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

Date of Decision: 1st December, 2025

+ LPA 53/2020 & CM APPL. 3248/2020

SANTHOSH S.R NAIR

.....Appellant

Through: Mr. P.N. Mishra, Sr. Advocate.

versus

GOVT OF NCT OF DELHI & ANR

.....Respondents

Through: Mrs. Avnish Ahlawat, Standing
Counsel GNCTD (Services) with Mr.
Nitesh Kumar Singh, Ms. Aliza Alam
& Mr. Mohnish Sehrawat, Advocates.

CORAM:

HON'BLE MR. JUSTICE DINESH MEHTA

HON'BLE MR. JUSTICE VIMAL KUMAR YADAV

JUDGMENT

REPORTABLE

Per DINESH MEHTA, J. (ORAL)

1. By way of the present Letters Patent Appeal, the appellant-writ petitioner has impugned the order dated 12.12.2019, passed by learned Single Judge, whereby appellant's writ petition was rejected on the ground that the offer of appointment dated 18.01.2013 mentioned that it was a temporary appointment offer, subject to final decision to be taken by the respondents.

2. Learned Senior Counsel, Mr. P.N. Mishra, appearing on behalf of the appellant, at the outset submitted that the reason assigned by learned Single Judge for dismissing the writ petition was that the appellant did not have any



right because the offer of appointment mentioned the word ‘temporary’, is erroneous, more particularly, when the appellant participated in the selection process pursuant to an advertisement dated 14.12.2012, that was, admittedly, issued for regular selection.

3. Apprising the Court about the facts, learned Senior Counsel submitted that the respondent no. 2 known as “Ch. Brahm Prakash Ayurvedic Charak Sansthan” (*hereinafter referred to as ‘sansthan’*) was setup after an agenda, circulated by respondent no. 1 among the Council of Ministers of the Govt. of NCT of Delhi, and was duly approved by the Cabinet decision dated 14.05.2008. Thereafter, an advertisement dated 19.09.2009 was issued with a view to fill-up the posts of Readers in various subjects, which was undisputedly on temporary or ad-hoc basis, in furtherance whereof, by way of an interview, the appellant was selected vide offer of appointment dated 06.06.2010, as a Reader in the department of Samhita Sanskrit & Siddhanta (*hereinafter referred as the ‘concerned subject’*).

4. According to the appellant, thereafter, an advertisement for 6 posts of Professor along with 5 posts of Reader and 9 posts of Lecturer, came to be issued by the respondent no. 2 on 23.11.2011, which posts were ‘temporary but likely to continue upto 65 years of age’. A Selection Committee constituted by respondent no. 2, undertook the selection procedure and thereafter, selected the appellant for the post of Professor in the concerned subject, but no offer of appointment was issued to him for the said post.

5. The dispute relates to the offer of appointment issued to the appellant by respondent no. 2 pursuant to the advertisement no. 14/2012 dated 14.12.2012 for the post of Professor in various subjects, including the



concerned subject. In pursuance thereto, the appellant applied and was duly selected by the Selection Committee and an offer of appointment, under the unreserved category, came to be issued in his favour on 18.01.2013.

6. The appellant, who was then working as a Reader in the subject concerned with respondent no. 2, resigned vide his letter dated 21.01.2013, in wake of the said offer of appointment for the post of Professor, and joined and started working on the said post which continued for a week until, respondent no. 2, by way of an office order dated 01.02.2013, withdrew/cancelled the appointment of all the candidates, who were issued offer letters dated 18.01.2013, for the post of Professor and Readers.

7. Before the appellant could take any action, against such abrupt decision/order the respondent no. 2 issued a fresh advertisement no. 16/2013 on the very next date 02.02.2013, whereby applications from desirous candidates, for the post(s) of Professor were invited for various subjects.

8. Though the appellant-petitioner did not disclose, the reason for the same, but during the pendency of writ petition, the respondents, placed on record a 'corrigendum of the reservation roster dated 21.02.2013' *inter-alia* and deciding that as per the roster, post of Professor in the concerned subject, was to be earmarked or reserved for Other Backward Class (*hereinafter referred to as 'OBC'*) candidate. The appellant who was obviously not an 'OBC' candidate was not considered for the post of Professor and hence was kept out of the process. Feeling aggrieved, the appellant preferred a writ petition invoking Article 226 of the Constitution of India in W.P. (C) No. 1970/2013.

9. Learned Single Judge vide his order impugned dated 12.12.2019,



rejected the appellant's writ petition, holding that as the appointment was on temporary basis, the appellant-petitioner did not have any right to invoke writ jurisdiction. Mr. P.N. Mishra, learned Senior Counsel, on behalf of the appellant, contended that the sole reason for rejecting the writ petition was that the appointment was on temporary basis, is not sustainable since the appellant had undergone the selection process and simply because there was a condition in the offer of appointment that the appointment is on a temporary basis, the appellant having undergone the selection process, cannot be thrown out.

10. Learned Senior Counsel further submitted that the impugned office order dated 01.02.2013, whereby the respondents had cancelled the appointment of the appellant, unilaterally and without assigning any reason, is highly arbitrary and contrary to the principles of natural justice. He emphasized that assigning reasons is the basic tenet and is a fundament of good governance and a requirement of transparency in the state actions, and therefore, the order impugned deserves to be quashed and order of learned Single Judge liable to be set aside.

11. He advanced another argument which calls for our deeper consideration that is, a single post cannot be reserved and since the respondent no. 2 has reserved the post of Professor in subject 'Sanskrit Samhita Sidhanta' for OBC candidates, such reservation is contrary to the constitutional mandate and the settled legal position.

12. In this regard learned Senior Counsel relied upon the Division Bench judgment of Allahabad High Court reported as **Dr. Vishwajit Singh & Ors. vs. State of U.P. & Ors., 2009 SCC OnLine All 420**, the judgment of Full



Bench of Allahabad High Court reported as **Dr. Archana Mishra & Ors. Vs. State of U.P. & Ors., 2018 SCC OnLine All 2926** and the Supreme Court judgment reported in **Sanjeev Kumar & Ors. vs. State of Uttar Pradesh & Ors., (2019) 12 SCC 385** and of **Babloo Singh & Ors. vs. State of Uttar Pradesh & Ors., (2019) 12 SCC 403**, whereby the above referred judgments have been affirmed by Hon'ble the Supreme Court in appeal filed there against.

13. Learned Senior Counsel submitted that these judgments in no ambiguous terms rule that a single post cannot be reserved and the reservation is to be operated in a manner that it does not entail reservation of a single post for any category or class. Reminding the court that the post of Professor in Sanskrit Samhita Sidhanta has been kept reserved for OBC candidate, learned Senior Counsel argued that such decision is contrary to law as the same could not have been done.

14. Learned counsel for the respondent-Sansthan, on the other hand, submitted that since the impugned offer of appointment mentioned that the same is temporary, the appellant could not have claimed any subsisting right on the post based on said offer of appointment.

15. He submitted that the argument advanced by learned Senior Counsel that the principles of natural justice are required to be followed, do not apply, because the appellant has no fundamental right to be appointed and it is the discretion or prerogative of the employer to proceed in furtherance of the offer letter. He added that simply because he has successfully completed the selection process and has been issued offer of appointment, the appellant cannot claim any right on the appellant, much less violation of fundamental



rights.

16. In relation to the cancellation of the advertisement vide office order dated 01.02.2013 and the subsequent advertisement dated 02.03.2013 issued by the respondent-Sansthan read with corrigendum dated 21.02.2013, whereby the post of Professor in concerned subject has been reserved for OBC category, learned counsel for the respondents argued that there is no error or illegality, much less contravention of any law laid down by Hon'ble the Supreme Court or High Court. He maintained that once the advertisement was issued for 14 posts, the reservation qua each subject cannot be taken in isolation, and a holistic view has to be taken.

17. He explained further that a perusal of the advertisement shows that it had been issued by the respondent no. 2 and it was for 14 posts of Professor in different subjects and this advertisement or offering of these posts have to be taken co-jointly and therefore, it cannot be said that one single post has been reserved.

18. Heard learned counsel for the parties.

19. So far as the first contention of the learned Senior Counsel about the reason of non-suiting the appellant is concerned, learned Single Judge has observed that the offer of appointment mentioned the expression 'temporary', which reason according to us is not sustainable and could not have been a reason to non-suit the appellant in the backdrop of the facts. If a candidate has vied for some post pursuant to an advertisement issued for regular recruitment, simply because his appointment order or offer letter mentioned that his appointment offer is temporary, it cannot be abruptly and for unsustainable reasons, cancelled or withdrawn by the respondents.



20. A perusal of subject offer of appointment dated 18.01.2013 unravels that the appellant was offered appointment in a regular pay scale of Rs. 37400/- to Rs. 67000/-, plus grade pay of Rs. 8700/- and other applicable allowances; he was supposed to undergo probation for a year and even pay of already serving persons with Government was protected (as is evident from para 2 of said order); Conduct Rules and Service Rules have been made applicable. Most important aspect is, that the advertisement dated 14.12.2012 does not have any whisper about the advertisement being for a temporary post-it rather gives a clear indication that the recruitment is for regular selection.

21. Hence, simply because the expression 'temporary' has been used in the offer of appointment, that too with a stipulation that it is temporary until further orders, the same cannot be treated to be a temporary appointment. The learned Single Judge has therefore, clearly erred in construing the offer letter of 18.01.2013 to be a temporary appointment. The order impugned is liable to be set aside on this court.

22. Furthermore, a citizen may have a legitimate expectation, once an offer of appointment has been issued in his favour, and he has joined pursuant thereto. The respondents are thus, supposed to give valid reasons or grounds for cancellation of the offer letter issued. The cancellation of appellant's appointment vide communication dated 01.02.2013, which does not show any reason, is clearly illegal. An appointment order once issued cannot be cancelled in the manner done, more particularly, when a candidate has joined and there is no allegation of fraud or concealment in securing appointment. The same has to be followed by cogent and sustainable



reasons.

23. Considering that the order of withdrawal/cancellation was passed on 01.02.2013 and much water has flown under the bridge, we do not propose to set it aside and remand the matter back to learned Single Judge or to the respondent-Sansthan to assign reasons, more particularly, when the reasons have come on record.

24. Moving on to the reason, which has been put forth by the respondent no. 2 for cancellation of the appointment that due to misconception or otherwise, correct roster point or reservation was not applied for the 9 posts of Professor (in the advertisement dated 14.12.2012) for which, the post in the subject Sanskrit Samhita Sidhanta was kept for the unreserved category. According to the respondents, when they realized their mistake that the same ought to have been reserved for OBC category candidate the offer of appointment was recalled, and appointment made pursuant to the advertisement dated 14.12.2012 were cancelled.

25. In order to substantiate such stand, the respondents have placed on record, the minutes of the meeting dated 14.02.2013 or corrigendum of reservation roster for the faculty posts, according to which, the post of Professor in the concerned subject, is required to be reserved for OBC category candidate.

26. According to us, if there was a legal error or wrong application of roster or reservation provision, the offer of appointment qua these posts, being contrary to the roster points or reservation to be given, can be cancelled. No illegality or arbitrariness can be alleged against the respondents.



27. Proceeding to deal with the basic and fundamental question of law, which is involved in the present case is, “whether the reservation given qua each of the post can be construed to be a reservation for a single post or whether the reservation based on the roster points, conform to the constitutional mandate and test of reasonableness”?

28. Before delving upon this issue, we have to bear in mind that the Sansthan was established in the year 2008 and the post in question and different posts for Professors for regular recruitment, came to be advertised by the advertisement dated 14.12.2012.

29. As pleaded by the respondents, it was due to inadvertence that they failed to apply the correct roster or reservation for which the appointments came to be withdrawn by communication dated 01.02.2013, immediately whereafter a fresh advertisement was issued by the respondent no. 2 on 02.02.2013 reserving the post of Professor in the concerned subject for OBC category.

30. A comparison of the previous advertisements dated 14.12.2012 and 02.02.2013 shows that not only the number of posts, which were advertised on 14.12.2012, are different, but also the reservation given qua each of the post is slightly different.

31. A perusal of the Reservation Roster for the faculty posts of the Sansthan, so also part of the note-sheets placed on record by the respondent no. 2 (Annexure R-2 with the writ petition), makes it clear that preparation of the roster was faulty inasmuch as the teaching faculties, so also non-teaching faculties were clubbed together. And, it is for this reason, that respondents cancelled the recruitment for all the posts, however, without



earmarking any post so far as reservation is concerned.

32. Ideally, the respondent no. 2 ought not to have rushed to issue a fresh advertisement, unless reservation was finalized and the candidates were informed in advance and were given choice to apply for a particular post. This act of respondent no. 2 has not only played with the feelings of unemployed youth but also gave a scope for speculation. The eligibility and reservation are the aspects which should be fixed prior to issuance of the advertisement.

33. Be that as it may. As per the learned counsel for the respondent no. 2, while carrying out the recruitment pursuant to this advertisement dated 02.02.2013, the reservation was applied as per the minutes of meeting dated 14.02.2013, released vide a corrigendum dated 21.02.2013.

34. The reason and ground for reservation, which has been provided by the respondent no. 2 are evident from the minutes of meeting dated 14.02.2013, remains the main bone of contention between the parties. Para 7 of the above referred minutes of meeting are very relevant, so as to see the underlying reasons for the policy, which the respondent no. 2 has adopted. The same is reproduced hereinunder:-

“In the first instance, the Roster for the posts of Professors will be taken up by draw of lots and their position in the Roster will be decided according to point no.4. Those departments / discipline’s falling under reserved category for the Professors, they will be first allotted unreserved points in the Reservation Roster for Reader’s posts. And similarly for the Lecturer’s Roster points, those deptts / disciplines which has fallen under reserved category for the posts of Professor and Reader, they will occupy the unreserved posts as far as possible and draw of lots will be done between the two groups (i.e. disciplines fallen under Reserved / Unreserved categories for Professor and or Reader) as to which deptt. will occupy which position in the Roster point.”



35. On the basis of the reasons contained in Para 7 and other deliberation in the said meeting, the reservation qua 14 posts of “Professor” has been categorized as under:-

S. No.	Name of the Deptt/ Post for Professor	Post reserved for (as per 200 point roster)
1.	Kaumaronritya	UR (PH-OL/BL)
2.	Kayachikitsa	UR
3.	Rog Nidan Evum Vikriti Vigyan	UR
4.	Shalakaya Tantra	OBC (Delhi)-1
5.	Rasa Shastra & Bhaishjya Kapna	UR
6.	Rachana Sharir	UR
7.	Dravyaguna Vigyan	SC (Delhi)-1
8.	Sanskrit Samhita Siddhant	OBC (Delhi)-2
9.	Panchakarma	UR
10.	Kriya Sharir	UR
11.	Prasuti Tantra & Stree Yoga	UR
12.	Shalya Tantra	OBC (Delhi)-3
13.	Swasthavritta	UR
14.	Agand Tantra & Vidhi Ayurved	ST

36. A perusal of the above table and the resolution, as also the fact that the respondents have fixed roster points for the posts of Readers and Lecturers as well, the reservation applied by respondent no. 2, is reasonable and based on intelligible criteria. In a recruitment, which an employee undertakes for the first time, if the posts are not reserved for each subject, as has been done by the respondent no. 2, it will lead to a situation where no person of reserved category would get selected even against all the posts.



37. In the instant case, had the post of Professor not been earmarked or reserved for a particular subject, it could have led to a situation where all the posts of Professor would have been filled by unreserved category candidates and no candidate of reserved category (Scheduled Caste / Scheduled Tribes / OBC) could get selected. Similar could have been the position for the posts of Reader and Lecturer.

38. Such reservation, as applicable to the posts of Professor, Reader or Lecturer for a particular subject reserved for a particular category, is not contrary to the principle that one single post, cannot be reserved for a particular category. The principle applies to a situation where one particular post of a particular department, say the post of “Chief Engineer” stands reserved for a particular category, to the detrimental interest of other category candidates. But in the instant case, when the recruitment has taken place for the first time by the respondent no. 2, total 14 posts of Professors have been offered for appointment, all the posts cannot be kept unreserved.

39. Needless to say that, when a percentage of reservation is earmarked for a category through roster points, those positions must be filled exclusively by candidates belonging to that category, as held by the Constitutional Bench of the Hon’ble Supreme Court, in the case of **R.K. Sabharwal & Ors v. State of Punjab & Ors.** reported in 1995 AIR 1371.

40. According to us, “roster based reservation is not an antiquated construct but an accepted method of implementing reservation, especially in cadre based multi post setting.”

41. A perusal of the minutes of meeting dated 14.02.2013, shows that the respondent no. 2 has applied and divided roster points amongst all the



subjects for the post of Professor as well as to the posts of Readers and Lecturers.

42. Obviously, once the posts are filled from out of the categories mentioned as per the roster point for each post, when subsequent post would be advertised, these positions would again be offered as per the roster points, which on the previous occasion, had been filled by the category advertised.

43. According to us, there is no infirmity or illegality in the approach of the respondent no. 2 as elucidated hereinabove. So far as judgments relied upon by learned Senior Counsel, Mr. Mishra are concerned, they deal with different situation. The recruitments of the entire State for the posts of Lecturer and other posts were clubbed together and reservation was applied, wherein the Allahabad High Court in such cases held that such approach of the respondents was not in conformity with the law.

44. As against this, the facts of the present case are significantly different. It is reiterated that in the instant case, the recruitment is by one single employer, namely respondent no. 2 for the posts of Professors, Readers and Lecturers in different subjects. Such being the situation, the judgments cited by learned Senior Counsel for the appellant, are not applicable.

45. For the reasons aforesaid, we do not find any merit and substance in the present appeal, so also in the Writ Petition, which is therefore, dismissed, however, without any orders as to costs.

DINESH MEHTA, J

VIMAL KUMAR YADAV, J

DECEMBER 1, 2025/hk