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

% ***Decided on: 11.08.2025***

+ W.P.(C) 2052/2019

DALIP KUMAR

.....Petitioner

Through: Mr. Bheem Sain Jain, Advocate.

versus

REGISTRAR, DEBTS RECOVERY TRIBUNAL-III, NEW  
DELHI AND ORS. ....Respondents

Through: Mr. Manish Mohan, CGSC with  
Mr. Jatin Teotia and Ms. Aishani  
Mohan, Advocates.

**CORAM:**

**HON'BLE MR. JUSTICE PRATEEK JALAN**

**PRATEEK JALAN, J. (ORAL)**

1. The petitioner is an employee of the Debts Recovery Tribunal, New Delhi ["DRT"]. He is currently serving as the Court Master in the Debts Recovery Appellate Tribunal, New Delhi ["DRAT"], but the present petition concerns his promotion from the post of Court Master, DRT-III, New Delhi to the post of Recovery Inspector, DRT-III, New Delhi.

2. The petitioner first joined government service as a Lower Division Clerk in the Staff Selection Board on 07.03.1996. He was deputed to the DRT in the same post with effect from 01.04.2003, and was absorbed in the DRT on 26.10.2005. He was subsequently promoted as Court Master, DRT (*ad-hoc*), and was regularised in the post of Court Master with effect from 01.03.2010.



3. Pursuant to an advertisement issued in December 2015, the petitioner applied for *ad-hoc* promotion on deputation to the post of Recovery Inspector in DRT-III, New Delhi. He was admittedly short of the required eligibility of eight years' service as Court Master and was therefore not considered. However, upon completion of eight years' service as Court Master, he again requested the Presiding Officer, DRT-III, New Delhi, by a letter dated 28.02.2018, to expedite consideration of his application for promotion. The DRT took the decision that the eligibility condition required ten years' service as a Court Master, and the petitioner was therefore ineligible.

4. The petitioner first approached this Court in W.P.(C) 5716/2018 against the aforesaid decision. The writ petition was disposed of by order dated 25.05.2018, directing the respondents to consider the petitioner's representation.

5. Pursuant to the said order, the petitioner made a representation on 05.06.2018. The representation has been answered against the petitioner by the impugned order dated 24.12.2018, which reads as follows:

*"I am directed to inform you that in the light of directions contained in the Order dated 25.05.2018 passed by Hon'ble High Court of Delhi in W.P. (c) No. 5716/20108 titled "Dalip Kumar Vs Registrar, DRT-III, Delhi &Ors.", your representation dated 05.06.2018 has been examined in consultation with the Cadre Controlling Authority-DRAT, Delhi and to say that **even though there was no amendments carried out in the recruitment rules after the qualifying service period for the post of Recovery Inspector was increased from eight years to ten years non-amendment of Rules will not confer any right upon the employee, Shri Dalip Kumar to claim promotion on the basis of unamended recruitment rules.** He has not completed ten years regular service in the pay grade of Rs. 2400/- and which has been made the necessary qualification pursuant to the recommendation of the 6<sup>th</sup> Pay Commission and its acceptance by the Government and so he cannot be promoted at present. He will have to wait till he completes the*



*minimum qualifying service of ten years from the date of his getting appointed in the Grade Pay of Rs.2400/- and then only his can be considered.*

*This issue with the approval of competent authority.”<sup>1</sup>*

6. During the pendency of the present writ petition, the petitioner has been promoted to the post of Recovery Inspector, DRAT, by Office Order dated 31.08.2022, but his grievance is that he ought to have been considered for promotion upon completion of eight years’ regular service in the post of Court Master, which he completed on 01.03.2018.

7. I have heard Mr. Bheem Sain Jain, learned counsel for the petitioner, and Mr. Jatin Teotia, learned counsel for the respondents.

8. The Recruitment Rules, as amended up to the year 2003, provided for two posts of Recovery Inspector in each DRT. The method of recruitment is by promotion/deputation, and the eligibility criteria, to the extent that they are relevant, provided for eligibility of Court Masters of DRT with eight years’ regular service.

9. It is undisputed that the petitioner had eight years’ regular service as a Court Master with the DRT, as of 01.03.2018.

10. The respondents’ submission, however, is that by the time the petitioner attained the requisite eligibility, the conditions had been changed to require ten years of service. In support of this contention, the respondents rely upon an Office Memorandum [“OM”] dated 24.03.2009 issued by the Department of Personnel & Training [“DoPT”], consequent upon the recommendations of the 6<sup>th</sup> Central Pay Commission [“6<sup>th</sup> CPC”]. The said OM provides *inter alia* that while substituting the existing pay scales with new pay structures, the pay band, and grade



pay/pay scale, as well as minimum eligibility service as prescribed in the annexure to the OM, should be incorporated. S. No. 6 of the Annexure, provides that the minimum qualifying service for promotion from posts carrying Grade Pay of Rs. 2400 to posts carrying Grade Pay of Rs. 4200, would be ten years. It is undisputed that the petitioner's request for promotion from Court Master, DRT to Recovery Inspector, DRT falls within this provision.

11. The respondents also draw sustenance from a further OM of the DoPT dated 25.03.2014, which directed all Ministries and Departments to adhere to the instructions in the OM dated 24.03.2009.

12. The Recruitment Rules were, in fact, amended in June 2018 to reflect that promotion from the post of Court Master, DRT to the post of Recovery Inspector, DRT, would require eligibility of ten years of regular service.

13. The question which requires consideration in these circumstances, is whether the petitioner was entitled to be considered for promotion in the year 2018 in terms of the Recruitment Rules then in force, or whether he was rightly subjected to the increased eligibility condition, in terms of the Office Memorandums.

14. The Recruitment Rules are statutory in nature, and cannot generally be overridden by executive instructions. This is clear from the following observations of the Supreme Court in *K. Kuppusamy and Anr. v. State of T.N. and Ors.*<sup>2</sup>:

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<sup>1</sup> Emphasis supplied.

<sup>2</sup> (1998) 8 SCC 469



*“3. The short point on which these appeals must succeed is that the Tribunal fell into an error in taking the view that since the Government had indicated its intention to amend the relevant rules, its action in proceeding on the assumption of such amendment could not be said to be irrational or arbitrary and, therefore, the consequential orders passed have to be upheld. We are afraid this line of approach cannot be countenanced. The relevant rules, it is admitted, were framed under the proviso to Article 309 of the Constitution. They are statutory rules. Statutory rules cannot be overridden by executive orders or executive practice. Merely because the Government had taken a decision to amend the rules does not mean that the rule stood obliterated. Till the rule is amended, the rule applies. Even today the amendment has not been effected. As and when it is effected ordinarily it would be prospective in nature unless expressly or by necessary implication found to be retrospective. The Tribunal was, therefore, wrong in ignoring the rule.”*

15. There is no material whatsoever to hold that the amendment to the Recruitment Rules in the present case, was intended to operate retrospectively. The amendment would therefore take effect only from June 2018.

16. In the impugned order dated 24.12.2018, the respondents accept that no amendment of the Rules was undertaken, but contend that this does not confer any right upon the employee. The view taken by the respondents is incomprehensible. The employer and the employee both derive rights and obligations *inter alia* from the statutory Recruitment Rules. The respondents’ attempt, to link the two completely, is not well founded in law.

17. In fact, the Office Memorandums of the DoPT, upon which the respondents themselves rely, make this position quite clear. The subject heading of the OM dated 24.03.2009 reads as follows:



*“Sixth Central Pay Commission’s recommendations – revision of pay scales – **amendment of Service Rules / Recruitment Rules**.”<sup>3</sup>*

It thus pertains to amendment of Service Rules/Recruitment Rules to bring them in line with the recommendations of the Pay Commission. The very first paragraph of the OM refers to a decision that consequential steps be undertaken on a priority basis “*to amend the existing Service Rules / Recruitment Rules*”. Paragraphs 2 and 3 place the government’s own understanding beyond the pale of doubt. They read as follows:

***“2. The Recruitment Rules / Service Rules are of statutory nature. Therefore, the changes brought out by other relevant instructions have to be incorporated in the Recruitment Rules / Service Rules by suitable amendments** so that the necessary steps like holding of DPC etc. are taken to fill the post carrying the revised Grade Pay / Pay Scale on regulars basis. All the Ministries / Departments are, therefore, requested to effect necessary amendments to the Recruitment Rules / Service Rules notified by them after following the normal procedure of furnishing proposals to the Department of Personnel and Training and the UPSC in the format prescribed in the general guidelines on Recruitment Rules circulated by the DOPT OM No. 14017/12/87-Estt.(RR) dated 18.3.1988, and also in consultation with the Legislative Department.*

*3. Ministries/Departments may initiate action to complete the review in this regard and furnish necessary amendment proposals to the DOPT and the UPSC in the case of Group A and Group B posts within six months from the date of issue of this Office Memorandum. They may also, simultaneously, take similar action in respect of Recruitment Rules for Group C and D posts, which are within their delegated powers. Appropriate action to update the Service Rules for organized Group A, B Services, etc. shall also be taken up with DOPT / UPSC within a period of Six Months.”<sup>4</sup>*

The OM dated 25.03.2014 also refers to amendment of Recruitment Rules/Service Rules, and directs Ministries to take steps as required by the OM dated 24.03.2009.

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<sup>3</sup> Emphasis supplied.

<sup>4</sup> Emphasis supplied.



18. The understanding reflected in the impugned order dated 24.12.2018 is thus not only contrary to law, but also contrary to the government's own instructions in the Office Memorandums upon which the respondents rely. It was open to the respondents to amend the Recruitment Rules immediately upon receipt of the recommendations of the 6<sup>th</sup> CPC, or the Office Memorandums in 2009 and 2014. They chose not to undertake this exercise until after the petitioner had already attained the requisite eligibility under the unamended Recruitment Rules, and must abide by the consequences of such delay.

19. The petitioner has also placed on record documents relating to vacancies for the post of Recovery Inspector in other DRTs, which show that, until the amendment to the Recruitment Rules, the eligibility condition was specified as eight years of regular service as Court Master. The vacancy circulars of DRT-I, Kolkata dated 02.04.2018, DRT-I, Chandigarh dated 08.03.2018, DRT, Madurai dated 27.02.2018, and DRT-II, Delhi dated 04.08.2017, which have been placed on record, reflect this position.

20. As a consequence of the above discussion, it is held that the petitioner was entitled to be considered for promotion to the post of Recovery Inspector, DRT, upon completion of eight years of regular service in the post of Court Master, DRT.

21. The factual situation with regard to the availability of vacancies, number of eligible officers at the relevant time, etc., are not clearly borne out from the record of this writ petition. The respondents are, therefore, directed to reconsider the petitioner's request for promotion with effect from 01.03.2018 in the factual context, and to pass necessary



consequential orders within a period of eight weeks from today. The petitioner will also be granted an opportunity of hearing, and a reasoned order will be passed within a period of eight weeks as aforesaid. Mr. Teotia, instructed by Mr. Rupak Kumar, Registrar, DRT-III, New Delhi, submits that there was no vacancy in the post of Recovery Inspector from 01.03.2018, until the petitioner was promoted in the year 2022. Mr. Jain accepts that, if it is so, the petitioner would not be entitled to any consequential relief.

22. The writ petition stands disposed of.

**PRATEEK JALAN, J**

**AUGUST 11, 2025**

*'Bhupi/SS/KA'*