



**118 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**LPA-2763-2025 (O&M)
Date of Decision: 17.11.2025**

**NATIONAL INSTITUTE OF PHARMACEUTICALS
EDUCATION & RESEARCH AND OTHERS ... APPELLANTS
VS.
WING CDR. P.J.P SINGH WARAICH (RETD.) ... RESPONDENT**

**CORAM: HON'BLE MR. JUSTICE ASHWANI KUMAR MISHRA
HON'BLE MR. JUSTICE ROHIT KAPOOR**

Present: Mr. Alankrit Bhardwaj, Advocate
for the appellants.

Mr. Pranav Chadha, Advocate,
for the respondent.

ASHWANI KUMAR MISHRA, J. (ORAL)

CM-6946-LPA-2025

Prayer in the present application is for condonation of delay of
76 days in filing the present appeal.

For the reasons stated in the application, the same is allowed
and delay of 76 days in filing the present appeal is condoned.

LPA-2763-2025 (O&M)

The respondent was initially appointed in the Indian Air Force
in 1988. He took pre-mature retirement from the post of Wing Commander
on 01.07.2011. Thereafter, the respondent was appointed as Registrar on
10.06.2011. He joined as Registrar at NIPER on 04.07.2011. It appears that
there was an issue as to whether the appointment offered to respondent was
a fresh appointment or it was a case of re-employment. The issue ultimately

travelled to the audit department where it was opined that this was a case of

fresh appointment. The Director recorded approval on such decision on 06.02.2012. The salary was also paid accordingly. As per this decision, the pension received by the respondent on account of his employment with the Indian Air Force was not to be deducted from his salary payable to him for the post of Registrar-NIPER.

It transpires that the issue arose as to whether the appointment of respondent was valid or not. Learned Single Judge of this Court in a writ petition filed by Dr. Parikshit Bansal and another, allowed the writ petition and quashed the appointment of the respondent. This judgment of the learned Single Judge, however, was assailed in the LPA filed by respondent which ultimately came to be allowed on 03.05.2023. The respondent also joined as such on 04.05.2023. The Division Bench was of the view that the respondent is entitled to reinstatement with all consequential benefits.

Though the appellants allowed joining to the respondent but the orders came to be passed against the respondent treating his employment to be a case of re-employment, reducing his transport allowance and various other benefits which had been earlier extended to him. Aggrieved by such orders, the respondent filed the writ petition before the learned Single Judge which has been allowed and the orders of the appellants-NIPER have been set aside. Learned Single Judge has taken the view that the benefits which had already been allowed in favour of the respondent would have to be extended to him, once the judgment of the learned Single Judge has been set aside and the respondent is allowed to continue pursuant to his initial appointment. The aspect of appointment being a fresh appointment has also been restored by the learned Single Judge on the ground that while extending the benefit pursuant to the order of Division Bench dated

03.05.2023, it was not open for the appellants to re-calculate the entitlement or reduce the benefits already extended.

Aggrieved by the judgment of the learned Single Judge, this appeal is by the employer-NIPER.

Learned counsel for the appellants argues that this was a case of re-employment and learned Single Judge has erred in treating the employment of the respondent to be a fresh employment. It is also submitted that the respondent has not worked from 2019 to 2023 and was not entitled to the travelling allowance as he had actually not undertaken any journey. It is also submitted that entitlement of the respondent to receive travelling allowance has to be as per his entitlement and the appellants would be justified in correcting any anomaly which had crept while such benefit was extended.

Learned counsel for the respondent opposes the submission on the ground that issues not raised before the learned Single Judge are being highlighted. It is also urged that the impugned action is based upon the direction of the Central Government issued in the year 2023, on a limited query of the respondent-NIPER, which is arbitrary.

Facts as have been noticed above are not in dispute. The question as to whether the respondent's appointment was a case of re-employment or fresh employment was examined way back in the year 2012 and it was settled at the competent level that this was a case of fresh appointment. The decision of the Director in that regard has attained finality. It is otherwise undisputed that the competent authority to determine such issue was the Director. In such circumstances, the appellants cannot rely upon Section 33-A, which has been introduced in the NIPER Act, 1998

vide amendment dated 25.05.2022 to confer jurisdiction upon the Central Government, so as to nullify the orders validly passed by the competent authority i.e. the Director in 2012.

An issue is also raised by the appellants with regard to entitlement to receive medical benefits by the respondent both from the Indian Air Force and from the NIPER. Though, it is pressed that parallel benefits cannot be availed but such argument is not liable to be accepted in view of the statement made by the counsel for the respondent that the respondent had already moved an application opting to avail such medical benefit from the Indian Air Force and to give up the benefits in that regard from the NIPER.

In view of the stand taken by the respondent, we do not find any occasion for the appellants to press the relief in this regard. It is also clarified that so far as the benefit of Personal Promotion Scheme is concerned, it is submitted that such scheme has been suspended in 2021. However, this will not make any difference as the entitlement of the respondent under the scheme having crystallized prior to 2021 is not in dispute. Once, the period of working from 2019 onwards is treated as lawful working in the eyes of law, all benefits which were admissible to the respondent from 2019 onwards would have to be extended. Such view taken by the learned Single Judge is also based on correct appreciation of the applicable principles and requires no interference.

The decision of the Director taken in 2012 has undisputedly attained finality. In such circumstances, we find substance in the view taken by the learned Single Judge that while restoring benefits in favour of the respondent pursuant to Division Bench judgment of this Court dated

03.05.2023 passed in LPA-2094-2012, the appellants could not have unilaterally altered the status of respondent's employment as that of re-employment in place of fresh employment. Similarly, other benefits which were already granted by the competent authority at the relevant point of time cannot be allowed to reopen at this stage. We are, therefore, in respectful agreement with the view taken by the learned Single Judge for allowing the writ petition filed by the respondent. The only modification which we propose to make in the judgment of the learned Single Judge is that the benefit of transport allowance cannot be released to the respondent-petitioner for the period he had actually not worked. His entitlement to receive such allowance from the date of reinstatement, however, is affirmed, subject to the above observations made in the present case.

In view of the above, the main appeal as well as pending applications stand disposed of.

(ASHWANI KUMAR MISHRA)
JUDGE

(ROHIT KAPOOR)
JUDGE

17.11.2025
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Whether speaking/reasoned	: Yes/No
Whether Reportable	: Yes/No