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

\+ W.P.(C) 234/2019

ASHOK SAGAR BHAGAT .....Petitioner

Through: Mr. Maharishi Kaler and Ms. Rajni Suchita L., Advocates.

versus

UNION OF INDIA & ORS .....Respondents

Through: Ms. Archana Gaur, CGSC with Ms. Ridhima Gaur and Mr. Deepu Kumar, Advocates for R-1/ UOI.
Ms. Tamali Wad, Sr. Advocate with Ms. Ayushi Singhal, Mr. Varyam Pandey and Ms. Palak Garg, Advocates for R-2/ NSD.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

% **17.02.2026**

1. This petition under Article 226 of the Constitution has been filed by an Associate Professor (Theatre Architecture) of the National School of Drama ("*NSD*"), seeking a direction to extend to him the pay revision granted to Respondent No. 3 (Suresh Sharma), who served as Chief of the Repertory Company (advertised as "*Associate Professor*").

2. The foundation of the claim is two-fold. First, an office order dated 9th March, 2005, revising the pay scale of the Chief of the Repertory Company to Rs. 12,000-375-16,500/- with effect from 24th February, 2005. Second, the order dated 16th August, 2018, passed by this Court in W.P.(C) 9169/2017, titled ***Suresh Sharma v. Union of India & Ors.***, where NSD stated that it had no objection to treating Suresh Sharma as a faculty

member, leading to a direction to that effect.

3. The short question is whether the Petitioner can, as a matter of law, claim pay parity with Respondent No. 3, merely because Respondent No. 3 came to be treated as a faculty member after 16th August, 2018, and because he has enjoyed the 9th March, 2005 pay scale revision.

Background

4. NSD advertised three Associate Professor vacancies in 1999: one each in Acting and Theatre Architecture, and one post described as Chief of the Repertory Company (advertised as "*Associate Professor*"). The Petitioner joined on 20th August, 1999 in Theatre Architecture. Respondent No. 3 joined on 26th August, 1999 as Chief of the Repertory Company.

5. The Petitioner's case proceeds on the assertion that, at inception, recruitment rules and pay were the same. He also asserts that the Theatre Architecture post is a faculty post involving teaching, whereas the Chief of the Repertory Company is an administrative post which did not form part of the faculty.

6. He states that a seniority list published in the NSD Annual Report (1999-2000) reflects the Petitioner as part of the academic faculty. The Petitioner emphasizes that Respondent No. 3 was not included at that stage because he was on contract.

7. The Petitioner asserts that Respondent No. 3 was regularised as Associate Professor (Chief of the Repertory Company) by letter dated 16th October, 2001, with effect from 26th August, 1999.

8. On 9th March, 2005, the Ministry of Culture revised the pay scale of the Chief of the Repertory Company to Rs. 12,000-375-16,500 with effect from 24th February, 2005, bringing it at par with Professor in NSD. The

Petitioner pleads that Respondent No. 3 receive the same benefit.

9. Years later, Respondent No. 3 approached the Court in W.P.(C) 9169/2017, challenging NSD's refusal to treat him as a faculty member. The petition was disposed of on 16th August, 2018 on NSD's statement that it had no objection to treating him as faculty member, and directions were issued accordingly. The order reads as follows:

> *"**1.** The prayers in this writ petition read thus:*
> *"A. Issue writ certiorari thereby quashing and setting aside the letter/order dated 22.01.2016 issued by the Registrar, NSD.*
> *B. Issue a writ of mandamus or any other writ directing the respondent no. 2 & 3 to place the petitioner in the category of Faculty member in terms of appointment letter dated 20.08.1999."*
> ***2.** Ms. Tamali Wad, learned counsel for Respondent No.2, submits that her client has no objection in treating the petitioner as a faculty member. She, however, further submits that, even if the petitioner were to be treated as a faculty member, it may not result in any substantial benefit to him, inter alia, as regards his age of superannuation. Mr. Nirmal Mishra, per contra, would seek to state that treating his client as a faculty member would necessarily result in his client getting all the benefits which would be available to a faculty member.*
> ***3.** However, I am not required to enter into that arena, given the limited nature of the relief prayed for, in this writ petition. The petitioner seeks that the letter dated 22nd January, 2016, which rejects his claim to be treated as a faculty member, be set aside and that the respondents be directed to place him in the category of faculty member. In view of the statement made by Ms. Wad, the matter would rest there, so far as this writ petition is concerned.*
> ***4.** In view of the statement made by Ms. Wad, the prayers as contained in the writ petition are allowed in terms thereof. To the extent that the petitioner has not been treated as a faculty member by the respondent, the letter dated 22nd January, 2016, is set aside. The respondent is directed to treat the petitioner a faculty member.*
> ***5.** The writ petition is allowed to the above extent, without any order as to costs."*

10. The Petitioner now contends that, after this order, both stand on the same footing and parity must follow.

Rival submissions

11. The Petitioner alleges discrimination under Articles 14, 16 and 21,

urging that Respondent No. 3 has enjoyed a higher scale since 2005 and, after 16th August, 2018, cannot be treated differently. NSD objects at the threshold on delay and laches, pointing out that the pay revision order is dated 9th March, 2005, whereas the writ petition was filed in 2019, after an unexplained gap of about 14 years.

12. NSD also asserts that the 16th August, 2018 order granted only a limited relief to Respondent No. 3, without adjudicating or conferring financial benefits, and therefore does not create any enforceable parity for the Petitioner.

13. Respondent No. 3 echoes the objection of delay, contending that the petition seeks implementation of the 9th March, 2005 order after nearly 14 years, without explanation.

Analysis and findings

14. The petition rests on a single plank: since this Court, by order dated 16th August, 2018, directed that Respondent No. 3 (Suresh Sharma) be treated as a "*faculty member*", the Petitioner, an Associate Professor, has a right to the pay scale and placement which Respondent No. 3 enjoys. The pleading itself shows that what is really sought is not a correction of the Petitioner's own pay fixation by reference to his service rules, but a claim to match the scale associated with the post of Chief of the Repertory Company, revised by the Ministry of Culture in March 2005.

15. That starting point is legally fragile. The Petitioner's own case proceeds on the premise that the Chief of the Repertory Company was treated as an administrative post, while the Petitioner held a faculty post. The pay scale revision of 2005 was an executive decision tied to that identified post. The record also shows why the 2005 revision was not a

routine increment for all Associate Professors. Even the Petitioner pleads that NSD sought upgradation because it was not getting a competent person for the Chief of the Repertory Company post. The contemporaneous correspondence dated 21st September, 2000 likewise treats the post as a positional post and describes the role as both administrative and artistic head, with the Repertory Company's functioning depending upon it. That rationale is post-specific. It cannot be extended to a different faculty stream without a prior exercise in equation of posts.

16. Unless the Petitioner establishes, by rule or by a valid pay revision decision applicable to his cadre, that the Associate Professor post carries the same scale, the Court cannot create that equivalence merely because one officer, in a different post, is said to have received a particular scale.

17. The order dated 16th August, 2018 in the writ petition filed by Respondent No. 3 did not decide any pay-scale dispute. It did not hold that the post of Chief of the Repertory Company stood merged into the Associate Professor cadre, nor did it direct grant of the Associate Professor scale to Respondent No. 3. The relief was expressly limited to setting aside the rejection letter dated 22nd January, 2016 and directing that Respondent No. 3 be treated as a "*faculty member*", leaving all other consequences untouched.

18. The Petitioner's attempt to treat that limited order as a pay-fixation precedent stretches it beyond what it decided.

19. There is yet another, and more fundamental, impediment to the Petitioner's claim when tested on the anvil of Articles 14 and 16 of the Constitution. The record placed by the Respondents indicates that Respondent No. 3 continued to hold the post of Chief of the Repertory Company, and that the order dated 16th August, 2018 did not confer upon

him the service benefits, cadre placement, or pay scale attached to the Associate Professor post. Thus, merely because Respondent No. 3 has at some stage enjoyed a particular pay scale, it does not entitle the Petitioner pay parity by imitation. Equality would apply among persons who are similarly situated in law, in cadre, and in service conditions. The Court cannot disregard cadre structures, recruitment rules, or post-based pay revisions, nor mandate replication of a benefit merely because it is alleged to have been extended to another employee. If an irregular or erroneous benefit has been conferred, the remedy is to examine its legality, not to perpetuate it by extending it to others.

20. On the material before the Court, the post of Chief of the Repertory Company is a distinct, position-specific post with a separate service history and functional role, and is not interchangeable with teaching faculty posts such as Associate Professor. In the absence of a statutory equation of posts or a cadre-wide pay revision applicable to the Petitioner, no enforceable right to parity arises under Articles 14 or 16.

21. In such circumstances, parity claim is not a legal entitlement. It is an appeal to sympathy, and service jurisprudence does not run on that principle.

22. The Petitioner's pleaded "*cause of action*" is pegged to the 2018 order. However, the pay revision he seeks to mirror dates back to 24th February, 2005. The Respondents is, therefore, correct in pointing out that the petition effectively attempts to reopen a position that stood in place for about fourteen years.

23. Even treating delay as a supporting reason, it reinforces the conclusion already reached on merits: a stale parity claim, built on an order that does not decide the issue of pay scale on merits, does not warrant

exercise of writ jurisdiction.

24. For these reasons, the petition fails on the primary ground that no enforceable right to the demanded scale or parity is made out in law, and also stands weakened by gross delay and laches.

25. The writ petition is dismissed. Pending application also stands disposed of.

SANJEEV NARULA, J

FEBRUARY 17, 2026/*hc*