



2025:DHC:7114-DB



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

Date of decision: 11th AUGUST, 2025

IN THE MATTER OF:

+ **LPA 341/2025 & CM APPL. 30944/2025, CM APPL. 30945/2025**

GIANWATI TAXAK

.....Appellant

Through: Mr. A. K. Singla, Sr. Advocate with
Dr. Amarnath Gupta, Mr. Hem
Kumar, Ms. Sayantani Basak,
Advocates.

versus

UNIVERSITY OF DELHI & ORS.

.....Respondents

Through: Mr. Mohinder Rupal, Mr. Hardik
Rupal and Ms. Aishwarya Malhotra,
Advocates for R-1/University of
Delhi.
Mr. B. S. Rana with Mr. Deepanshu
Singhal, Advocates for R-2 & 3.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

HON'BLE MR. JUSTICE SAURABH BANERJEE

JUDGMENT (ORAL)

SUBRAMONIUM PRASAD, J.

1. The present appeal has been filed by the Appellant challenging the Order dated 27.02.2025 passed by the learned Single Judge in CM APPL. 11712/2025 in W.P.(C) 14454/2021 which had been filed seeking recall of the Order dated 16.12.2021, whereby the Appellant had been permitted to withdraw the petition which raised a claim with regard to pension and



gratuity, which according to the Appellant, have not been paid in accordance with the relevant Rules.

2. Shorn of unnecessary details, facts leading to the filing of the present appeal are as under:

- a) Disciplinary proceedings were initiated against the Appellant whereafter she was placed under suspension by the Governing Body on 08.03.2014.
- b) After the conclusion of inquiry, the Appellant was given the punishment of compulsory retirement on 31.08.2015 in terms of the Resolution of the Governing Body dated 24.07.2015.
- c) Undisputedly, the retiral benefits were given to the Appellant. The said Resolution of the Governing Body dated 24.07.2015 and the Order of compulsory retirement were not challenged by the Appellant in accordance with the rules and regulations of the University and instead a representation was given by the Appellant to the Governing Body.
- d) Considering the representation, the Governing Body passed a Resolution on 04.03.2019 raising certain questions with regard to the conduct of the proceedings initiated against the Appellant.
- e) Since the said Resolution dated 04.03.2019 was not being implemented, the Appellant filed a writ petition being W.P.(C) 14454/2021 before this Court with the following prayers:

"a) Quash the decision dated 24.07.2015 for Petitioner's compulsory retirement taken by the Respondent no.3 in its truncated/ caretaker Governing Body's emergent meeting without waiting for proper



constitution of the main Governing Body as per Delhi University Statutes, Ordinances and the Rules;

b) Quash the Respondents' decision dated 29.09.2020 to close the matter and uphold the earlier decision for Petitioner's compulsory retirement without satisfying the principles of natural justice and also in violation of the direction dated 05.03.2015 of this Hon'ble Court in W.P. (C) No. 8136/2014 titled as "Gianwati Taxak vs. The University of Delhi & Ors.";

c) Issue the writ of mandamus or any other appropriate writ, order or direction to the Respondent nos. 1, 2 and 3 to release full service benefits to the Petitioner for the period 03.04.2014 till date with appropriate interest and compensation;

d) Issue the writ of mandamus or any other appropriate writ, order or direction to the Respondent no.1 for punitive action against the Respondent no.4 Dr. Prashant Kumar, who acted against the Petitioner with biased mind throughout and wilfully misused his official position to cause harm the Petitioner; and

e) Pass such order(s) as this Hon'ble Court may deem fit and proper in the circumstances of the case in the interest of justice."

f) The aforesaid writ petition being W.P.(C) 14454/2021 was withdrawn by the Appellant in the proceedings dated 16.12.2021 before this Court. The Order dated 16.12.2021 is reproduced hereinbelow and the same reads as under:

"After arguing the petition for some time, learned counsel for the petitioner states, he shall withdraw the petition for filing a claim with regard to pension and



gratuity, as according to him, the same are not being paid in accordance with the Rules.

The petition is dismissed as withdrawn.”

g) A perusal of the abovementioned order reveals that the said withdrawal of the petition came after the matter was argued for some time. The said writ petition was withdrawn primarily for filing a claim with regard to pension and gratuity, which according to the Appellant, was not paid in accordance with the Rules.

h) After withdrawing the said writ petition, the Appellant filed another writ petition being W.P.(C) 12697/2022 with the following prayers:

"a) Quash the Respondents' hurriedly taken decision dated 29.09.2020 to close the matter of Petitioner's compulsory retirement without satisfying the well-settled principles of natural justice and also in violation of the direction dated 05.03.2015 of this Hon'ble Court in W.P. (C) No.8136/2014 titled as "Gianwati Taxak vs. The University of Delhi & Ors.";

b) Quash the decision dated 24.07.2015 for Petitioner's compulsory retirement taken by the Respondent no.3 in its caretaker Governing Body's emergent meeting without waiting for proper constitution of the main Governing Body as per Delhi University Statutes, Ordinances and the Rules;

c) Issue writ of mandamus or any other appropriate writ, order or direction to the Respondent nos. 1, 2 and 3 to release full service benefits to the Petitioner for the period 03.04.2014 till date with appropriate simple interest to the tune of 8% per annum and compensation after adjusting the amounts already paid to the petitioner;



d) Issue the writ of mandamus or any other appropriate writ, order or direction to the Respondent no.1 for punitive action against the Respondent no.4 Dr. Prashant Kumar, who acted against the Petitioner with biased mind throughout and wilfully misused his official position, to cause harm the Petitioner;"

- i) An objection was taken by the learned Counsel for the Respondents in the aforesaid writ petition stating that since an identical writ petition being W.P.(C)14454/2021 has already withdrawn by the Appellant, the second writ petition is not maintainable.
- j) The said writ petition was once again withdrawn by the Appellant vide Order dated 05.12.2024 in terms of the liberty granted to the Appellant by this Court in W.P.(C) 14454/2021 in the proceedings dated 16.12.2021. The Order dated 05.12.2024 is being reproduced as under:

"1. This writ petition has been preferred by the Petitioner under Article 226 of Constitution of India, seeking the following reliefs:-

a) Quash the Respondents' hurriedly taken decision dated 29.09.2020 to close the matter of Petitioner's compulsory retirement without satisfying the well-settled principles of natural justice and also in violation of the direction dated 05.03.2015 of this Hon'ble Court in W.P. (C) No. 8136/2014 titled as "Gianwati Taxak vs. The University of Delhi & Ors.";

b) Quash the decision dated 24.07.2015 for Petitioner's compulsory retirement taken by the



Respondent no.3 in its caretaker Governing Body's emergent meeting without waiting for proper constitution of the main Governing Body as per Delhi University Statutes, Ordinances and the Rules;

c) Issue writ of mandamus or any other appropriate writ, order or direction to the Respondent nos. 1, 2 and 3 to release full service benefits to the Petitioner for the period 03.04.2014 till date with appropriate simple interest to the tune of 8% per annum and compensation after adjusting the amounts already paid to the petitioner;

d) Issue the writ of mandamus or any other appropriate writ, order or direction to the Respondent no.1 for punitive action against the Respondent no.4 Dr. Prashant Kumar, who acted against the Petitioner with biased mind throughout and wilfully misused his official position, to cause harm to the Petitioner;

2. At the outset, the learned counsels for the Respondents take a preliminary objection to the maintainability of this petition on the ground that an earlier writ petition being W.P.(C)14454/2021 was filed by the Petitioner seeking the same reliefs as in the present writ petition.

3. The petition was disposed of along with pending application as withdrawn with limited liberty to the Petitioner to file a claim with regard to pension and gratuity.

4. Mr. A. K. Singla, learned Senior Counsel for the Petitioner candidly and fairly at this stage on



instruction from the counsel on record, who is in turn instructed by the Petitioner, seeks to withdraw this writ petition with liberty to file the writ petition in terms of the liberty granted by the Court in W.P.(C) 14454/2021 on 16.12.2021."

- k) After withdrawing the second writ petition, the Appellant filed an application being CM APPL. 11712/2025 in W.P.(C) 14454/2021 seeking recall of the Order dated 16.12.2021.
 - l) In the said application, it is stated that in the proceedings held on 16.12.2021, the Appellant's Counsel could not place the issues raised in the writ petition in an effective manner and could not respond to the Court's queries which has resulted in depriving the Appellant of her enhanced superannuation benefits, including the enhanced gratuity, in terms of the 7th Central Pay Commission.
 - m) The said CM APPL. 11712/2025 has been dismissed by the learned Single Judge vide the Impugned Order dated 16.12.2021 by holding held that the application has been filed by the Appellant with the delay of 829 days which has not been explained properly.
 - n) It is this Order dated 16.12.2021 which is under challenge in the present appeal.
3. Learned Senior Counsel appearing for the Appellant submits that on 16.12.2021, the Counsel could not effectively place the arguments, thereby depriving the Appellant of her valuable rights which have inured to her after coming into force the 7th Central Pay Commission.
4. In the opinion of this Court, the Impugned Order dated 27.02.2025 passed by the learned Single Judge refusing to recall the Order dated



16.12.2021 does not warrant any interference. W.P.(C) 14454/2021 was withdrawn by the Appellant after some arguments and with the liberty to file a claim with regard to pension and gratuity, which according to the Appellant, were not paid to her in accordance with the Rules. Instead of pursuing the remedy for which liberty was taken by the Appellant on 16.12.2021, the Appellant, blatantly abusing the process of law, filed the second writ petition being W.P.(C) 12697/2022 before this Court with the very same reliefs.

5. The said Second writ petition was also withdrawn by the Appellant on 05.12.2024 in terms of the expressed liberty granted by this Court to the Appellant in W.P.(C) 14454/2021 vide Order dated 16.12.2021. In the opinion of this Court, the application being CM APPL. 11712/2025, from which the present Appeal arises, filed by the Appellant is completely misconceived. The Appellant could have chosen to approach the Court immediately after the W.P.(C) 14454/2021 was withdrawn on 16.12.2021 which could have been considered by the Court. Instead of this, the Appellant chose to file another identical Writ Petition which was not maintainable and the same was withdrawn.

6. As rightly pointed by the learned Single Judge, the Appellant is not entitled to the benefit of Section 14 of the Limitation Act as the second writ petition cannot be said to be a bonafide Petition. The application for recalling the Order 16.12.2021 has been filed with the delay of 829 days which has not been explained properly. Merely making a bald statement that no effective hearing could take place on 16.12.2021 is not sufficient explanation for justifying the delay of 829 days. As rightly pointed by the



2025:DHC:7114-DB



learned Single Judge, the Appellant had already approached this Court during the pendency of the departmental proceedings and has filed total four petitions in total and, therefore, it cannot be said that the Appellant did not have access to legal advice.

7. In view of the above, this Court is not inclined to interfere with the Impugned Order passed by the learned Single Judge.

8. The appeal is dismissed, along with pending application(s), if any.

SUBRAMONIUM PRASAD, J

SAURABH BANERJEE, J

AUGUST 11, 2025

S. Zakir