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

+ **W.P.(C) 15868/2024**

DR POONAM MOTHSRA

.....Petitioner

Through: Mr. Sumit Kumar Sharma and
Mr.Rajat Sangwan, Advocates.

versus

LT. GOVERNOR OF DELHI & ORS.

.....Respondents

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

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

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

Mr. Vinay Yadav and Mr. Hussain Taqvi,
Advocates for Respondent/UOI.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

14.11.2024

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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:

“[a] Issue a writ of mandamus, directing 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 Order dated 11.07.2022 issued by the Respondent No. 4 on account of promotion of the Petitioner from Assistant Professor (Academic Pay Level-11) to Assistant Professor (Academic Pay Level-12) w.e.f. 13.11.2016 and from Assistant Professor to Associate Professor w.e.f. 13.11.2019.; 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 (Chemistry) on probation in Bhagini Nivedita College (hereinafter referred to as 'the College') vide offer of appointment dated 14.09.2009 and joined on 16.09.2009 in the pay scale of Rs.8000-13500 and her services were confirmed in the re-designated, i.e., Assistant Professor from the date of her initial appointment vide confirmation letter dated 09.02.2011.

3. The College is a constituent College of the University of Delhi. 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. 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.

4. By virtue of the promotion scheme, Petitioner became eligible for promotion from Assistant Professor (Academic Level 11) to Assistant Professor (Academic Level 12) on 13.11.2016 and further to the post of Associate Professor (Academic Level 13-A) on 13.11.2019. There was, however, no action on the part of the Respondents with respect to the promotions for a long period of 11 years at all levels. It was only in 2021 that Petitioner was promoted as Associate Professor (Academic Level-12) vide order dated 21.10.2021 w.e.f. 13.11.2016, i.e., the date of eligibility. Petitioner was further promoted to the post of Associate Professor under CAS-2018 vide order dated 21.10.2021 w.e.f. the date of eligibility, i.e., 13.11.2019 in Academic Level-13-A.



5. It is further averred that upon grant of the said promotions, University vide its communication dated 28.06.2022 accorded approval for fixation of Petitioner's revised pay on the promoted posts, upon which 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. By order dated 11.07.2022, College conveyed the approval of the Competent Authority for pay fixation but actual arrears were not disbursed. The grievance of the Petitioner is that notwithstanding the grant of two promotions and fixation of pay in the promoted posts, arrears of salary and emoluments have not been released despite representation made on 05.07.2024. The stand of the College is that arrears cannot be released till funds are received from Directorate of Higher Education.

6. Issue notice.

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

8. Learned counsel for the Petitioner submits that Petitioner has been prejudiced on two counts. Firstly, she was granted her 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 Petitioner 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 Petitioner gets her legitimate dues on time particularly when the promotions were granted after inordinate and unexplained delay. It is vehemently submitted that Petitioner has earned the difference in the pay by virtue of her hard work and having



received promotions, it is not open to the Respondents to disburse the arrears at their whims and fancies as though these arrears are their bounty. Learned counsel relies on the earlier decisions of this Court in ***Sh. Nagendra v. Lt. Governor of Delhi & Ors., W.P. (C) No. 11096/2024***, decided on 12.08.2024, ***Dr. Monika Bansal v. Lt. Governor of Delhi & Ors., W.P. (C) No. 13626/2024***, decided on 27.09.2024, and ***Dr. Manisha v. Lt. Governor of Delhi & Ors., W.P. (C) No. 14334/2024***, decided on 22.10.2024, where this Court has painfully noted the delay in releasing arrears of salaries and passed appropriate directions for release.

9. 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.

10. Having heard learned counsels for the parties, there is merit in the stand of the Petitioner that she is entitled to the arrears of pay revision legitimately due to her on account of promotions to the post of Assistant and Associate Professor and Respondents cannot deny the legitimate dues on the plea of budgetary allocations. Having received promotions on paper, Petitioner has been deprived of the fruits of her promotions, which admittedly came belatedly. Pay fixations qua the promoted posts have been carried out and approvals have been received, still arrears have not been released to the Petitioner and going by the common stand the hindrance is 'budgetary allocations'. Every employee works hard and dedicatedly and aspires for promotion and action of the Respondents in depriving the Petitioner of her hard earned arrears cannot be countenanced either in law or



in equity.

11. Accordingly, this writ petition is allowed directing the Respondents to ensure that arrears of pay due to the Petitioner on account of her promotions are released to her as expeditiously as possible and not later than a period of eight weeks from the date of receipt of this order by the College. 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. The issue of payment of interest on delayed payments of arrears of pay is left open.

12. Writ petition is disposed of in the aforesaid terms.

JYOTI SINGH, J

NOVEMBER 14, 2024

B.S. Rohella