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

+ **LPA 519/2025**

ANUJ TRIPATHI & ORS.

.....Appellants

Through: Mr. Durgesh Kumar Sharma and Mr.
Harish Kumar, Advocates.

versus

UNION OF INDIA AND ANR

.....Respondents

Through: Mr. Farman Ali, SPC with Ms. Usha
Jamnal, Advocate for R-1/UoI.
Mr. Varun Singh, Advocate for R-2.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

HON'BLE MR. JUSTICE VIMAL KUMAR YADAV

ORDER

% **14.08.2025**

CM APPL. 50174/2025 (Exemption)

Allowed, subject to all just exceptions.

LPA 519/2025 & CM APPL. 50173/2025, CM APPL. 50175/2025

1. The present appeal has been filed by the Appellants challenging the Order dated 16.05.2025 passed by the learned Single Judge in W.P.(C) 6622/2025 dismissing the said writ petition wherein the Appellants herein had prayed for a prospective promotion to the post of Scientist-B from Group-B posts.
2. Material on record indicates that Respondent No.2/BIS issued a Circular dated 17.04.2025 for filling up the post of Scientist-B by promotion from Group-B posts through a limited departmental competitive examination. The essential eligibility criteria as prescribed in the Circular reads as under:



Essential Eligibility Criteria:

- i. Maximum age limit of 50 years as on 31st March 2025.
- ii. Bachelor's Degree in Engineering or Technology or Medicine or equivalent or Master's Degree in Natural Sciences or equivalent with 50% marks in aggregate in any discipline specified in the Second Schedule of Bureau of Indian Standards (Recruitment to Scientific Cadre) Regulations, 2019.
- iii. Ten years' experience as Technical Assistant (Laboratory) or ten years' combined experience as Laboratory Officer or Technical Assistant (Laboratory) in the Laboratory Technical Posts Cadre or ten years' experience as Senior Technical Assistant (Drawing) or Supervisor (Drawing) in the Administration, Finance and Other Posts Cadre.
- iv. Passing of Departmental Examination as specified in regulation 15 of Bureau of Indian Standards (Recruitment to Scientific Cadre) Regulations, 2019.

3. It is not the case of the Appellants that they possess the required experience of 10 years as prescribed in Clause (iii) of essential eligibility criteria of the Circular dated 17.04.2025. The only grouse of the Appellants is that vacancies could be filled up after the Appellants attain the relevant criteria. This argument of the Appellants has been rejected by the learned Single Judge vide the Impugned Order dated 16.05.2025 by holding as under:

“6. The Circular is thus in consonance with the applicable Regulations. The eligibility conditions thus remain those specified in the Regulations, which require 10 years of service in the relevant posts. The petitioners admittedly do not fulfil these criteria. The Regulations have not been challenged in this writ petition.

7. The contention of Mr. Sharma is that the promotional process should be deferred until the petitioners are also eligible, or that they should be permitted to participate, notwithstanding the shortfall in their experience. I find no merit in either of the alternative suggestions. An employee's right is to be considered for promotion in accordance with the Rules, but this does not translate into any obligation upon the employer to keep promotional posts vacant, until a particular group is eligible. Such an argument



will potentially lead to a never-ending cycle, where each successive batch can claim to be on the verge of eligibility and seek deferment of the promotional process accordingly. Such a course does not commend to me. Equally, to permit the petitioners to participate despite their admitted ineligibility, would also be contrary to the Regulations themselves.”

4. Learned Counsel appearing for the Appellants draws attention of this Court to the said Circular by stating that the number of vacancies has not been notified in the Circular.

5. In view of the fact that the Appellants are not eligible to appear in the limited departmental competitive examination, it does not lie in the mouth of the Appellants to state that since the number of vacancies have not been notified, the entire Circular stands vitiated. The Order of the learned Single Judge that Petitioners cannot dictate the Respondents to wait till they get eligible to participate in the process does not warrant any interference.

6. The second argument raised by the learned Counsel for the Appellants is the Regulation 19 of the Regulations, 2019 which provides for a saving clause and gives power to the Competent Authority to relax the conditions of eligibility. Regulation 19 reads as under:

“19. Saving. - *Nothing in these regulations shall affect reservation, relaxation of age limit and other concessions provided for the Scheduled Castes, the Scheduled Tribes, Other Backward Classes, Person with Disability, ex-Servicemen and other special categories of persons in accordance with the orders issued by the Central Government from time to time in this regard.”*

7. It is for the Department to take a decision whether to grant relaxation or not. A Mandamus cannot be issued directing the Department to pass an Order relaxing the eligibility criteria only for accommodating the



Petitioners.

8. In view of the above, this Court does not find any merit in the appeal.
9. The appeal is dismissed, along with pending application(s), if any.

SUBRAMONIUM PRASAD, J

VIMAL KUMAR YADAV, J

AUGUST 14, 2025

S. Zakir