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

Date of decision: 15.09.2025

+ W.P.(C) 8001/2023
MUKESH THAKUR

.....Petitioner

Through: Ms. Esha Mazumdar, Ms.
Muskan Sharma, Advs.

versus

GNCT OF DELHI AND ORS

.....Respondents

Through: Mrs. Avnish Ahlawat, SC,
GNCTD and Mr. Nitesh Kumar
Singh, Advs.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE MADHU JAIN

NAVIN CHAWLA, J. (ORAL)

1. This petition has been filed by the petitioner, challenging the Order dated 07.03.2023 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as, 'Tribunal') in O.A. No. 1514/2019, titled ***Mukesh Thakur v. The GNCT of Delhi & Ors.***, dismissing the said O.A. filed by the petitioner herein.

2. The petitioner also challenges the Order dated 13.04.2023, whereby the learned Tribunal dismissed the Review Application, being R.A. No. 44/2023, filed by the petitioner, holding the same to be not maintainable under Section 22(3)(f) of the Administrative Tribunals Act, 1985.



3. To give a brief background of the facts in which the present petition arises, the petitioner was appointed as a Nursing Orderly in the Directorate of Health Services/respondent no. 4, GNCTD on 25.02.2004, and was promoted to the post of Dresser on 28.12.2005, in the pay-scale of Rs. 2650-63-3300-70-4000. Thereafter, he appeared in the Limited Departmental Competitive Examination conducted by the DSSSB, and on being successful, was appointed to the post of Grade IV (DASS)/Junior Assistant (LDC) with effect from 25.07.2016.

4. The petitioner submitted his technical resignation, which was accepted on 20.07.2016. Thereafter, the petitioner made representations requesting for the protection of his pay and for the counting of his past service. The said request of the petitioner was sent by the respondent no. 2, that is, the Finance Department, GNCTD to the respondent no. 3, that is, the General Administration Department, for its advice/approval.

5. The respondent no. 3 opined that the petitioner had been promoted from the post of Nursing Orderly to the post of Dresser without completing the qualifying service required for such promotion. The matter was, thereafter, referred to the respondent no. 4, that is, the Directorate of Health Services, GNCTD, which clarified that the petitioner had been granted such promotion based on the then existing Recruitment Rules dated 02.08.1967. However, the request of the petitioner was again rejected based on the recommendations of the respondent no. 3.

6. Aggrieved thereby, the petitioner approached the learned



Tribunal.

7. Before the learned Tribunal, the respondents again contended that though the petitioner had been promoted to the post of Dresser under the then existing Recruitment Rules, the draft/model Recruitment Rules for the post of Dressers had been circulated though not approved, and which sought to increase the qualifying service to four years. They contended that it was because of this reason that the petitioner's past service had not been considered for the purposes of pay protection or otherwise.

8. The learned Tribunal, curiously, however, in paragraph 9 of its Impugned Order dated 07.03.2023, held that the petitioner did not have the required *three* years' experience to get promotion to the post of Dresser. It further held that the petitioner did not fulfill the criteria of minimum qualifying service of *four* years and, therefore, dismissed the O.A.

9. As far as the Order dated 13.04.2023 passed by the learned Tribunal in the Review Application is concerned, from a bare reading of the same, it would be apparent that the learned Tribunal considered the facts of some other O.A. while dismissing the Review Application. We need not make any further comment on the Impugned Order dated 13.04.2023 passed in the Review Application, apart from saying that the same shows non-application of mind.

10. Coming back to the Impugned Order dated 07.03.2023 passed by the learned Tribunal, the learned counsel for the petitioner submits that the Recruitment Rules of 1967 did not provide for any qualifying service for promotion to the post of Dresser. She submits that the said



promotion was granted to the petitioner in accordance with the existing Recruitment Rules, as was also confirmed by the respondent no. 4 in their response to the respondent no. 3. She further submits that even before the learned Tribunal, the respondents did not dispute this fact. She submits that the only contention of the respondents was that in terms of the draft/model Recruitment Rules that were in the process of being promulgated, the qualifying service for the post of Dresser was to be increased to four years. She submits that these Rules had still not been promulgated and that as and when they may get promulgated, they would be applicable only prospectively and would not make the promotion granted to the petitioner void.

11. On the other hand, the learned counsel for the respondents reiterates that the draft/model Recruitment Rules had been circulated to the Department, which provided for a minimum qualifying service of four years for promotion to the post of Dresser. He submits that as the petitioner was not meeting the said requirement on the date of his promotion to the post of Dresser, he was not entitled to any pay protection or counting of his past service.

12. We are unable to agree with the submissions made by the learned counsel for the respondents.

13. In the present case, the promotion of the petitioner to the post of Dresser was never put to challenge. It was, in fact, accepted that it was made in accordance with the existing Recruitment Rules of 1967. Merely because these Recruitment Rules were under the process of being amended, would not make such promotion illegal, void or ignored to deny the benefit of such promotion to the petitioner. In our



view, therefore, the case of the petitioner was considered by the respondents and denied only on the ground that the Recruitment Rules were under the process of being amended, which cannot be sustained in law.

14. In view of the above, the Impugned Orders dated 07.03.2023 and 13.04.2023 passed by the learned Tribunal are set aside. The respondents are directed to re-consider the case of the petitioner for grant of pay protection and counting of his past service, without taking into account the proposed model/draft Recruitment Rules, and only on the basis of the Recruitment Rules of 1967 on the basis of which the petitioner had been promoted to the post of Dresser. This exercise must be completed within a period of four weeks from today, by passing appropriate orders.

15. If the petitioner is held entitled to the relief claimed, the same shall be released to the petitioner within a further period of four weeks along with interest at the rate of 6% per annum. In case any adverse order is passed against the petitioner, it shall be open to the petitioner to challenge the same in accordance with the law.

16. The petition is disposed of in the above terms.

NAVIN CHAWLA, J

MADHU JAIN, J

SEPTEMBER 15, 2025/ys/p/SJ