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

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+ W.P.(C) 14334/2024

DR. MANISHA

.....Petitioner

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

versus

LT. GOVERNOR OF DELHI & ORS.

.....Respondents

Through: Mr. Yeeshu Jain, ASC with Ms. Jyoti
Tyagi, Mr. Hitanshu Mishra and Ms. Manshi
Tanwar, Advocates for Respondents No.1 and 2.
Mr. Anurag Mathur, Advocate for Respondent
No.4.

6

+ W.P.(C) 14342/2024

SH. VIKASH CHAUDHARY

.....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.

Mr. Anurag Mathur, Advocate for Respondent
No.4.

161

+ W.P.(C) 14805/2024

DR MADHU LOMESH

.....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.

Mr. Anurag Mathur, Advocate for Respondent No.4.

162

+ W.P.(C) 14807/2024

PROF TRIPTA

.....Petitioner

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

versus

LT. GOVERNOR OF DELHI & ORS.

.....Respondents

Through: Mr. Yeeshu Jain, ASC with Ms. Jyoti Tyagi, Mr. Hitanshu Mishra and Ms. Manshi Tanwar, Advocates for Respondents No.1 and 2.

Mr. Anurag Mathur, Advocate for Respondent No.4.

172

+ W.P.(C) 14839/2024

PROF. POOJA KHANNA

.....Petitioner

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

versus

LT. GOVERNOR OF DELHI & ORS.

.....Respondents

Through: Ms. Latika Chaudhary and Mr. Utkarsh, Advocates for Respondent No.1.

Mr. Anurag Mathur, Advocate for Respondent No.4.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

22.10.2024

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W.P.(C) 14334/2024

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

- “(a) Issue a writ of mandamus and direct the Respondent No.1, 2 and 4 to release and pay to the Petitioner the arrears of pay upon fixation of her pay vide Office Orders dated 28.09.2022 and 27.04.2023 issued by the Respondent No.3 and 4 on account of promotion of the Petitioner from the post of Assistant Professor [Academic Level-10] to Assistant Professor [Academic Level-11]; then from the post of Assistant Professor [Academic Level-11] to Assistant Professor [Academic Level-12]; then from the post of Assistant Professor [Academic Level-12] to Associate Professor and eventually to the post of Professor.; and*
- (b) Issue a writ of mandamus and direct the Respondent No. 1, 2 and 4 to pay to the Petitioner upto date interest @ 18% per annum w.e.f the date of accrual till the date of payment of the aforesaid arrears of pay.”*

2. Shorn of unnecessary details, facts to the extent relevant are that Petitioner was appointed as Lecturer in Economics on *ad-hoc* basis in Aditi Mahavidyalaya (hereinafter referred to as ‘the College’) in August, 2005 and her services were confirmed w.e.f. 27.09.2006 in the pay scale of Rs.8000-13500. The College is a constituent College of the University of Delhi/Respondent No.3.

3. University Grants Commission (‘UGC’) issued a Merit Promotion Scheme, 1998/Career Advancement Scheme, 2000 (CAS), providing for various stages of promotion and the same was adopted by the University.

4. UGC altered the designation of Teachers appointed in Colleges and Universities w.e.f. 01.01.2006 from Lecturer, Reader and Professor to Assistant Professor, Associate Professor and Professor. By virtue of the promotion scheme, Petitioner became eligible for promotion to the post of Assistant Professor (Academic Level-11) on 28.09.2010, to Academic Level-12 on 29.08.2015 and to the post of Associate Professor on



29.08.2018. However, no steps were taken by the College and the University towards promotions for a long period of 11 years at all levels. Finally, in the year 2021, University constituted two separate Selection Committees for considering the case of the Petitioner for promotion, i.e., one for promotion as Assistant Professor (Academic Level-11) and the other for the post of Assistant Professor (Academic Level-12).

5. It is averred that based upon the recommendations, College issued two Office Orders both dated 12.02.2021 and conveyed the approval for promotion and vide order dated 19.07.2021, College conveyed the approval of the Competent Authority for promotion to both the academic levels. Petitioner was granted promotion at three levels *albeit* belatedly as can be seen from the following chart:-

S.No	Posts	Promotion due date	Actual Promotion date
1	From Assistant Professor [Academic Level-10]/Lecturer to Assistant Professor [Academic Level-11]	29.08.2010	12.02.2021
2	From Assistant Professor [Academic Level-11] to Assistant Professor [Academic Level-12]	29.08.2015	12.02.2021
3	From Assistant Professor [Academic Level-12] to Associate Professor	29.08.2018	19.07.2021

6. Upon promotions, the University vide communication dated 28.09.2022 fixed the pay of the Petitioner from the due dates of promotions and consequently Petitioner became entitled to arrears of pay on account of the difference in pay scales. By order dated 26.04.2022, College conveyed the approval of the Competent Authority for promotion to the post of Professor w.e.f. 01.01.2022 and University fixed the pay accordingly. The grievance of the Petitioner is that notwithstanding the grant of three promotions and fixation of pay in the promoted posts, arrears of salary and emoluments have not been released despite representation made on



27.06.2024. College has informed the Petitioner that arrears will be released on receipt of funds by Directorate of Higher Education but despite a personal hearing on 09.08.2024 and furnishing the desired information/documents, arrears have not been released.

W.P.(C) 14342/2024

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

“(a) Issue a writ of mandamus and direct the Respondent No.1, 2 and 4 to release and pay to the Petitioner the arrears of pay amounting to Rs.58,78,000/- [Rupees fifty eight lakh seventy eight thousand only] upon fixation of his pay vide Office Order dated 18.04.2022 by the Respondent No.4 on account of promotion of the Petitioner from the post of Assistant Professor in Senior Scale to Assistant Professor in Selection Grade and promotion from the post of Assistant Professor in Selection Grade to Associate Professor; and

(b) Issue a writ of mandamus and direct the Respondent No. 1, 2 and 4 to pay to the Petitioner upto date interest @ 18% per annum w.e.f the date of accrual till the date of payment of the aforesaid arrears of pay.”

8. Shorn of unnecessary details, facts to the extent relevant are that Petitioner was appointed as Lecturer (Computer Science) on probation in Bhagini Nivedita College (hereinafter referred to as ‘the College’) on 18.11.1999 in the pay scale of Rs.8000-13500. The College is a constituent College of the University of Delhi. Petitioner was confirmed as a Lecturer from the date of his initial appointment vide confirmation letter dated 27.01.2003.

9. University Grants Commission (‘UGC’) issued a Merit Promotion Scheme, 1998 / Career Advancement Scheme, 2000, 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.



10. Petitioner became eligible for promotion as Lecturer in Senior Scale on 30.11.2004. UGC altered the designation of Teachers appointed in Colleges and Universities w.e.f. 01.01.2006 from Lecturer, Reader and Professor to Assistant Professor, Associate Professor and Professor. Petitioner avers that after a considerable delay, College constituted the Screening Committee in the year 2010 and the candidature of the Petitioner was considered for promotion to the post of Lecturer in Senior Scale. The College communicated its favourable recommendation to the University in 2010 itself, however, approval was granted by the University belatedly after 3 years and the formal letter was issued on 25.04.2013 promoting the Petitioner as Lecturer in Senior Scale in pre-revised pay scale of Rs.10000-15200 w.e.f. 30.11.2004.

11. It is averred that Petitioner thus became entitled to grant of arrears of pay from 30.11.2004 both on account of promotion and implementation of 6th CPC. These arrears were sanctioned and released by Respondent No.2 to the College and were received by the Petitioner. Petitioner became entitled to consideration for promotion to the post of Assistant Professor in Selection Grade from 30.11.2009 and further to the post of Associate Professor from 30.11.2012. There was, however, no action on the part of the Respondents with respect to the appointments and promotions of Teachers for a long period of 11 years at all levels and finally, in the year 2021, University constituted two separate Selection Committees for considering the case of the Petitioner for promotion, i.e., one for promotion as Assistant Professor in Selection Grade and the other for promotion as Associate Professor. The Committees considered the case of the Petitioner and recommended promotions. College conveyed the approval of promotion at both levels vide



Office Orders, both dated 21.10.2021 and by a subsequent order dated 18.04.2022, College approved fixation of pay of the Petitioner as Associate Professor.

12. It is stated that upon pay fixation in the promoted posts, Petitioner became entitled to arrears of pay arising out of difference in the pay scales, i.e., arrears from 30.11.2009 to 30.11.2012 on account of promotion as Assistant Professor in Selection Grade and arrears w.e.f. 30.11.2012 on account of promotion as Associate Professor. Petitioner repeatedly represented to the Principal of the College to release the arrears including making of a formal representation dated 08.06.2024.

13. Petitioner states that the College informed the Petitioner that the arrears shall be released immediately after the fund is received from Directorate of Higher Education/Respondent No.2 but nothing was received, constraining the Petitioner to file writ petition being W.P.(C) 8886/2024 seeking a direction to Respondents No. 1, 2 and 4 to release and pay the arrears with interest @ 18% per annum. The writ petition was disposed of on 02.07.2024 directing Respondent No.2 to treat the writ petition as a representation and pass a reasoned order within 8 weeks after affording an opportunity of hearing to the Petitioner. Till date, Petitioner has not been called for personal hearing and even the arrears have not been released.

W.P.(C) 14805/2024

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

“(a) Issue a writ of mandamus and direct the Respondent No.2 and 4 to release and pay to the Petitioner the arears of pay upon fixation of her pay vide Office Order dated 27.08.2022 issued by the Respondent No.3 on account of her promotion from the post of Lecturer to the post of Professor; and



(b) Issue a writ of mandamus and direct the Respondent No.2 and 4 to pay to the Petitioner upto date interest @ 18% per annum w.e.f the date of accrual till the date of payment of the aforesaid arrears of pay.”

15. Facts to the extent relevant are that Petitioner was appointed as Lecturer in Hindi Journalism on probation in Aditi Mahavidyalaya College (hereinafter referred to as ‘the College’) on 10.11.2004 in the pay scale of Rs.8000-13500. The College is a constituent College of the University of Delhi.

16. 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. Further, it is pertinent to note that UGC altered the designation of Teachers appointed in Colleges and Universities w.e.f. 01.01.2006 from Lecturer, Reader and Professor to Assistant Professor, Associate Professor and Professor.

17. Petitioner became eligible for promotion from Assistant Professor (Academic Level 11) to Assistant Professor (Academic Level 12) on 04.11.2010 and to the post of Associate Professor (Academic Level 13-A) on 04.11.2013 and from Associate Professor (Academic Level 13-A) to Professor (Academic Level 14) on 01.04.2021. There was, however, no action on the part of the Respondents with respect to the appointments and promotions of Teachers for a long period of 11 years at all. It was only in the year 2021 that the Petitioner was considered for promotion as Assistant Professor (Academic Level-12) by the Selection Committee and consequent to favourable recommendation, was promoted vide order dated 12.02.2021



w.e.f. the date of eligibility i.e. 04.11.2010. It is further averred that Petitioner was considered for promotion to the post of Associate Professor (Academic Level-13-A) and was promoted on 12.03.2021 w.e.f. 04.11.2013 and further considered for promotion to the post of Professor on 11.04.2022 and was promoted to the post of Professor (Academic Level-14) w.e.f. 01.04.2021 vide Office Order dated 26.04.2022.

18. It is averred that upon grant of the said promotions, University vide its communication dated 27.08.2022 fixed the pay of the Petitioner from the due dates of the promotions. Upon fixation of pay on promotions, Petitioner became entitled to arrears of pay on account of difference in pay scales and a tentative due drawn statement of pay fixation was drawn up by the University, however, the arrears have not been released *albeit* the Petitioner also made a formal representation dated 23.08.2024. The stand of the College is that arrears cannot be released till funds are received from Directorate of Higher Education.

W.P.(C) 14807/2024

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

- “(a) Issue a writ of mandamus and direct the Respondent No.2 and 4 to release and pay to the Petitioner the arrears of pay upon fixation of her pay vide Office Order dated 27.08.2022 issued by the Respondent No.3 on account of her promotion from the post of Lecturer to the post of Professor; and*
(b) Issue a writ of mandamus and direct the Respondent No.2 and 4 to pay to the Petitioner upto date interest @ 18% per annum w.e.f the date of accrual till the date of payment of the aforesaid arrears of pay.”

20. Facts to the extent relevant are that Petitioner was appointed as Lecturer in Hindi Department on probation in Aditi Mahavidyalaya College (hereinafter referred to as ‘the College’) on 13.07.2001 in the pay scale of



Rs.8000-13500. The College is a constituent College of the University of Delhi.

21. 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. Further, it is pertinent to note that UGC altered the designation of Teachers appointed in Colleges and Universities w.e.f. 01.01.2006 from Lecturer, Reader and Professor to Assistant Professor, Associate Professor and Professor.

22. Petitioner became eligible for promotion from Assistant Professor (Academic Level 11) to Assistant Professor (Academic Level 12) on 17.07.2010 and to the post of Associate Professor (Academic Level 13-A) on 17.07.2013 and from Associate Professor (Academic Level 13-A) to Professor (Academic Level 14) on 01.03.2021. There was, however, no action on the part of the Respondents with respect to the appointments and promotions of Teachers for a long period of 11 years at all. It was only in the year 2021 that the Petitioner was considered and granted promotions to the post of Assistant Professor (Academic Level-12) on 12.02.2021 w.e.f. 17.07.2010 and to the post of Associate Professor (Academic Level-13A) on 12.03.2021 w.e.f. 17.07.2013. Petitioner was further promoted to the post of Professor (Academic Level-14) on 26.04.2022 w.e.f. 01.03.2021.

23. It is averred that upon grant of the said promotions, University fixed the pay of the Petitioner vide order dated 27.08.2022 and accorded the approval for payment. However, despite representation arrears of pay on account of the difference in the pay scale of the promoted post have not been



released and the stand of the College is that funds have not been received from the Directorate of Higher Education.

W.P.(C) 14839/2024

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

“(a) Issue a writ of mandamus and direct the Respondent No.2 and 4 to release and pay to the Petitioner the arrears of pay upon fixation of her pay vide Office Order dated 25.11.2021 issued by the Respondent No.3 on account of her promotion from the post of Lecturer to the post of Professor; and

(b) Issue a writ of mandamus and direct the Respondent No.2 and 4 to pay to the Petitioner upto date interest @ 18% per annum w.e.f the date of accrual till the date of payment of the aforesaid arrears of pay.”

25. Facts to the extent relevant are that Petitioner was appointed as Lecturer in English on probation in Aditi Mahavidyalaya College (hereinafter referred to as ‘the College’) on 05.11.1999 in the pay scale of Rs.8000-13500. The College is a constituent College of the University of Delhi.

26. 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.

27. Petitioner became eligible for promotion from Lecturer to Lecturer in Senior Grade on 14.10.2004 but was promoted belatedly by order dated 03.11.2008. Petitioner was promoted thereafter as Assistant Professor (Academic Level 12) on 16.07.2021 from 10.11.2008 and to the post of Associate Professor (Academic Level 13-A) on 16.07.2021 from 10.11.2011 and thereafter to the post of Professor (Academic Level 14) on 27.09.2021



from 31.12.2020. Upon grant of the said promotions, University fixed the pay of the Petitioner on promotions vide communication dated 25.11.2021 but the arrears have not been released by the College due to the usual reason that funds are not forthcoming from the Directorate of Higher Education.

28. Issue notice.

29. Learned counsels, as aforesaid, accept notice on behalf of the respective Respondents.

30. Learned counsel for the Petitioners submits that Petitioners have been prejudiced on two counts. Firstly, they were granted their due promotions belatedly and secondly, while promotions have been made effective from the due dates of eligibility, the fruits of the promotions have not been made available inasmuch as the difference in the pay and allowances payable in the promoted posts have not been made available to the Petitioners in the form of arrears. It is urged by the learned counsel that it is a statutory and a legal obligation of the Respondents to ensure that Petitioners get their legitimate dues on time and the arrears of pay are no longer a bounty to be distributed on the whims and fancies of the Respondents. It is urged by Mr. Sanjay Sharawat that despite two decision of the Court on 12.08.2024 and 27.09.2024 on similar issues, Respondents are not releasing the arrears on promotions and have no regard for the orders of this Court.

31. Insofar as the College is concerned, the stand as always is that it is willing to disburse the arrears but is unable to do so in the absence of budget and allocation of funds from the concerned Authorities. The other Respondents plead lack of budgetary allocations, a routine argument in every similar matter.



32. Having heard learned counsels for the parties, I may only note that these writ petitions reflect a very sorry state of affairs. The common thread that runs in these petitions is that despite the Petitioners being eligible for promotions to different posts, there was total inaction on the part of the University/Colleges in taking steps towards promotions for over a decade. Finally, the said Respondents woke up from their deep slumber in 2021 and carried out the promotion exercise and Petitioners were promoted from their due dates eligibility. Having received promotions on paper, Petitioners till date are struggling to receive the fruits of their promotions which admittedly came belatedly. Pay fixations on the promoted posts have been carried out and approvals have been received still arrears have not been released to the Petitioners and going by the common stand the hindrance is 'budgetary allocations'. Mr. Sanjay Sharawat is right in his contention, which he painfully articulates that despite earlier orders of this Court granting opportunity to the Directorate of Higher Education, Colleges and the University to hold high level meetings to work out the modalities for releasing arrears of pay to the Petitioners therein, no action has been taken and it appears that the Respondents have scant regard for the orders of this Court. There can be no trace of doubt that an employee on promotion cannot be deprived of the benefit of the higher pay scale. Every employee works hard and dedicatedly and aspires for promotion and the action of the Respondents in depriving the Petitioners of their hard-earned arrears cannot be countenanced either in law or in equity. Therefore instead of directing the Respondents to hold meetings and work out modalities to release the arrears, as was done in the earlier cases, where no action has been taken so far, these writ petitions are allowed by directing the Respondents to ensure that arrears



of pay due to the Petitioners on account of their promotions are released to them as expeditiously as possible and not later than a period of six weeks from the date of receipt of this order by the Colleges. It would be for the Respondents to put their house in order and make arrangements in the budgetary allocations/planned estimates so that the order passed by this Court is complied with in letter and spirit without any delay.

33. Writ petitions are disposed of in the aforesaid terms.

JYOTI SINGH, J

OCTOBER 22, 2024

B.S. Rohella/shivam