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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ LPA 1223/2024 & CM APPL. 74240/2024, CM APPL. 74241/2024, CM APPL. 74242/2024

THE DIRECTOR OF EDUCATION AND ORSAppellants
Through: Mr. Yeeshu Jain, ASC with Ms. Jyoti Tyagi and Mr. Shubham. Advs.

versus

POOJA SHARMARespondent
Through: Mr. K.P. Gupta, Adv.

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR
HON'BLE MR. JUSTICE AJAY DIGPAUL

JUDGMENT (ORAL)

% **27.02.2025**

AJAY DIGPAUL, J.

1. This appeal arises from the judgment of the learned Single Judge dated 08.05.2024 passed in W.P. (C) 4868/2019, wherein the petition filed by the respondent herein against the Directorate of Education, the Deputy Director of Education (Disit. Central), Office of the Deputy Director of Education (Zone-XXVI), the Managing Committee of Lady Irwin Senior Secondary School and Lady Irwin Senior Secondary School, sought seniority and pay fixation above her juniors Ms. Jaya Sen and others from the date of promotion.

2. The relevant facts that emerged from the pleadings are as follows: Ms. Pooja Sharma/Respondent possessed a B.Com (Hons.)



degree from Gargi College, University of Delhi in the year 2001, with Economics and Business Studies as subjects along with M.Com from University of Delhi, and later completed her B.Ed. from Indira Gandhi National Open University in 2005.

3. The respondent was initially appointed as an Assistant Teacher at Lady Irwin Senior Secondary School on 16.09.2008 and joined the said position on 19.09.2008.

4. In the academic year 2014-15, four vacancies for the post of TGT (Social Science) arose in the school. The respondent, along with three other Assistant Teachers, namely Ms. Jaya Sen, Ms. Suparna Majumdar, and Ms. Mousami Baruah, came within the zone of consideration. A Departmental Promotion Committee¹ was conducted on 28.03.2015 to assess the eligibility of candidates for promotion.

5. The DPC, after consideration, recommended the names of Ms. Jaya Sen and Ms. Suparna Majumdar for promotion. However, as regards the respondent, the DPC decided to refer her promotion for approval from the Directorate of Education², citing concerns regarding her eligibility under the prevailing Recruitment Rules³, which required candidates to have studied the concerned subject for three years at the graduation level. The respondent had studied the subjects in only two years of her graduation, and her papers were of

¹ "DPC", hereinafter

² "DoE", hereinafter

³ "RRs", hereinafter



50 marks each, instead of the prescribed 100 marks. The relevant portion of the Minutes of DPC meeting held on 28.03.2015 are reproduced below:

“In so far Sr. No.1 Mrs. Pooja Sharma, the senior most candidate nominated for the post of TGT (Social Science) who has done her B:Com (Hans.) from Gargi College of Delhi University in the year 2001 i.e. (Part-I, II & III consisting 18 papers of 50 marks each aggregated of 900 marks in all three consecutive years). The DPC unanimously decided to refer the promotion i.r.o. Mrs. Pooja Sharma, Assistant Teacher subject to the approval of Directorate of Education, Delhi.”

7. Consequently, Ms. Jaya Sen and Ms. Suparna Majumdar joined as TGTs on 01.04.2015, while the respondent's case remained under consideration. The respondent, upon not receiving any communication regarding her promotion, made multiple representations between 2015 and 2017 to various authorities, including the Directorate of Education, the Lieutenant Governor, and the Principal Secretary of DoE, seeking clarification and promotion.

8. The matter remained unresolved until a Review DPC was convened on 08.12.2017 and the decision was made on 20.12.2017, in which the respondent's promotion was approved w.e.f. 21.12.2017. The Managing Committee of the school ratified the Review DPC's decision on 28.12.2017, and the respondent was formally promoted to the post of TGT (Social Science).

9. The respondent made a representation dated 21.03.2018 before the DoE for discrepancy in grant of seniority and fixation of her pay from 01.04.2015, the date on which her juniors were promoted. In



response, the Deputy Director of Education (Zone-XXVI)/Appellant no.3, *vide* communication dated 27.06.2018, informed the respondent that seniority is determined based on the order of merit at the time of selection for appointment, thereby denying her claim.

10. Aggrieved by the response of Appellant no.3, the respondent filed W.P. (C) 4868/2019, wherein the following reliefs were sought:

“a. Direct the respondents to grant her seniority up and above to her junior Ms. Jaya Sen and fix her pay on 21.12.2017 equal to pay drawn by her aforesaid junior on the said date.

b. Direct the respondents to pay all her arrears whatsoever fell due along with interest @ 12% per annum.

c. Any other or further relief which this Hon’ble Court deems fit, just and proper in the peculiar circumstance of the case in interest of justice may also please be awarded.”

11. The learned Single Judge, *vide* judgment dated 08.05.2024, allowed the writ petition, holding that the respondent was wrongfully denied timely promotion. It was held that the respondent shall be granted promotion w.e.f. 01.04.2015 where seniority and all associated benefits shall be granted from the same date. Furthermore, arrears shall be paid w.e.f. 21.12.2017 within eight weeks and in case of any delay, the amount shall carry an interest of 6% per annum.

12. Aggrieved by the said judgment, the DoE has preferred the present appeal in LPA 1223/2024, wherein the following reliefs are sought:



“a) set-aside the impugned judgment dated 08.05.2024 passed by the Hon'ble High Court in W.P (C) No. 4868/2019 titled 'Pooja Sharma Vs Director of Education &Ors.' and sustain the order passed by DPC held on 20.12.2017 and;

b) pass any other or further order which the Hon'ble Court deem fit and proper to secure the interest of justice.”

13. After hearing the parties and perusing the records, we are of the considerate opinion that there is no merit in the appeal filed by the DoE against the judgment dated 08.05.2024 passed by a learned Single Judge of this Court.

14. The learned Single Judge has rightly observed that the respondent herein was eligible for promotion as per the RRs and corrigendum in force at the relevant time. The respondent's qualifications were in accordance with the RRs and there was no valid reason for the delay in her promotion.

15. The respondent's juniors Ms. Jaya Sen and others were promoted based on the same DPC held on 28.03.2015. The respondent, being senior to them, is entitled to the same benefit from the date of their promotion.

16. The DoE's failure to approve the DPC's recommendation without any documented reason cannot be ground to deny the respondent her rightful promotion and seniority.



17. The view of the learned Single Judge is also fortified by the ratio in **Govt. of NCT of Delhi and Ors. v Sh. Rakesh Beniwal and Ors.**⁴, wherein the Division Bench of this court has observed that:

“22. This Court observed a catena of judgments, relating to a similar situation as the present matter, where the Courts have held that if promotion is denied to an employee because of the mistake of the administration and due to no fault of the applicant/employee, then the authorities are bound to pay the arrears of salary etc. upon giving him the benefit of retrospective promotion after realizing that mistake. This principle would be extended even to those cases where due to sheer negligence, carelessness or on account of malafides, an employer denies the benefit of promotion to the employee at the time when it becomes due and grants it afterwards though retrospectively. (Ref. State of Kerala v. E.K. Bhaskaran Pillai JT 2007 (6) SCC 83; Mohd Ahmed v. Nizam Sugar Factory (2004) 11 SCC 210; Nalini Kant Sinha v. State of Bihar 1993 Supp (4) SCC 748; Shri Kalyan Singh v. Union of India and 2001 (1) AISLJ (DHC) 216; and Indraj Singh v. State of Haryana (2013) 14 SCC 491.”

18. Similarly, in **Ajay Pal v Union of India and Ors.**⁵, the Division Bench of this court reaffirmed the settled position of law and observed:

“22. The case of the petitioner is squarely covered by the decision in Rakesh Beniwal (supra) wherein, the Co-ordinate Bench of this Court, relying on the decisions of the Supreme Court in State of Kerala v. E.K. Bhaskaran Pillai, (2007) 6 SCC 524; The Commissioner, Karnataka Housing Board v. C. Muddaiah, (2007) 7 SCC 689 and Union of India v. K.V. Jankiraman, (1991) 4 SCC 109 : AIR 1991 SC 2010, held that the principal of no work no pay, cannot be applied as an absolute proposition and has no universal application.

19. Therefore, we find no reason to interfere with the judgment passed by the learned Single Judge in W.P. (C) 4868/2019.

⁴ 2014 SCC OnLine Del 3944

⁵ 2022 SCC OnLine Del 3304



20. The appeal is accordingly dismissed with no orders as to costs.

AJAY DIGPAUL, J.

C. HARI SHANKAR, J.

FEBRUARY 27, 2025

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Click here to check corrigendum, if any