



2025:DHC:2495-DB



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

Date of decision: 09.04.2025

+ LPA 821/2023
UNIVERSITY OF DELHIAppellant
Through: Mr.Mohinder J.S. Rupal,
Mr.Hardik Rupal and
Ms.Aishwarya Malhotra, Advs.
versus

DR KIRAN GUPTA & ORS.Respondents
Through: Mr.Sanjay Jain, Sr. Adv. with
Mr.Shashank Shekhar,
Mr.Nishank Tripathi and
Mr.Ratnesh Kumar, Advs.
Mr.Parmanand Gaur, Standing
Counsel with Ms.Megha Gaur
and Mr.Vibhav Mishra, Advs.
for R-2/UGC

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA
HON'BLE MS. JUSTICE RENU BHATNAGAR

NAVIN CHAWLA, J. (ORAL)

CM APPL. 64988/2023

1. This is an application seeking condonation of 120 days' delay in filing the present appeal.
2. For the reasons stated in the application, the delay is condoned.
3. The application is disposed of.

LPA 821/2023 & CM APPL. 64986/2023, CM APPL. 15803/2025

4. This appeal has been filed by the appellant, challenging the



2025:DHC:2495-DB



Judgment dated 08.03.2021 passed by the learned Single Judge of this Court in W.P.(C) 10564/2019, titled ***Dr. Kiran Gupta v. The University of Delhi & Ors.***, and the Order dated 25.09.2023 passed in Review Petition No.88/2021 in the above Writ Petition.

Brief facts:

5. Briefly stated, the facts giving rise to the present appeal are that the respondent no.1 was promoted to the post of Reader in the Faculty of Law, University of Delhi, *vide* Order dated 19.02.2000, with effect from 27.07.1998. The said post was later re-designated as Associate Professor on the implementation of the 6th CPC.

6. The respondent no.1 completed the requisite 8 years of service as Reader required for the promotion to the post of Professor under the Career Advancement Scheme (CAS)-1998 / Merit Promotion Scheme-1998, on 27.07.2006.

7. She approached the learned Single Judge in form of the above Writ Petition complaining therein that while the Sub-Committee appointed to consider the case of her promotion from Associate Professor (Stage-4) to Professor (Stage 5), in its Minutes of Meeting dated 05.07.2017, had found her to be eligible for the said promotion with effect from 08.05.2009, the appellant, *vide* a Notification dated 04.07.2019, granted such promotion to the respondent no.1 as Professor, Law Centre-II, Faculty of Law with effect from 25.06.2019.

8. The learned Single Judge, by its Impugned Judgment dated 08.03.2021, by placing reliance on Clause 6.3.12 of the Career Advancement Scheme-2010 (in short, 'CAS-2010'), held that as the



respondent no.1 was eligible for promotion with effect from 08.05.2009, in terms of the above Clause, she should be granted promotion with effect from the said date. In reaching the said conclusion, the learned Single Judge observed that there is no dispute that the respondent no.1 was assessed and found eligible for the first time in the impugned selection process and, therefore, in terms of Clause 6.3.12 (a), her promotion would relate back to the date of the minimum period of eligibility.

9. The appellant then filed a Review Petition, being Review Petition No.88/2021, *inter alia*, alleging therein the following facts:

- On September 25, 2008, the writ petitioner applied for the post of Professor under the Career Advancement Scheme (CAS)-1998, as per applicable Rules. Her case was not considered for the reason that some of her publications were editorials and not research works required as per the requisite promotion Scheme.
- On December 17/18, 2008, the petitioner was informed of the non-consideration of her application for promotion.
- On April 10, 2012, the petitioner again applied for promotion to the post of Professor under CAS-1998 with date of eligibility being July 27, 2007. The case of the petitioner was forwarded for evaluation by three experts. It is submitted that the external experts reviewed the publications in terms of their content to ascertain the suitability of the candidate for being considered for promotion. Only on receipt of three positive reports from the Experts, would the candidate be eligible to appear for interview before the Selection Committee for promotion. In case, one of the experts gives a negative report, the case along



with the publications is forwarded to a fourth expert. If the fourth expert gives a positive report, the candidate becomes eligible for appearing before the Selection Committee. However, if the fourth report is also negative, the case of the candidate is not considered and is advised to resubmit his/her work after one year. The reports of all the experts in case of the petitioner were in the negative. Her work was 'forwarded to a fourth expert, who also gave a negative report.

➤ *On December 27, 2013, the petitioner again applied for promotion to the post of Professor under CAS-1998 with date of eligibility July 27, 2008. The petitioner was again, informed by letter dated June 17, 2014, reiterating the letter dated November 14, 2013 to re-submit the work after one year, therefore, the application was also returned.*

➤ *On May 29, 2017, the petitioner applied for promotion to the post of Professor with date of eligibility as August 27, 2009 under CAS-2010."*

➤ *In the above facts, the petitioner was promoted w.e.f 25.06.2019 by the Executive Council on the basis of the recommendation made by the Selection Committee after due assessment as per UGC Regulations 2010.*

10. The appellant contended that as the case of the respondent no.1 had been earlier rejected for promotion to the post of Professor (Stage 5), in terms of Clause 6.3.12 (c) of the CAS-2010, she would gain her seniority only from the date she has been declared successful for the said post.

11. The Review Petition, however, was rejected by the learned Single Judge, *vide* Impugned Judgment dated 25.09.2023, by observing as under:

"23. The letter reveals she has stated her



eligibility as May 8, 2009 and not August 27, 2009 as stated by the University. Having said that, it appears that the minutes of the Selection Committee wherein, she has been recommended for promotion prospectively, i.e., 2019 was pursuant to the letter dated May 29, 2017. It is not known why the Selection Committee has recommended her case prospectively. No reasons are forthcoming for denying her promotion from 2009. The effect of promotion being given prospectively is that the petitioner is denied promotion to the post of Professor between the years 2009-2018, which cannot be the position under Service Rules as she is required to be considered the next year following the year she was found unfit. She having been considered in 2008 and not found fit, she is required to be considered for 2009. The conclusion of the Selection Committee to give promotion from June 25, 2019 is very harsh effectively denying her the promotion for almost ten years. In that sense, this Court has rightly set aside the proceedings of the Selection Committee/Executive Council. It follows, the recommendation made by the Selection Committee of promotion must relate back from May 8, 2009.”

Submissions of the learned counsel for the appellant:

12. The learned counsel for the appellant submits that in passing the Impugned Judgment dated 25.09.2023, the learned Single Judge has committed a factual error, inasmuch as the Court has considered the rejection of the application of the respondent no.1 for promotion to the post of Professor only in the years of 2006, 2007 and 2008 and not the subsequent rejection in the years 2012 and 2013, which were specifically pleaded by the appellant in the Review Petition.



2025:DHC:2495-DB



13. He submits that in terms of Clause 6.3.12 (c) of the CAS-2010, in case a candidate does not succeed in the first assessment, but succeeds in the eventual assessment, his/her promotion will be deemed to be only from the later date of successful assessment. He submits that the respondent no.1, therefore, was rightly granted promotion to the post of Professor with effect from her being successful pursuant to her application dated 29.05.2017 by the Selection Committee on 25.06.2019.

Submissions of the learned senior counsel for the respondents:

14. On the other hand, the learned senior counsel appearing for the respondents submits that the earlier assessments of the respondent no.1, in the year 2008, was under the CAS-1998. He submits that the same would not be relevant as far as the consideration of the case of the respondent no.1 for promotion under CAS-2010 is concerned and, therefore, for the first time the respondent no.1 was assessed under CAS-2010 only pursuant to her application dated 29.05.2017.

15. Referring to the Minutes of the Meeting of the Sub-Committee dated 05.07.2017, he submits that in the said Minutes, the appellant itself had admitted that the assessment period for the promotion was from 08.05.2006 to 07.05.2009, and the date of the eligibility of the respondent no.1 was from 08.05.2009. Placing reliance on Clause 6.2.13 (a) of the CAS-2010, he submits that, therefore, the date of promotion of the respondent no.1 has to relate back to the date of her eligibility, and no fault can be found in the Impugned Judgments passed by the learned Single Judge.



Analysis and findings:

16. We have considered the submissions made by the learned counsels for the parties.

17. Clause 6.3.12 of the CAS-2010 reads as under:

“6.3.12.(a) If a candidate applies for promotion on completion of the minimum eligibility period and is successful, the date of promotion will be from that of minimum period of eligibility.

(b) If, however, the candidates find that he/she fulfills the eligibility conditions at a later date and applies on that date and is successful, his/ her promotion will be effected from that date of application fulfilling the criteria.

(c) If the candidate does not succeed in the first assessment, but succeeds in the eventual assessment, his/her promotion will be deemed to be from the later date of successful assessment.”

18. From a reading of the above, it would be apparent that if the candidate applies for promotion on completion of the minimum eligibility period, and is successful, the date of promotion will be taken from that of the minimum period of eligibility, that is, when for the first time the candidate became eligible for the promotion. However, if the candidate finds that he/she fulfils the eligibility condition at a later date, and applies on that date and is successful, his/her promotion will be effected from the date of the application fulfilling the criteria. Clause (c) of Clause 6.3.12 provides that if the candidate does not succeed in the first assessment, but succeeds in the eventual assessment, his/her promotion will be deemed to be from the



later date of successful assessment.

19. In the present case, it is the case of the respondent no.1 that she became eligible for promotion on 08.05.2009. She had duly applied for promotion on 10.04.2012 on her becoming eligible for the same. The appellant, as is being narrated hereinabove, claimed that the said application was forwarded for evaluation by three experts who reviewed her publications in terms of the content to ascertain her suitability for being considered for promotion. The reports of all the experts were in the negative as far as the respondent no.1 was concerned. Her work was still forwarded to the fourth expert, who also gave a negative report. Accordingly, the case of the respondent no.1 was not considered and, vide letter dated 14.11.2013, she was advised to resubmit her work after one year.

20. The respondent no.1 then again applied on 27.12.2013, with her date of eligibility as 27.07.2008. She was informed by a Letter dated 17.06.2014, reiterating the Letter dated 14.11.2013 which had rejected her application dated 10.04.2012, that she needs to re-submit the work after one year.

21. She eventually applied for promotion to the post of Professor on 29.05.2017, claiming her eligibility from 27.08.2009. It is on this application that she was found eligible for promotion.

22. The respondent no.1 having not succeeded in her assessment in the years 2012 and 2013, therefore, did not fall in sub-clause (a) of Clause 6.3.12 of the CAS-2010, but would fall in Clause (c) thereof. She, therefore, can claim promotion only from the date that she



2025:DHC:2495-DB



succeeded in her eventual assessment for promotion.

23. Though by the Letter dated 17.06.2014 she had been informed that she can re-submit the work after one year, she thereafter applied only on 29.05.2017, that is, after a period of almost 3 years. She, therefore, cannot even claim retrospective promotion relying upon Clause (b) of Clause 6.3.12 of the CAS-2010.

24. Though, admittedly, the appellant did not place the above facts before the learned Single Judge at the time of passing of the Impugned Judgment dated 08.03.2021, the above facts were placed before the learned Single Judge in the Review Petition No.88/2021.

25. The learned Single Judge, in Paragraph 21 of the Judgment dated 25.09.2023, failed to consider the rejection of the application of the respondent no. 1 in the year 2012 and 2013, but took note only of the rejection of the years 2006, 2007 and 2008, that is, prior to the date of her eligibility as claimed in the latest application. It is this factual error, which made the learned Single Judge again apply Clause 6.3.12 (a) instead of Clause 6.3.12 (c) to the facts of the present case.

26. In view of the above, the Impugned Judgments passed by the learned Single Judge cannot be sustained. The case of the respondent no.1 fell in Clause 6.3.12 (c) of CAS-2010 and, therefore, her seniority can relate back only to the date when she was found successful in the selection process, and no infirmity could have been found in the Orders passed by the appellant granting her promotion from such date alone.

27. We, therefore, set aside the Impugned Judgments dated



2025:DHC:2495-DB



08.03.2021 and 25.09.2023 as far as the respondent no.1 herein is concerned.

28. The appeal, alongwith the pending applications, is allowed in the above terms.

29. There shall be no orders as to costs.

NAVIN CHAWLA, J

RENU BHATNAGAR, J

APRIL 9, 2025/sg/VS

Click here to check corrigendum, if any