



2024:DHC:9247-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 16376/2024 and CM APPL. 69065/2024, CM APPL. 69066/2024 & CM APPL. 69067/2024

ALL INDIA INSTITUTE OF
MEDICAL SCIENCES

.....Petitioner

Through: Mr. Anand Verma, Ms.
Apoorva Pandey and Mr. Ayush Gupta,
Advocate

versus

PARIYARATH RAMESH MENON

.....Respondent

Through: Mr. Ankur Chhibber, Advocate

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

HON'BLE MR. JUSTICE GIRISH KATHPALIA

JUDGMENT (ORAL)

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27.11.2024

C. HARI SHANKAR, J.

1. This is a writ petition under Article 226 of the Constitution of India assailing the following order dated 7 November 2024 passed by the Central Administrative Tribunal¹, Principal Bench, New Delhi:

“Heard Mr. Ankur Chhibber, learned counsel for the applicant and Mr. Anand Varma, learned counsel for the respondents.

2. By filing the present OA, the applicant seeks following reliefs:-

i. Quash the minutes of meeting dated 09.05.2019 and 25.07.2021 whereby the Applicant has been recommended for promotion to the post of Associate Professor and Additional Professor w.e.f. 01.07.2018 and 01.07.2021

Signature Not Verified¹ “the Tribunal”, hereinafter

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respectively and notice dated 29.06.2024 to the extent whereby the name of the Applicant does not figure in the list of eligible faculties to be considered for promotion to the post of Professor and of the letter dated 26.07.2024 whereby the representation of the Applicant for consideration along with batchmates for post of Professor has been rejected by the Respondents; and

ii. Direct the Respondent to treat the Applicant as having been promoted to the post of Associate Professor w.e.f. 01.07.2017 and Additional Professor w.e.f. 01.07.2020 in the same manner as his batch mates have been promoted to such post, in view of the DoPT OM dated 06.06.1978 and 16.09.2022, with all consequential benefits and thereafter allow the Applicant to participate in the selection process for the post of Professor along with his batchmates and take part in the interview as and when held by the Respondents, in the same manner as the Respondents in the past have been considering the candidature of the Applicant along with his batchmates in the post of Associate and Additional Professor, and if found fit promote the Applicant to the post of Professor, failing which an irreconcilable prejudice shall be caused affecting his professional career advancement.

3. The applicant also seeks the following interim relief:-

Direct the Respondent to allow the Applicant to apply against the notice dated 29.06.2024 and participate in the selection process till the pendency of the present O.A

4. The respondents issued an advertisement in the year 2012 for filling up the posts of Assistant Professor (Paediatrics) in All India Institute of Medical Sciences (AIIMS), New Delhi. Having satisfied the qualifications, the applicant applied for the said post and accordingly appeared for the interview conducted on 28.03.2014. However, when the final result was declared, his name was shown at Sl. No.1 in the wait list which the respondents were not operating. The applicant, thereafter, filed O.A. No.1109/2014, aggrieved by the inaction of the respondents in not filling up the vacant posts by operating the wait list. During the pendency of the said OA, the applicant was given an offer of appointment in December 2014, which was accepted by him in January 2015. However, he was assigned the 2015 batch instead of 2014 which was assigned to his batchmates.

5. It is the contention of the applicant that in the year 2018, he was promoted to the post of Associate Professor and subsequently,

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to the post of Additional Professor, whereas his batchmates were shown to have been promoted in the years 2017 and 2020 to the posts of Associate Professor and Additional Professor, respectively. Hence, the applicant is constrained to approach this Tribunal by filing the present OA, aggrieved by the act of the respondents in not allowing him to apply against the notice dated 29.06.2024 under the APS for consideration for the post of Professor.

6. It is the specific contention of the applicant that he should have been assigned the 2014 batch for the post of Assistant Professor, 2017 batch for Associate Professor, and 2020 batch for Additional Professor. In short, the applicant is claiming ante-dating of the batches. In support of his contentions, the applicant has relied upon the DoP&T OM dated 06.06.1978 and Regulation 26 of the Notification dated 25.02.1999 issued by the All India Institute of Medical Sciences.

7. Learned counsel for the respondents opposes the grant of interim relief on the ground that by filing the instant OA, the applicant is claiming ante-dating of his batches to the years 2014, 2017 & 2020 for the posts of Assistant Professor, Associate Professor, and Additional Professor, respectively.

8. Having considered the rival submissions, we are of the opinion that a prima facie case is made out by the applicant for grant of interim relief. We, accordingly, pass the following interim directions to the respondents:

a. The applicant shall be allowed to apply against the notice dated 29.06.2024 and participate in the selection process, which is scheduled to be conducted on 17.11.2024 for the post of Professor (Paediatrics).

b. The applicant's participation, however, will be subject to the final outcome of this OA, and the applicant shall not claim equity on the strength of this order.

c. The result of the applicant shall be kept in a sealed cover.

9. Stand over to 17.12.2024.

10. Meanwhile, the applicant is at liberty to file rejoinder to the counter affidavit filed by the respondents.”



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Bench of the Supreme Court, when it rendered, in its judgment in *L. Chandrakumar v UOI*², orders of the Central Administrative Tribunal amenable to writ jurisdiction before High Courts under Article 226 of the Constitution of India, would never have envisaged that, against purely interlocutory orders, which do not result in any irreparable prejudice to the parties, writ petitions would be filed. Such petitions needlessly burden the docket of this Court.

3. The impugned order causes no prejudice to the petitioner whatsoever. It merely directs that the respondent be permitted to participate in the selection and renders the participation also subject to the outcome of the OA.

4. Mr. Anand Verma, learned counsel for the petitioner, sought to submit that the order is unreasoned.

5. We do not intend to enter into this aspect of this matter in the facts of this case. The order notes the submission of the parties and takes a view that, in the interests of justice, the respondent should be permitted to participate in the selection subject to the outcome of the OA.

6. The order is purely discretionary and interlocutory, which, to reiterate, causes no prejudice to the petitioner.

7. We do not feel that such an order should invite our interference under Article 226 of the Constitution.



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8. The petition is, accordingly, dismissed.
9. Needless to say, we have not expressed any opinion on the merits of the matter and all contentions of the petitioner, including limitation, would remain open to be agitated in the OA.

C. HARI SHANKAR, J.

GIRISH KATHPALIA, J.

NOVEMBER 27, 2024

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Click here to check corrigendum, if any