



2024:DHC:8212-DB



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

Date of decision: 21.10.2024

+ **W.P.(C) 14367/2024**
GOVERNMENT OF NCT OF DELHI AND ANR

.....Petitioners

Through: Mrs.Avnish Ahlawat, SC,
Mr.Nitesh Kumar Singh,
Ms.Laavanya Kaushik,
Ms.Aliza Alam, Mr.Mohnish
Sehrawat, Advs. with Mr.B.S.
Rawat, CI DTTE.

versus

MANISHA KHULBERespondent

Through: Mr.S.Sunil, Adv.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA
HON'BLE MS. JUSTICE SHALINDER KAUR

NAVIN CHAWLA, J. (ORAL)

CM APPL. 60135/2024 (Exemption)

1. Allowed, subject to all just exceptions.

W.P.(C) 14367/2024 & CM APPL. 60134/2024

2. This petition has been filed challenging the Order dated 01.05.2024 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as 'CAT') in OA No.3499/2018 titled *Mrs.Manisha Khulbe v. Ambedkar Institute of Advanced Communication, Technologies and Research & Anr.,*



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allowing the application filed by the respondent herein under Section 19 of the Administrative Tribunals Act, 1985, and directing the petitioners herein to place the respondent herein in the higher Pay Band of Rs.37,400-67,000 and to accordingly re-designate her as Associate Professor in accordance with the Notification dated 05.03.2010 titled '*All India Council for Technical Education [Pay Scale, Service Conditions and Qualifications for the Teachers and other Academic Staff in the Technical Institutions (Diploma) Regulations, 2010]*' (hereinafter referred to as 'AICTE Regulations, 2010'), with effect from 12.04.2013. It has further been directed that the respondent herein shall be entitled to all consequential benefits, that is, arrears of pay, etc., in accordance with the relevant rules and instructions.

3. Briefly stated, it is the case of the petitioners that the respondent joined the petitioner no.2 Institute on 10.12.2007 as Lecturer (E&CE) under the Department of Training & Technical Education, GNCTD. Since the respondent, before joining, was drawing pay scale of Lecturer (Senior Scale), she was given pay protection as Lecturer (Senior Scale) with effect from 10.12.2007. On 05.03.2010, the All India Council of Technical Education (hereinafter referred to as 'AICTE') issued AICTE Regulations, 2010 which, *inter alia*, provides as under:

<i>Cadre</i>	<i>Qualification & Experience</i>	<i>Pay Scale</i>
<i>Asstt. Professor</i>	<i>BE/B.Tech and ME/M. Tech. in relevant branch with First Class or equivalent either in BE/B.Tech. or ME/M.Tech</i>	<i>Rs. 15600-39100+AG P Rs. 6000</i>



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Associate Professor	<i>Qualification as above that is for the post of Assistant Professor, as applicable and PhD or equivalent, in appropriate discipline Post PhD publications and guiding PhD student is highly desirable.</i> Experience: <i>Minimum of 5 years experience in teaching / research / industry of which 2 years post Ph D experience is desirable.</i> <i>In case of Architecture, Professional Practice of 5 years as certified by the Council of Architecture shall also be considered valid.</i>	Rs. 37400-67000+ AG P Rs. 9000
Professor	<i>Qualifications as above that is for the post of Associate Professor, applicable</i> <i>Post PhD publications and guiding PhD students is highly desirable.</i> Experience: <i>Minimum of 10 years teaching /research / industrial experience of which at least 5 years should be at the level of Associate Professor.-----</i>	Rs. 37400-67000+AG P Rs.10000

Note below faculty Norms (page 35 of AICTE Regulation 2010):

“3. For an incumbent Assistant Professor, experience at the level of Assistant Professor will be considered equivalent to experience at the level of Associate Professor, provided the incumbent Assistant Professor has acquired or acquires Ph. D Degree in the relevant discipline.”

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4. The AICTE Regulations, 2010, for further promotion under the Career Advancement Scheme (in short, 'CAS') for teachers and equivalent positions, stipulated norms for the financial upgradation for the existing and newly recruited faculty, as under:

“(a) Assistant Professor/Associate Professors/Professors In Technical institutions

(viii) Posts of Associate Professor shall be in the Pay Band of Rs.37400-67000, with AGP of Rs.9000. Directly recruited Associate Professors shall be placed in the Pay Band ' of Rs. 37400-67000 with an AGP of Rs. 9000, at the appropriate stage in the Pay Band in terms of the conditions of appointment.

(x) Incumbent Assistant Professor and Incumbent Lecturers (Selection Grade) who had not completed three years in the pay scale of Rs. 12000-18300 on 1.1.2006 shall be placed at the appropriate stage in the Pay Band of Rs. 15600-39100 with AGP of Rs. 8000 till they complete 3 years of service in the grade of Lecturer (Selection Grade), and thereafter shall be placed in the higher Pay Band of Rs.37400-67000 and accordingly redesignated as Associate Professor.

(xviii) All advancements to higher grade pays in various cadres will be effected subject to completion of two AICTE approved refresher programs of not less than two weeks duration each and two one week each TEQIP sponsored programs.”

5. The petitioners adopted the AICTE Regulations, 2010 vide Office Order dated 29.07.2010.

6. The respondent was granted Career Advancement as Lecturer (Selection Grade) with effect from 12.04.2010.



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7. The respondent applied for the post of Assistant Professor (ECE) under the UPSC Advertisement No.07/2010, and by a Memorandum dated 22.07.2011, was offered appointment to the post of Assistant Professor (Electronics & Communication Engineering) in the petitioner no.2. Her technical resignation was accepted by the Hon'ble Lt. Governor, Delhi *vide* Office Order dated 04.11.2011 with effect from 29.08.2011, and she was appointed to the post of Assistant Professor (ECE) *vide* Communication dated 13.12.2011.

8. By a Notification dated 08.11.2012, the AICTE issued the '*All India Council for Technical Education (Career Advancement Scheme for the Teachers and other Academic Staff in Technical Institutions) (Degree) Regulations, 2012*' (hereinafter referred to as '*AICTE Regulations, 2012*'). In terms of the said Regulations, specifically paragraph 3.8, an Assistant Professor completing three years of teaching in the grade of Rs.8,000/- (Stage 3) shall be eligible, subject to the qualifying conditions and the API based PBAS requirements prescribed by the Regulations, to move to the Pay Band of Rs.37,400-67,000 with next higher grade of Rs.9,000 (Stage 4) and to be designated as Associate Professor. However, those joining the service after 05.03.2010 were required to have a Ph.D in addition to the abovementioned requirements to move to the Stage 4.

9. On completion of three years in the Selection Grade, on 30.05.2013, the respondent submitted a representation seeking her re-designation as Associate Professor and Pay Band of PB-4 in accordance with AICTE Regulations, 2010. The said representation was rejected by the petitioners *vide* Order dated 04.06.2015, stating



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that before completing three years of regular service as Lecturer (Selection Grade) with effect from 12.04.2010, she had been selected as Assistant Professor and, after acceptance of her technical resignation from the post of Lecturer (Selection Grade), she joined as Assistant Professor with effect from 29.08.2011, therefore, in terms of Clause 1 (x) of the AICTE Regulations, 2010, the respondent was not eligible for being re-designated as Associate Professor.

10. The representation was again rejected *vide* Speaking Order dated 19.08.2015 on the same ground.

11. Aggrieved of the same, the respondent filed the abovementioned application before the learned CAT, which has been allowed by the learned CAT *inter alia* observing as under:

“15. Reading of the above indicates that the re-designation as Associate Professor can take place once the incumbent has completed three years in the pay scale indicated above. Therefore, it is evident that a person who is re-designated as Associate Professor will get the above Pay Band of Rs.37,400-67000 with AGP Pay of Rs.9000/-. The Regulation of 2010 referred to above merely mentions successful completion of three years either in the post of Assistant Professor or in the post of Lecturer (Selection Grade). As mentioned above, both designations fall under the same grade pay i.e. AGP of Rs.8000/-. Since the applicant was working as Lecturer (Selection Grade) in her previous organisation and had after technical resignation got appointed as Assistant Professor and she has completed the required three years of service long back on 12.04.2013, she meets the criteria of Clause (x) of AICTE Regulation 2010. The AICTE Notification 2012 on which the respondents have placed reliance to deny the post of Associate Professor is applicable to only those



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who had joined the service of the respondents after 05.03.2010. Whereas the applicant had joined service as Lecturer (Senior Scale) in the office of respondents on 10.12.2007. The mandatory completion of Ph.D would be applicable only to a person who joined the service of respondents after 05.03.2010 and admittedly the applicant had joined prior to the said date. Moreover, she had also completed 3 years of service in the grade of Lecturer (Selection Grade) on 12.04.2013 itself, making her eligible for the post of Associate Professor. It is also not in dispute that AICTE Regulations 2010, which is applicable in the case of applicant, does not provide any condition of having Ph.D for becoming Associate Professor or any condition for API based PBAS requirements. As such, we find that Para 3.8 of Notification dated 08.11.2012 is not a hurdle for the present applicant.”

12. The learned counsel for the petitioners submits that as the respondent had tendered her technical resignation from the post of Lecturer and had been re-appointed to the post of Assistant Professor as a Direct Recruit through UPSC after 05.03.2010, she needed to earn a Ph.D in order to be promoted to the post of Associate Professor. He submits that, in absence of earning a Ph.D, the respondent could not be granted the post of Associate Professor or PB-4.

13. We find no merit in the said submission.

14. As has been observed by the learned CAT, the respondent had been placed as Lecturer (Selection Grade) with effect from 12.04.2010 *vide* Order dated 02.12.2011. She, therefore, completed three years as Lecturer (Selection Grade) on 12.04.2013. Merely because, she, in the meantime, participated in the selection process for being appointed as



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an Assistant Professor and was selected for the said post, in our view, she cannot be made worse off by now insisting that in absence of her obtaining a Ph.D, she cannot be designated as Associate Professor or granted PB-4, which she would otherwise have been entitled to had she remained as a Lecturer (Selection Grade). The intent of a Career Advancement Scheme cannot be to put hurdles in such career advancement, but is to facilitate the same.

15. In view of the above, we find no infirmity in the Impugned Order passed by the learned CAT and, consequently, the present petition is dismissed. The pending application also stands disposed of as infructuous.

16. There shall be no order as to costs.

NAVIN CHAWLA, J

SHALINDER KAUR, J

OCTOBER 21, 2024/ns/as

Click here to check corrigendum, if any