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

+ **W.P.(C) 12779/2025 & CM APPL. 52186/2025**

NITIN KUMAR

.....Petitioner

Through: Mr. Ramesh Rawat and Mr. Suraj
Pratap Singh, Advocates.

versus

UNION OF INDIA & ANR.

.....Respondents

Through: Ms. Avshreya Pratap Singh Rudy,
SPC, with Ms. Usha Jamnal, Ms.
Harshita Chaturvedi, Mr. Md.
Junaid Mahmood, Advocates.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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11.09.2025

1. By way of this writ petition, under Article 226 of the Constitution, the petitioner has approached this Court against an Office Memorandum ["OM"] dated 18.08.2025 issued by respondent No. 2 – Pt. Deendayal Upadhyay National Institute ["the Institute"], by which his appointment as Multi-Tasking Staff ["MTS"] in the Institute, was cancelled. He also assails a notice dated 22.05.2025, by which the merit list of candidates for appointment to the said post was revised.

2. The petitioner applied for the post of MTS in the Institute in the Scheduled Caste ["SC"] category, pursuant to a Vacancy Circular bearing No. 01/2023 [hereinafter, "the 2023 recruitment"]. Two posts of MTS were advertised – one in the Economically Weaker Section ["EWS"]



category and one in the SC category.

3. The result was declared on 06.11.2023, in which the petitioner was placed at the top of the merit list and declared to be selected. Another candidate, Mr. Ritesh Kumar, was placed at No. 2 in the merit list, i.e. in wait list position No. 1.

4. The petitioner was called for document verification, and after verification, was issued an offer of appointment dated 20.11.2023. An Office Order appointing the petitioner to the post of MTS against the said advertisement was issued on 27.12.2023, and he has been working in the Institute since then.

5. I am informed that no appointment was made against the EWS category vacancy.

6. The controversy arises from a revision of the merit list dated 22.05.2025. Pursuant to the revision, the petitioner was placed at serial No. 2, and Mr. Ritesh Kumar was placed at serial No. 1. The impugned order dated 18.08.2025 was thereafter passed, cancelling the petitioner's appointment. It records that the original merit list was found to be erroneous, and the revised list was issued upon review.

7. The consequence of this position is that the petitioner stands to lose an employment where he has been serving for almost two years, without any fault attributed to him.

8. The petitioner has placed on record a further advertisement bearing No. 02/2024 [hereinafter, "the 2024 recruitment"], by which applications have been invited for nine posts of MTS, including two in EWS category, and one in SC category. The two posts advertised in the EWS category in the 2024 recruitment include one vacancy that remained unfilled in the



2023 recruitment.

9. By order dated 02.09.2025, I had requested Ms. Avshreya Pratap Singh Rudy, learned Senior Panel Counsel for the respondents, to explore a possible resolution of the matter, whereby the petitioner may also be accommodated in the given the facts and circumstances, without disturbing the position of Mr. Ritesh Kumar.

10. After exploring all possible options, Ms. Rudy submits that the petitioner can be absorbed against one vacancy of MTS, which was advertised in the 2023 recruitment under the EWS category.

11. Ms. Rudy further draws my attention to an OM issued by Department of Personnel and Training [“DoPT”] on 31.01.2019, which provides as follows:

“6.3 Where in any recruitment year any vacancy earmarked for EWS cannot be filled up due to non availability of a suitable candidate belonging to EWS, such vacancies for that particular recruitment year shall not be carried forward to the next recruitment year as backlog.”

[Emphasis supplied.]

12. It was further clarified by another OM dated 19.09.2022 issued by DoPT as follows:

“Question-13. How can the unfilled vacancies of EWS be filled in a recruitment year in case of non-availability of suitable candidates belonging to EWS ?

*Answer: As per Para 6.3 of DoPT OM No. 36039/1/2019-Estt.(Res.), dated 31.3.2019, **where in any recruitment year any vacancy earmarked for EWS cannot be filled up due to non availability of a suitable candidate belonging to EWS, such vacancies for that particular recruitment year shall not be carried forward to the next recruitment year as backlog. A further attempt in the same recruitment year to fill the EWS vacancy is desirable. Thereafter, the unfilled vacancies may be filled up, treating them as unreserved provided it does not result in excess representation in general category beyond the number added on account of non-availability of EWS***



candidate. If it results in excess representations, it may be diverted to the category in which shortfall exists.”

[Emphasis supplied.]

13. In view of the above, it is evident that the EWS vacancy in the 2023 recruitment was not liable to be carried forward to 2024 and was, instead, not to be treated as an EWS reserved vacancy. Since the 2023 recruitment comprised only two posts of MTS, one for EWS and one for SC, the consequence is that the EWS post would also become available. Having regard to the peculiar facts and circumstances of the case, I am of the view that the petitioner’s appointment can be accommodated against the second post of MTS advertised in 2023. The impugned order of termination dated 18.08.2025 will be withdrawn by the Institute.

14. Even in the revised merit list issued by the respondents, the petitioner is placed at the second position, and thus, this order will not prejudice any other candidate pursuant thereto. It is further accepted by Mr. Ramesh Rawat, learned counsel for the petitioner, that the petitioner will be placed in the seniority list of MTS below Mr. Ritesh Kumar, who was placed at Serial No. 1 in the revised merit list.

15. Ms. Rudy states that, consequent upon these directions, the respondents will restrict the 2024 recruitment to eight posts of MTS, including one post in the EWS category, instead of the advertised nine posts with two posts in the EWS category. She further submits that the 2024 recruitment is still at the stage where applications have only been invited, and that in the Vacancy Circular, the respondents have specifically reserved the right to alter the number of vacancies.

16. The Court appreciates the efforts of Ms. Rudy, learned counsel for the respondents, in facilitating a viable resolution of the matter.



17. The writ petition, alongwith the pending applications, is disposed of with these observations.

PRATEEK JALAN, J

SEPTEMBER 11, 2025

'Bhupi/sd'/'