



2024:DHC:9530



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Date of Decision: 10th December, 2024*+ **W.P.(C) 17090/2024****PARVEZ AHMED**

.....Petitioner

Through: Mr. R. K. Saini, Ms. Anchal Khanna,
Mr. Prem Khanna and Ms. Ridhi Khanna,
Advocates

versus

GOVT OF NCT OF DELHI & ANR.

.....Respondents

Through: Mr. Gaurav Dhingra and Mr.
Shashank Singh, Advocates for Respondent No.1.
Mr. Pritish Sabharwal, Standing Counsel for
Respondent No.2.

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

1. This writ petition has been preferred on behalf of the Petitioner for a limited direction to the Respondents to hold the DPC for appointment to the regular post of Vice Principal which is lying vacant for over five years.
2. Factual score necessary for the purpose of this writ petition is that Petitioner was appointed as PGT (Chemistry) in Anglo Arabic Senior Secondary School/Respondent No.2 ('School') on 07.10.1996 and is working till date on the same post. The grievance ventilated by the Petitioner is that the last Vice Principal of the School superannuated on 28.02.2019 and since then the post is lying vacant for want of holding Departmental



Promotion Committee (DPC) by the Respondents. It is also stated that even the senior-most PGT in the School Mr. Mumtaz retired in January, 2022 but no efforts have been made to convene a DPC and fill up the post of Vice Principal which is an important post in the School and non-holding of DPC is impacting the career progression of the Petitioner also.

3. Learned counsel for the Petitioner urges that Government of India has been issuing Instructions from time to time that DPCs must be convened every year regularly and at least, twice in a year, without any delay. In this context, reliance is placed on DoPT O.Ms dated 10.04.1989, 08.09.1998 and 23.04.2015 and it is urged that these Instructions are binding on the Respondents.

4. Issue notice.

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

6. Having heard the counsels for the parties, this Court finds merit in the contention of the Petitioner that an obligation is cast on the DoE to hold DPCs at regular intervals pertaining to the vacancies that occur during a particular year. This mandate/obligation finds its genesis in the DoPT O.M. dated 10.04.1989, which provides Consolidated Instructions and Guidelines on DPCs including the frequencies at which the DPCs should meet. DoPT O.M. dated 08.09.1998 reiterates the obligation and relevant part is as follows:-

“PART-II

FREQUENCY OF MEETINGS

Frequency at which DPC should meet

3.1 The DPCs should be convened at regular annual intervals to draw panels which could be utilized on making promotions against the



vacancies occurring during the course of a year. For this purpose it is essential for the concerned Appointing Authorities to initiate action to fill up the existing as well as anticipated vacancies well in advance of the expiry of the previous panel by collecting relevant documents like CRs, Integrity Certificates, Seniority List, etc., for placing before the DPC. DPCs could be convened every year if necessary on a fixed date, e.g., 1st April or May. The Ministries/Departments should lay down a time schedule for holding DPCs under their control and after laying down such a schedule the same should be monitored by making one of their officers responsible for keeping a watch over the various cadre authorities to ensure that they are held regularly. Holding of DPC meetings need not be delayed or postponed on the ground that Recruitment Rules for a post are being reviewed/amended. A vacancy shall be filled in accordance with the Recruitment Rules in force on the date of vacancy, unless rules made subsequently have been expressly given retrospective effect. Since amendments to Recruitment Rules normally have only prospective application, the existing vacancies should be filled as per the Recruitment Rules in force.

Very often, action for holding DPC meeting is initiated after a vacancy has arisen. This results in undue delay in the filling up of the vacancy causing dissatisfaction among those who are eligible for promotion. It may be ensured that regular meetings of DPC are held every year for each category of posts so that an approved select panel is available in advance for making promotions against vacancies arising over a year."

7. Again, by an O.M. dated 23.04.2015, DoPT emphasized on the timely convening of DPCs and laid down Model Calendars, as follows:-

"Subject:- Timely and advance action in convening of Departmental Promotion Committee meeting in terms of Model Calendar-regarding.

The undersigned is directed to state that with a view to having the approved select panels for promotion ready in advance in a time-bound manner, this Department has issued a Model Calendar for DPCs vide OM No. 22011/9/98-Estt. (D) dated 8th September, 1998 as modified vide OM No. 22011/4/2013-Estt.(D) dated 28.01.2015. An indicative pattern has been provided in the Model Calendar for various events involved in the pre/ post DPC related actions. All the Ministries/Departments have been impressed upon from time to time by this Department to adhere to the prescribed time-line so as to ensure that the panel is ready in time and is utilised as and when the vacancies arise during the course of the vacancy year.



2. *Appointment Committee of Cabinet has viewed it seriously that the DPCs are not being convened in time. Delay in promotion affects the manpower planning and impedes the career progression of the employees. The delays in conduct of DPC negate the very purpose of the Model Calendar for DPCs issued vide Office Memorandum No.22011/9/98-Estt.(D) dated 8th September, 1998 as modified vide OM No. 22011/4/2013-Estt.(D) dated 28.01.2015.*

4. *The objective of timely promotions of employees in various Ministries/Departments can be achieved only by granting the promotion in time.*

5. *All the Ministries/Departments are, therefore, once again advised to ensure strict compliance of instructions in order to achieve the desired objectives of timely convening of DPCs/ preparation of approved select panels within the prescribed time frame."*

8. It would be profitable to refer to a recent DoPT O.M. dated 27.10.2016 in this regard, wherein it is highlighted that all Ministries/Departments must adhere to prescribed timelines to ensure that the select panels are ready in time and utilized as and when vacancies arise during the course of the vacancy year. Noting the fact that many promotional posts are lying vacant due to abnormal delay in convening DPCs, Ministries/Departments have been advised to ensure strict compliance of Instructions, in order to achieve desired objectives of timely convening of DPCs.

9. The Supreme Court in ***Union of India and Others v. N.R. Banerjee and Others, (1997) 9 SCC 287***, has echoed the importance of holding of DPCs at regular annual intervals preferably, if necessary, on a fixed date in a year and I may quote the relevant para hereunder:-

"6. DPCs should be convened every year, if necessary, on a fixed date, i.e. 1st of April or May. In the middle of the para, by way of amendment brought on 13-5-1995, it postulates that very often action for holding DPC meeting is initiated after the vacancy has arisen. This results in undue delay in filling up of vacancies and causes dissatisfaction among those who are eligible for promotion. It may be indicated that regular meeting



of DPC should be held every year for each category of posts so that approved select panel is available in advance for making promotions against vacancies arising every year. Under para 3.2, the requirement of convening annual meetings of the DPC should be dispensed with only after a certificate has been issued by the appointing authority that there are no vacancies to be filled by promotion or no officers are due for confirmation during the year in question. It would, thus, be seen that DPCs are required to sit every year, regularly on or before 1st April or 1st May of the year to fill up the vacancies likely to arise in the year for being filled up. The required material should be collected in advance and merit list finalised by the appointing authorities and placed before the DPCs for consideration. This requirement can be dispensed with only after a certificate is issued by the appointing authority that there are no vacancies to be filled by promotion, or that no officers are due for confirmation, during the year in question.”

10. From the aforementioned judgment of the Supreme Court, which has been subsequently followed in several other judgments, as well as from a reading of the DoPT O.Ms., some of which have been alluded to above, there is no gainsaying that it is imperative that DPCs are convened at regular intervals so that the employees, who are in the zone of consideration and eligible, do not stagnate for want of consideration for promotion and at the same time, the functioning of the Government is not adversely impacted.

11. In the present case, the post of Vice Principal is lying vacant for the last 05 years when the vacancy arose upon retirement of the then Vice Principal, Sh. Islamuddin. The senior-most PGT in the School is stated to have retired in January, 2022 awaiting promotion. Petitioner's case is that even his career progression is jeopardised due to inaction on the part of the Respondents to hold a DPC which is their legal obligation.

12. For all the aforesaid reasons, the writ petition is allowed directing Respondents to convene a DPC for promotion to the post of Vice Principal in the School as expeditiously as possible and not later than 03 months from today. Needless to state that if the Petitioner has any surviving grievance, he



2024:DHC:9530



will be at liberty to take recourse to legal remedies available to him.

13. Writ petition stands disposed of.

JYOTI SINGH, J

DECEMBER 10, 2024

B.S. Rohella/shivam

Signature Not Verified

Digitally Signed
By: KAMAL KUMAR
Signing Date: 13.12.2024
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W.P.(C) 17090/2024

Page 6 of 6