



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(243)

LPA No.320-2025 (O&M)

Date of Decision:-25.03.2025

I.K. Gujral Technical University and others

.....Appellants

Versus

Harmeem Soch

.....Respondent

**CORAM: HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MR. JUSTICE ALOK JAIN**

Present: Ms. Monica Chhibber Sharma, Advocate for the appellant.

Respondent-Harmeem Soch in person.

ALOK JAIN, J.

1. Present appeal has been filed raising challenge to the order dated 21.10.2024 passed by the Learned Single Judge, in which CWP No. 8973 of 2023, filed by the respondent, was allowed, thereby setting aside the condition in the order dated 30.04.2021 passed by the Appellant-University. Promotion was granted to respondent vide order dated 30.04.2021 from Associate Professor (Stage IV) to Professor (Stage V) under the Career Advancement Scheme, effective from 24.01.2017, treating the said date as the date of eligibility. In contrast, respondent contended that she had completed three years of service as Associate Professor (Stage IV) on 30.11.2014, which should have been considered as the date for promotion.

2. Brief facts of the case leading to filing of present appeal as narrated by learned counsel for the appellant are as follows:
- a. The appellant-university is a technical university governed by AICTE guidelines and norms. Respondent- writ petitioner was selected and appointed as an Associate Professor (Management) in Pay Band-4 (₹37,400–67,000 with ₹9,500 AGP) at respondent university. She joined service on 30.11.2011. Appointment was made in accordance with IIM/IIT norms and qualifications, and it is reiterated that the university was following the AICTE guidelines.
 - b. Subsequently, the Board of Governors of Appellant-University, in its 55th, 57th, and 58th meeting held on 03.07.2015, 07.08.2015, and 21.09.2015, respectively, decided to implement UGC rules in its entirety across all departments of university. Following this decision, respondent submitted representation dated 30.07.2016 requesting implementation of UGC regulations in her case and seeking relevant promotions and service benefits.
 - c. Upon receiving her representation, appellant-university sought the respondent's consent for adoption of UGC norms. On 11.11.2016, respondent submitted her consent letter, requesting the university to consider her case for promotion under the CAS. In its 64th meeting held on 28.12.2016, the Board of Governors placed respondent under UGC scales with UGC regulations being applicable to her. Consequently, an office order dated 24.01.2017 was issued, entitling petitioner to counting of all past benefits for career advancement and protection of her pay.
 - d. Finally, office order dated 30.04.2021 was passed, promoting the respondent to the post of Professor (Stage V) w.e.f. 24.01.2017, same

was challenged by respondent on the ground that respondent had fulfilled the three-year experience as on 30.11.2014 as per the CAS regulations of UGC, therefore, appellant had wrongly considered her eligible w.e.f. 24.01.2017, instead of 30.11.2014. Respondent also sought, quashing of decision of the Board of Governors of appellant-University, regarding agenda item no. 72.16, as taken in the 72nd meeting held on 23.01.2020 (P-17), to the extent that Board of Governors implemented the GPF-cum-Pension scheme only for employees who had joined service in Respondent University prior to 01.01.2004.

3. Learned Single Judge partly allowed the writ petition by directing Appellant-University to modify order dated 30.04.2021 to the extent that respondent be granted promotion under the CAS w.e.f 30.11.2014 instead of 27.01.2017. Findings returned by Learned Single Judge are reproduced as follows:

“I have heard learned counsel for the parties and have gone through the record with their able assistance.

From the facts which have been noticed hereinbefore, it is clear that the petitioner was appointed as Associate Professor vide appointment order dated 04.10.2011 (Annexure P/1) under the terms and conditions, which are applicable to the Punjab Technical University. In the said appointment order, there is no mention that the petitioner is being appointed under the IIM Norms. On being asked to point out any clause/term in the appointment order of the petitioner that the petitioner is governed under the IIM Norms, learned counsel for the respondents has not been able to point out any such terms and condition in the appointment order, which has been made a ground to deny the petitioner the benefit of promotion as Professor w.e.f. 2014.

Further, as per the respondents themselves in case, IIM norms are made applicable upon the petitioner, then, the post of Professor cannot be filled by way of promotion and the same has to be filled by way of direct recruitment only whereas, in the present case, petitioner has been promoted to the post of Professor on 30.04.2021 vide Annexure P/11. Once, the

respondents have promoted the petitioner to the post of professor, the respondents themselves have conceded the fact that IIM norms are not being made applicable upon the petitioner. Once the petitioner is not promoted as Professor under IIM norms, how can her eligibility be determined IIM norms. Learned counsel for the respondent-University has not been able to answer the same.

Further, the respondents have already conceded that the Board of Governance, which is the highest body of the respondent-University, have already allowed the benefit of promotion to the petitioner under the Career Advancement Scheme, which has been implemented qua the petitioner which fact is also clear from the order dated 30.04.2021 (Annexure P/11) and has been a conceded fact before this Court. Once, the petitioner has been promoted under the Career Advancement Scheme as Professor, the same scheme has to be made applicable upon the petitioner to determine her eligibility also qua the promotion to the post of Professor.

Learned counsel for the respondent-University has not been able to rebut the fact that in case, the Career Advancement Scheme is made applicable upon the petitioner for promotion as Professor, which scheme has been actually made applicable as per the order dated 30.04.2021 promoting the petitioner to the post of Professor, the eligibility criteria is 03 years experience as Associate Professor. Hence, the date of eligibility of the petitioner which the respondents have decided to be 24.01.2017, the same has to be 30.11.2014 i.e. on the date when the petitioner completed three years in service as Associate Professor. Once, the Career Advancement Scheme has been made applicable upon the petitioner for all intent and purposes which is also the decision of the highest body of the University i.e. Board of Governance, the same has to be implemented in totality and not in piecemeal and hence, the impugned order dated 30.04.2021 (Annexure P/11) fixing the date of promotion as Professor from the date of eligibility i.e. 27.01.2017 needs to be modified and is accordingly modified to the extent that the petitioner is granted promotion to the post of Professor in the pay scale as mentioned therein under CAS w.e.f. 30.11.2014 instead of 27.01.2017 for all intent and purposes.(emphasis added)

For arrears, for which, the petitioner becomes entitled for keeping in view the fact her appointment as professor is to be treated from 30.11.2014, the same be also released to her within a period of eight weeks of the receipt of the copy of this order.”

4. However, qua the second relief, liberty was given to respondent (petitioner) to move appropriate representation before Appellant-University and further directed Appellant-University to consider the same and in case

similar benefits had been granted to any other employee/s, the same be extended to respondent also.

5. Learned counsel for appellant vehemently opened the arguments by stating that University adopted the UGC Scale/CAS in totality vide the 55th, 57th and 58th meeting of Board of Governors held on 03.07.2015, 07.08.2015, and 21.09.2015, respectively, and had already granted concession from prior date to respondent, that is w.e.f. 24.01.2017, which had not been considered while allowing the petition and learned Single Bench granted benefits of arrears for the post of professor w.e.f 30.11.2014. Moreover, upon implementation of CAS system by appellant-University, respondent herself approached appellant-University for the first time with the consent proforma on 11.11.2016 and thereafter, the Board of Governors of appellant-University considered her representation in its 64th meeting and approved the conversion of scales of the respondent from IIT to UGC. Learned Single Judge erroneously disregarded the fact that benefit in question could not be granted to respondent/petitioner w.e.f. 2014 when UGC regulations/CAS in question were admittedly adopted by the University at a later stage and were thus not in force in the year 2014. The argument raised is that relief could not be granted for the period when the UGC/CAS norms were neither adopted nor in force and therefore the order passed by the Single Judge suffers from material infirmity.

6. To buttress said arguments, learned Counsel for appellant relies upon judgments passed by Hon'ble the Supreme Court in the case of ***Bihar State Electricity Board v. Dharamdeo Das*** in Civil Appeal No. 6977 of 2015, relevant paras are reproduced as follows:

“26. Much emphasis has been laid by learned counsel for the respondent on the Resolution dated 26th December, 1991 to contend that once the respondent had completed the required period of three years mentioned as Kal Awadhi for promotion from the post of Under Secretary to Joint Secretary, he was automatically entitled for promotion to the next higher post. The said submission is however found to be devoid of merits.

27. Resolution dated 26th December, 1991 prescribed a minimum qualifying service before considering the case of an employee for promotion from one grade to another. The underlying aim of the said resolution is to ensure that an employee gathers sufficient experience as may be required before he can be considered for promotion to the next higher post. But that is not to state that on completion of the duration of Kal Awadhi for promotion, an employee would automatically be entitled for promotion to the next higher post. No employee can lay a claim for being promoted to the next higher post merely on completing the minimum qualifying service. Such an interpretation of the resolution would be fallacious and virtually result in nullifying the settled law of a right inhering in an employee for being considered for promotion being a fundamental right. By no stretch of imagination can a right for being appointed to the promotional post be treated as a vested right.

28. We do not find any error in the stand taken by the appellant-Board in terms of its Resolution dated 9th June, 2005, whereby the respondent's plea for shifting his date of promotion to the post of Joint Secretary from 5th March, 2003 to 29th July, 1997 was rejected for the reason that there was no vacant post of Joint Secretary during the period between 29th July, 1997 to 5th March, 2003 on account of the fact that after the bifurcation of the erstwhile State of Bihar into the present State of Bihar and Jharkhand, vide Resolution dated 6/8th December, 2003 the appellant-Board had taken a calibrated decision to slash the number of sanctioned posts of Joint Secretary from six to three at the headquarters at Patna. The subsequently issued Office Order dated 24th December, 2003 gave effect to such an intention and declared that from out of the reduced posts of Joint Secretary, one would be manned by an Officer of suitable rank from the Bihar Administrative Service, one from the Ministerial Officer of the Board Secretariat Cadre and the third from the Engineering Cadre.”

7. To summarize the arguments, learned counsel submitted that appellant-University has rightly granted the benefit to respondent from 24.01.2017 that is the date on which the Board of Governors cleared the agenda *qua* the CAS promotion but learned Single Judge has wrongly granted the relief that respondent be promoted from 2014 by ignoring the fact that in 2014 the appellant had not even adopted the UGC/CAS norms.

8. On the Contrary, respondent who appeared in person, laid stress on the AICTE norms and submitted that said norms clearly state that if a candidate applied for promotion immediately on completion of the minimum eligibility period and is found eligible, the date of promotion will be made applicable from the date of completion of minimum period of eligibility. The relevant exact of Regulation 2.14 of the AICTE norms are reproduced herein for ready reference:

“If a candidate applies for promotion immediately on completion of the minimum eligibility period and is successful, the date of promotion will be made applicable from the date of completion of minimum period of eligibility.”

9. Respondent further argued that there is no dispute *qua* the fact that respondent was fit for promotion. Therefore, she was entitled to promotion from the date she completed the minimum period. Appellant-University cannot violate the terms and conditions of appointment letter and orders passed by Board of Governors wherein it is mentioned that the past service shall be counted for all future promotions. Respondent further relied upon UGC’s Letter No. F.No.1-1/2012(PS) of November 2014, to substantiate the argument that promotion under CAS shall be governed by the UGC regulations which are in operation on the date of eligibility and not on the date of interview. It was submitted that learned Single Bench correctly passed impugned order dated 21.10.2024 which calls for no interference.

10. Respondent in support of her arguments relied upon the judgment of ***Dr. Kiran Gupta v. University of Delhi*** in W.P (C) 10564 OF 2019, the relevant extract of the judgment relied upon is as follows:

“19. Rather, it is seen that the petitioners have been found fit on their first assessment itself for promotion to the post of Professor. If that be so, the petitioners could not have been denied the promotion from the date of eligibility when the promotion with prospective effect is based on the same material. In fact, I find that by giving the recommendations prospectively, the Selection Committee has deferred the promotion of the petitioners from May 08, 2009 to June 25, 2019 in W.P.(C) No. 10564/2019; from September 15, 2014 to June 25, 2019 in W.P.(C) No. 10744/2019 and from April 27, 2012 to June 25, 2019 in W.P.(C) No. 10789/2019. The same clearly demonstrates the prejudice that has been caused to the petitioners due to the recommendation of the Selection Committee, promoting the petitioners prospectively from the date of interview.”

11. Respondent further relied upon the judgment passed by High Court of Delhi in the case of ***Dr. Mahavir Singh Kalon v. University of Delhi Through Its Registrar, (Delhi)*** in W.P.(C) 1945 of 2022, the relevant para is reproduced as follows:

“12. The controversy before the Court is in a narrow compass as to whether Petitioner is entitled to promotion and consequential seniority from the date of eligibility or from the date of interview by the Selection Committee and this Court agrees with the counsel for the Petitioner that the issue is no longer res integra. Identical issue arose before a Co-ordinate Bench of this Court in Dr.Kiran Gupta (supra), which is evident from Paragraph 16 of the judgment, which captures not only the question the Court was considering but also reflects that the case of the Petitioners therein was predicated on Clause 6.3.12 of CAS-2010 and the same is extracted hereunder, for ready reference:-

"16.I have heard learned counsel for the parties. A short issue, which arises for consideration is, whether the petitioners are entitled to promotion from the date of eligibility or from the date of interview. There is no dispute that the case of the petitioners have to be considered under CAS 2010. The relevant clause of CAS 2010, which relates to the selection procedure is sub clause 6.3.12 and, the same is reproduced as under:-

"6.3.12.(a) If a candidate applies for promotion on completion of the minimum eligibility period and is successful, the date of promotion will be from that of minimum period of eligibility.

(b) If, however, the candidates find that he/ she full fills the eligibility conditions at a later date and applies on that date and is successful, his/ her promotion will be effected from that date of application fulfilling the criteria.

(c) If the candidate does not succeed in the first assessment, but succeeds in the eventual assessment, his/ her promotion will be deemed to be from the later date of successful assessment."

13. Examining the provisions of CAS-2010 and Regulations 2010, the Court held as follows:-

"17. From the perusal of clause 6.3.12 sub clause (a), it is clear that if a candidate applies for promotion on completion of the minimum eligibility period and is successful, the date of promotion will be from the date of minimum period of eligibility. There is no dispute that the petitioners have been assessed fit for promotion. If that be so, then the promotion must relate back to the date of minimum period of eligibility, which in the case of the writ petitioners, shall be the following:-

*May 08, 2009 - in case of writ petitioner in W.P.(C) 10564/2019
September 15, 2014 - in case of writ petitioner in W.P.(C) 10744/2019*

April 27, 2012 - in case of writ petitioner in W.P.(C) 10789/2019

18. No doubt, sub clause (c) contemplates that if a candidate does not succeed in the first assessment, but succeeds in the later assessment, his/ her promotion will be deemed to be from the later date of successful assessment. This sub clause contemplates that an assessment can be from a later date than the date of eligibility but surely from the minutes of the Selection Committee, which I reproduce as under, it is clear that there is no conclusion of the Selection Committee that the petitioners have not been found fit from the date of their eligibility.

"1. Dr.Kiran Gupta for promotion from Associate Professor (Stage-4) to Professor (Stage-5) with effect from 25.06.2019.

2. Dr.V.K.Ahuja for promotion from Associate Professor (Stage-4) to Professor (Stage- 5) with effect from the date of his eligibility

3. Dr.Raman Mittal for promotion from Associate Professor (Stage-4) to Professor (Stage-5) with effect from the date of his eligibility.

4. Dr.Manju Arora Relan for promotion from Associate Professor (Stage-4) to Professor (Stage-5) with effect from 25.06.2019.

5. Dr.Sarabjit Kaur for promotion from Associate Professor (Stage-4) to Professor (Stage 5) with effect from the date of her eligibility.

6. Dr.P.B. Pankaja tor promotion from Associate Professor (Stage-4) to Professor (Stage-5) with effect from 25.06.2019. xxxxxxxxxxxxxx"

19. Rather, it is seen that the petitioners have been found fit on their first assessment itself for promotion to the post of Professor. If that be so, the petitioners could not have been denied the promotion from the date of eligibility when the promotion with prospective effect is based on the same material. In fact, I find that bygiving the recommendations prospectively, the Selection Committee has deferred the promotion of the petitioners from May 08, 2009 to June 25, 2019 in W.P.(C) No. 10564/2019; from September 15, 2014 to June 25, 2019 in W.P.(C) No. 10744/2019 and from April 27, 2012 to June 25, 2019 in W.P.(C) No. 10789/2019. The same clearly demonstrates the prejudice that has been caused to the petitioners due to the recommendation of the Selection Committee, promoting the petitioners prospectively from the date of interview.

20. Insofar as the reliance placed by Mr. Rupal on the judgment of the Supreme Court in the case of National Institute of Mental Health and Neuro Sciences (supra) that it is not necessary for the Selection Committee to give reasons for its conclusion, suffice to state, the Supreme Court had given a finding to that effect in cases where the rules do not contemplate so. There is no dispute on the said proposition of law. But in view of reading of the relevant Regulations, which I have already referred to above, surely there must be some expression of the fact / reason in case a teacher is not found fit in a particular year but found fit in a later year. In the absence of such conclusion, it must be said that this teacher is found fit from the date of eligibility.

21. In view of the above, the petitions need to be allowed. The proceedings of the Selection Committee / Executive Council / communication dated July 04, 2019 are set aside to the extent that promotion has been given to the petitioners to the post of Professor is made prospectively i.e. from June 25, 2019. The said promotion shall relate back to their date of eligibility. No costs."

12. Heard learned counsel for appellant and respondent in person at length and perused the record.
13. Main issue raised for adjudication in the present appeal is only *qua* the date from which promotion of respondent from the post of Assistant Professor(Stage IV) to Professor (Stage V) under the Career Advancement

Scheme [CAS], as to whether it has been wrongly ordered with effect from 30.11.2014. Primary contention of appellant-University in this regard is that the university had not adopted the UGC Rules/Regulations in the year 2014, thus UGC Rules not having been adopted were not in force in the year 2014. It is the positive case of appellant that UGC rules/regulations were made applicable in all departments uniformly with effect from 21.09.2015. Specific stand of the appellant is that it is not possible to afford promotion to the respondent with effect from 30.11.2014 i.e. the time when admittedly UGC norms were not adopted by appellant-University and which were made applicable in totality only w.e.f. 21.09.2015 (58th meeting). Subsequent thereto, respondent-writ petitioner applied on 30.07.2016 for applicability of UGC norms and gave her consent (as required under the UGC Norms) for conversion of pay scale from IIT to UGC norms on 11.11.2016. Board of Governors thereafter placed the respondent under UGC Scale. It is a matter of record that Board of Governors of appellant-University decided to implement UGC Rules in totality for its departments in the 55th, 57th and 58th meeting held on 03.07.2015, 07.08.2015 and 21.09.2015, respectively. It is an admitted fact that prior thereto respondent-writ petitioner was governed by IIT norms under which she had been appointed as Associate Professor. Under the said norms, there is no provision for promotion to the post of Professor.

14. Writ petitioner claimed promotion under the UGC Rules which were adopted pursuant to 55th, 57th and 58th meeting of Board of Governors. It is ultimately in meeting dated 58th meeting held on 21.09.2015, that the Board of Governors noted the entire status and directed the Committee constituted for the purpose, to complete all requirements of the cases under

consideration strictly in line with the UGC norms. Pursuant to said decision, writ petitioner submitted representation dated 30.07.2016 and the consent proforma was submitted on 11.11.2016. Subsequent thereto, the case of writ petitioner was put up before 64th meeting of Board of Governors on 28.12.2016 and approval was granted for conversion from IIT/IIMs scales to UGC scales. Order dated 24.01.2017 was thereafter passed, writ petitioner vide order 30.04.2021 was promoted to the post of Professor from that of Associate Professor under CAS with effect from 24.01.2017. Learned Single Bench has, however, directed promotion of the writ petitioner to the post of Professor with effect from 30.11.2014. It is a matter of record that in the year 2014, it was IIT/IIM norms which were applicable to the writ petitioner and UGC norms were adopted by the Board of Governors and applied in its totality ultimately with effect from 21.09.2015. In our considered opinion, learned Single Bench has erred in affording the benefit of promotion to the post of Professor with effect from 30.11.2014 i.e., a date on which admittedly UGC norms had not even been adopted by the University and were concededly not applicable to the writ petitioner on the said date.

15. In the given factual matrix, writ petitioner is entitled for promotion to the post of Professor with effect from 21.09.2015 i.e., the date from which the UGC norms were effectively adopted in their entirety by the appellant-University. We do not find any merit in the argument raised by learned counsel for appellant-University that approval for applicability of UGC norms and shifting from IIT/IIM norms was given by Board of Governors on 24.01.2017 after considering the case of respondent-writ petitioner, therefore, that is the relevant date. It is pertinent to note that

entitlement of writ petitioner cannot be made dependant upon approval given by Board of Governors of appellant-University, in view of the applicable UGC norms.

16. In view of the above, impugned decision dated 21.10.2024 is modified to the extent that respondent is held entitled for promotion w.e.f. 21.09.2015 instead of 30.11.2014. Appeal is, accordingly, disposed of with the abovesaid modification.

17. Pending application(s), if any, stand(s) disposed of.

(ALOK JAIN)
JUDGE

(LISA GILL)
JUDGE

25.03.2025
‘manju’/‘om’

Whether speaking/reasoned:- Yes
Whether Reportable:- Yes