



2025:DHC:2729-DB



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

Date of decision: 17.04.2025

+ LPA 768/2024
GIRDHARI PAL

.....Appellant

Through: Mr.Aviyeet Bhujabal, Adv

versus

VICE CHANCELLOR, UNIVERSITY OF DELHI & ORS.

.....Respondents

Through: Mr.Mohinder J.S. Rupal,
Mr.Hardik Rupal &
Ms.Aishwarya Malhotra, Advs
for R-1 & R-2
Mr.M.K. Singh, Adv. for R-3

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE RENU BHATNAGAR

NAVIN CHAWLA, J. (ORAL)

CM APPL. 45606/2024 (Exemption)

1. Allowed, subject to all just exceptions.

CM APPL. 45605/2024

2. This application has been filed seeking condonation of 34 days delay in filing of the appeal.

3. For the reasons stated in the application, the same is allowed and the delay is condoned.

4. The application is disposed of.

CM APPL. 22393/2025



2025:DHC:2729-DB



5. As we proceed to decide the appeal on merit, these documents are also being taken into consideration.

6. The application is disposed of.

LPA 768/2024

7. This appeal has been filed by the appellant, challenging the Judgment dated 07.05.2024 passed by the learned Single Judge of this Court in W.P. (C) 902/2020, titled ***Giridhari Pal v. Vice Chancellor, University of Delhi & Ors.***, whereby the petition filed by the appellant herein was partially allowed in the following terms:-

“20. Having regard to the above, this Court is of the considered opinion that though the petitioner had given representations from the year 2008 itself, however, had waited till the year 2020 for redressal of his grievance before this Court, it appears that the petitioner could be entitled to the promotion to the post of STA w.e.f. 21.07.2016 when the circular was issued by respondent no.3 with subject Promotion of Technical Staff of VPCI, wherein the status of vacant posts in technical cadre, as on that date, was informed, which included the post of STA too.

21. In view of above, the petitioner would be entitled to his seniority w.e.f. 21.07.2016. Since the petitioner has been given all the financial benefits under the financial upgradation under the MACP scheme, there shall be no orders for such benefits.”

8. A brief background of the facts giving rise to the present petition, is that the appellant was working as a Technical Assistant (in short, ‘TA’) with effect from 10.01.2002 and was promoted to the post of Senior Technical Assistant (in short, ‘STA’) on 28.06.2019. The



2025:DHC:2729-DB



appellant claims that the promotional post of STA had, in fact, fallen vacant with effect from 01.01.2005, and, as per the Reservation Rules, was to be kept for an unreserved category candidate. The Recruitment Rules (Non-Teaching Employees), 2008 (in short, 'Recruitment Rules'), stipulated that the promotion to the post of STA would be based on seniority-cum-fitness; the quality of ACRs for the last five years, and vigilance clearance. The appellant claimed that the appellant was eligible for the promotion to the post of STA on the basis of his qualifications and experience in the feeder cadre of Technical Assistant in the Department of Pharmacology and, therefore, should have been considered for the promotional post of STA. The appellant further stated that, *vide* notification dated 14.02.2013, the Recruitment Rules were modified and, for the post of STA, five years of regular service in the post of TA was prescribed. The appellant claimed that he was, however, even then unjustly and unlawfully denied the promotion to the post of STA. Aggrieved of the same, the appellant first made representations to the respondents and, thereafter, filed the above Writ Petition.

9. The learned Single Judge, while partly allowing the Writ Petition, observed that as far as the post of STA in the Department of Pharmacology is concerned, there was only one sanctioned post, which was lying vacant since 01.01.2005. The Position continued till 01.12.2018. There was a Departmental Promotion Committee (DPC) meeting held on 02.06.2008 in respect of the appellant for the post of STA, which rejected the claim of the appellant on the ground that the last incumbent to the said promotional post after demitting the office



2025:DHC:2729-DB



and the post having fallen vacant, would have to fall in the quota of direct recruits. This position was found to be in consonance with the notification dated 09.08.1999, which provided for a 50% quota each for the promotees and the direct recruitment for the said post.

10. Though the said post was advertised for direct recruitment in the advertisements dated 29.11.2008-05.12.2008, no suitable candidate was shortlisted, and the said post remained vacant till 2019, when the appellant was finally promoted to the said post on 28.06.2019.

11. The learned Single Judge, taking note of the delay in the appellant approaching the Court, held that the appellant should be granted promotion to the said post with effect from 21.07.2016, when the status of the vacant post in the Technical Cadre was informed to the appellant *vide* a Circular.

12. The learned counsel for the appellant reiterates that the appellant was eligible for the post of STA since the year 2008. In support of this contention, he also places reliance on a reply received under the Right to Information Act, 2005 along with which, *inter alia*, revised eligibility criteria for the appointment/promotion of Laboratory Staff working in the various science departments has been enclosed. He submits that as per the said criteria, the eligibility requirement for the post of STA was prescribed as six years of experience as a TA.

13. On the other hand, the learned counsel for the respondent no.3 submits that the respondent no.3 had also challenged the Impugned Judgment by way of an appeal, being LPA 538/2024, titled



2025:DHC:2729-DB



Vallabhbhai Patel Chest Institute v. Giridhari Pal and Anr.. The same was dismissed by this Court *vide* Judgment dated 04.07.2024, 2024:DHC:5050-DB, wherein the Court, *inter alia*, observed as under:-

“11.....Recruitment Rules were notified in 2017, however, the Circular with regard to vacancy of post in the technical cadre and for the post of STA was notified on 21.07.2016. The respondent No.1 has already been granted scale of STA in the year 2012 and in our opinion, he has rightly been granted promotion w.e.f. 21.07.2016 when vacant post of STA was notified. The claim of respondent No.1 that he was entitled for promotion since the year 2005 when the post first fell vacant or in the year 2008 when the first DPC was convened; has rightly been turned down by the learned Single Judge as the said post was required to be filled-up by direct recruitment for which an advertisement was also published, however, no candidate was appointed. The Recruitment Rules, merging posts as per MCI, FMCs DD requirements, were vetted out in the year 2016 so, respondent No.1 is entitled to seniority from the year 2016, which has rightly been granted by the learned Single Judge.”

(emphasis supplied)

14. A reading of the above would show that a Coordinate Division Bench of this Court has also opined that the appellant was rightly granted promotion only with effect from 21.07.2016, the date when the vacancy position was determined.

15. We are also of the view that the appellant has not availed of his legal remedies, if any, from the year 2008 till the year 2020. The learned Single Judge has, therefore, rightly held that the appellant can,



2025:DHC:2729-DB



at best, be granted retrospective seniority from the date when the vacancy position was determined. In fact, the Court normally frowns upon retrospective seniority being granted to a person who was not holding such a post during the relevant period.

16. A candidate can, at best, have a right to be considered for promotion, but cannot claim a vested right in such promotion itself. However, in the present case, the learned Single Judge has given a retrospective operation to the same, and the challenge by the respondent no.3 to the same has also been rejected by a Coordinate Division Bench of this Court.

17. Keeping in view the above peculiar facts, we do not find any reason to interfere with the Impugned Order.

18. The appeal is, accordingly, dismissed.

NAVIN CHAWLA, J

RENU BHATNAGAR, J

APRIL 17, 2025/rv/DG

Click here to check corrigendum, if any