



2024:DHC:7843



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Date of Decision: 27th September, 2024*+ **W.P.(C) 13626/2024****DR MONIKA BANSAL**

.....Petitioner

Through: Mr. Sanjay Sharawat and Mr. Ashok Kumar, Advocates.

versus

LT GOVERNOR OF DELHI & ORS.

.....Respondents

Through: Mr. Gaurav Dhingra and Mr. Shashank Singh Advocates for Respondents No.1 and 2/GNCTD.

Mr. Mohinder J.S. Rupal, Mr. Hardik Rupal and Ms. Aishwarya Malhotra, Advocates for Respondent No.3/DU.

Ms. Beenashaw N. Soni, Ms. Ann Joseph and Ms. Mansi Jain, Advocates for Respondent No.4/DDU College.

CORAM:**HON'BLE MS. JUSTICE JYOTI SINGH****JUDGMENT****JYOTI SINGH, J. (ORAL)**

1. This writ petition has been preferred on behalf of the Petitioner for a direction to Respondents No.1, 2 and 4 to release the arrears of pay to the Petitioner upon fixation of her pay vide Office Orders dated 13.12.2021 and 18.04.2022, on account of promotions of the Petitioner from the post of Assistant Professor (AGP Rs.7000/-) to Assistant Professor (AGP Rs.8000/-); from Assistant Professor (AGP Rs.8000/-) to Associate



2024:DHC:7843



Professor and finally, promotion as Professor along with interest @18% per annum from the date payments fell due till actual payment.

2. Shorn of unnecessary details, facts to the extent relevant are that Petitioner was appointed as Lecturer [Assistant Professor (AGP Rs.7000/-)] in Business Studies on probation on 28.04.2009 in Deen Dayal Upadhyaya College/Respondent No.4 (hereinafter referred to as 'College'). The College is a constituent college of University of Delhi/Respondent No. 3 and is fully funded by Government of NCT of Delhi/Respondent No. 2.

3. University Grants Commission ('UGC') issued a Merit Promotion Scheme, 1998/Career Advancement Scheme, 2000 ('CAS'), providing for various stages of promotion to a Lecturer and the schemes were adopted by the University of Delhi and were thus applicable in the case of the Petitioner as well.

4. Petitioner became eligible for promotion from Assistant Professor (AGP Rs.7000/-) to Assistant Professor (AGP Rs.8000/-) on 30.04.2014 and to the post of Associate Professor on 30.04.2017 and from Associate Professor to Professor on 01.09.2021. Notwithstanding the fact that Petitioner became eligible for promotion to the higher posts on the aforesaid dates, College and the University did not take requisite steps to constitute Selection/Screening Committees until 19.12.2020 when Petitioner was considered for promotion as Assistant Professor (AGP Rs.8000/-) by the Selection Committee and consequent to favourable recommendation, was promoted vide order dated 13.12.2021 w.e.f. the date of eligibility i.e. 30.04.2014. Upon such promotion, Petitioner became entitled to enhanced salary and arrears but nothing was received by her.



2024:DHC:7843



5. It is further averred that Petitioner was considered for promotion to the post of Associate Professor by Screening Committee convened on 10.02.2021 and for post of Professor on 21.10.2021. By a common order dated 18.04.2022, promotion to the post of Associate Professor was granted w.e.f. 30.04.2017 and to the post of Professor w.e.f. 01.09.2021. Despite repeated representations, Petitioner was not paid the arrears of the re-fixation of her salary on account of these promotions.

6. Petitioner states that the College informed the Petitioner that the arrears will be released immediately after the fund is received from Respondent No. 2/Directorate of Higher Education but nothing has been received so far and compelled by the circumstance, Petitioner has filed the present writ petition.

7. Learned counsel for the Petitioner submits that Petitioner has been gravely prejudiced as she was granted her due promotions belatedly and even after the grant of three promotions and passing an order fixing the pay of the Petitioner in the higher posts, arrears of pay fixation have not been released till date and Respondents are only shifting the blame on each other.

8. Issue notice.

9. Learned counsels, as above, accept notice on behalf of the Respondents.

10. Insofar as the College is concerned, the stand of Ms. Beenashaw N. Soni is that the College is willing to disburse the arrears but in the absence of provision in the Budget and allocation of fund from Respondents No. 1 and 2, it is unable to release the arrears. Insofar as Respondents No. 1 and 2 and Respondent No. 3 are concerned, the argument as usual is with regard to budgetary allocations.



2024:DHC:7843



11. The undisputed facts are that Petitioner was promoted to the post of Assistant Professor (AGP Rs.8000/-) w.e.f. 30.04.2014; to the post of Associate Professor w.e.f. 30.04.2017 and to the post of Professor w.e.f. 01.09.2021. There can be no doubt that Petitioner is entitled to arrears of pay arising on account of re-fixation of her pay due to the promotions granted to her and it is also a hard reality that till date arrears have not been released to the Petitioner though none of the Respondents stand to deny her entitlement to receive the same. There is also no doubt that Petitioner has been denied her legitimate dues, a situation which cannot be countenanced in law and equity. The defence of the Respondents is clearly to put the blame on one and another. It is for the Respondents to put their house in order and ensure that employees do not suffer in the bargain.

12. In view of the aforesaid, this writ petition is disposed of with a direction to the Director (Higher Education) and the Principal of the College to convene a meeting within 3 weeks from the date of receipt of this order, to formalize and work out the modalities for releasing the arrears of pay fixation to the Petitioner. Once the decision is taken, the outstanding arrears towards principal amount shall be released within 3 months thereafter. It is left open to the Petitioner to make a representation for interest component due to delayed payment of the arrears, to the College and as and when the representation is received, the College shall take a decision in accordance with law.

JYOTI SINGH, J

SEPTEMBER 27, 2024

B.S. Rohella/shivam