, Physics, Political Science, Sociology and Psychology) Recruitment Rules, 2022*' and basis the amendment, DoE rejected the representation dated 04.01.2024 on the ground that promotions in Government Aided Schools are not governed by the vacancy year, hence, Recruitment Rules are applicable on the date of promotion. Challenging this order, Petitioner has approached this Court.

4. Issue notice.

5. Mr. Yeeshu Jain, learned counsel accepts notice on behalf of Respondents No.1 and 2.



6. It is the contention of the Petitioner that he was eligible for promotion to the post of PGT (English) in 2013 but his case was not considered. A vacancy arose on 01.07.2022 and no DPC was convened to consider his case. In a subsequent DPC, it appears that his case was not considered at all but the reasons are unknown. The impugned order dated 17.04.2024 rejecting Petitioner's representation does not shed any light on why the Petitioner did not figure in the list of candidates recommended for promotion as PGTs. It is not clear as to whether Petitioner's case was not considered due to alleged non-applicability of the concept of vacancy year or amendment of the Recruitment Rules. Assuming that the Rules were amended on 29.09.2022, no reason has been given for non-consideration of Petitioner's candidature prior thereto when the unamended Rules were in place.

7. This Court entirely agrees with the Petitioner to the extent that the impugned order dated 17.04.2024 is sketchy and non-speaking and does not reflect the stand of the DoE with clarity. Court is unable to discern the exact reason for not considering the Petitioner in the DPC convened in May, 2023 as also why his case was not considered from 2013, when he was eligible as per the case set out in the writ petition. Importance and significance of passing reasoned and speaking orders has been highlighted by the Supreme Court in several judgments from time to time as the reason indicates why the claim of an individual has been rejected to enable the individual employee to challenge the same and for the Court to appreciate the reasoning and take a decision. Reasons have been held to be the 'heart and soul' of a decision. Clearly the impugned order is a non-speaking and unreasoned order and does not indicate why the representation was rejected.



8. In view of the aforesaid, this writ petition is disposed of with a direction to the DoE to reconsider the representation dated 04.01.2024 and pass a reasoned and speaking order within 6 weeks from today. The decision shall be communicated to the Petitioner within one week of the decision and he will be at liberty to take recourse to legal remedies in case of any grievance.

9. Pending application also stands disposed of.

JYOTI SINGH, J

AUGUST 12, 2024/jg/kks