



\$~49

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

+

Date of Decision: 27.03.2026

% **LPA 162/2026 & CM APPL. 19169/2026**

PROF QUDDUS KHAN

.....Appellant

Through: Mr. K.K. Tyagi, Adv. with
Mr.Iftekhar Ahmad & Ms. Garima
Tyagi, Advs.

versus

JAMIA MILLIA ISLAMIA UNIVERSITY & ANR.....Respondents

Through: Mr. Pritish Sabharwal, Adv. with
Ms.Shweta Singh & Mr. Sanjeet
Kumar, Advs. for JMI.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE TEJAS KARIA

DEVENDRA KUMAR UPADHYAYA, C.J. (ORAL)

CM APPL. 19170/2026 (for exemption)

1. Allowed, subject to all just exceptions.
2. The application stands disposed of.

LPA 162/2026 & CM APPL. 19169/2026 (for stay)

3. This *intra-court* appeal challenges the order dated 04.02.2026 passed by learned Single Judge, whereby *W.P.(C) 1278/2026* instituted by the appellant, has been dismissed.



4. The underlying writ petition was filed by the appellant with the prayer to quash the order dated 14.08.2024 as also the Office Order dated 12.09.2025 with a further prayer to issue an appropriate direction to the respondent – University to appoint the appellant as the Head, Department of Allied Sciences & Humanities, Faculty of Engineering and Technology of the University.

5. At this juncture, we may note that by the Office Order dated 14.08.2024, the Vice-Chancellor of the respondent – University has appointed Prof. Mohd. Mudassir Husain as the Head of the Department concerned w.e.f. 15.08.2024, whereas by the Office Order dated 12.09.2025, the said Prof. Mohd. Mudassir Husain was permitted to avail casual leave on 01.09.2025 with permission to station leave due to his personal work. By the said Office Order, *ex-post facto* approval on discharging routine duties of Head of the Department performed by Prof. Mukesh Pratap Singh, for the said date, i.e. 12.09.2025, was also granted.

6. It has been argued by learned counsel for the appellant that the impugned order dismissing the writ petition passed by learned Single Judge is contrary to the provisions of Ordinance 4 (IV) of the Ordinance of the respondent – University, which regulates the appointments and powers and functions of Head of the Departments. Ordinance 4 (IV) of the Ordinance of the respondent – University is extracted hereunder:

“Ordinance 4 (IV)

HEADS OF DEPARTMENTS OF STUDIES -POWERS & FUNCTIONS

1. Appointment of the Head of the Department of Studies: (E.C. Res. No. 10, Dated 12.09.2006)



1. Each department of studies shall have a Head who shall be a Professor, provided that if there is more than one Professor, the Head of the Department shall be appointed by the Vice-Chancellor by observing the principle of rotation from amongst the Professors according to seniority for a period of three years.

2. Notwithstanding anything contained in Clause 1, if for any reason it has not been possible to appoint a person as Head of the Department who is senior to the person(s) who has already served or is serving as Head of the Department, it shall be open to the Vice-Chancellor to appoint that person as Head of the Department whenever a vacancy next occurs if he can otherwise be so appointed.

3. However, if there is no Professor in a 'Department', a Reader may be appointed as Head of the Department, and if there are more than one Reader, the Head of the Department will be appointed by rotation according to seniority from amongst the Readers for a period of three years.

Provided that in the absence of Professor(s) or Reader(s) in a Department, the concerned Dean of the Faculty shall discharge the duties of the Head of the Department.

4. The Head of the Department shall hold the office for a period of three years or till attaining the age of 65 years, whichever is earlier.

5. Where the Head of the Department is unable to perform his/her duties owing to illness, absence or any other reason/cause, the next Professor/Reader (as the case may be) in the rotational cycle shall officiate as Head of the Department.

Provided that officiating discharge of duties as Head of the Department shall not prejudice his/her tenure of Headship in a rotational cycle in any manner whatsoever."

7. It has been further argued on behalf of the appellant that since the appointment of Prof. Mohd. Mudassir Husain as Head of the Department was made on 14.08.2024 in derogation of the afore-quoted provisions of Ordinance 4 (IV), the writ petition ought to have been allowed by the learned Single Judge and while not doing so, the learned Single Judge has erred in passing the impugned judgment and order.



8. It has been contended that Clause 2 of Ordinance 4 (IV) of the Ordinance of the respondent – University could be put into service for appointment of Head of the Department only by the regular Vice-Chancellor and not by an officiating Vice-Chancellor and since the Office Order dated 14.08.2024 was passed not by a regular Vice-Chancellor but by the officiating Vice-Chancellor, as such, the said order was illegal, however, the learned Single Judge has recorded a finding in the impugned judgment that is contrary to the said Ordinance, which vitiates the impugned judgment.

9. On the other hand, learned counsel representing the respondent – University has, while defending the impugned judgment passed by learned Single Judge, submitted that the instant *intra-court* appeal does not warrant any interference in the impugned judgment dated 04.02.2026 passed by learned Single Judge as the same is strictly in conformity with the Ordinance 4 (IV) of the Ordinance of the respondent – University. He has, thus, prayed that the special appeal be dismissed at its very threshold.

10. We have heard the learned counsel for the parties and have also perused the records available before us on this *intra-court* appeal.

11. The appointment of the Head of the Departments in the respondent – University is governed by the provisions contained in Ordinance 4 (IV) as afore-quoted. The said Ordinance provides that each department shall have a Head who shall be a Professor, provided that if there is more than one Professor, Head of the Department shall be appointed by the Vice-Chancellor by rotation from amongst the Professors according to seniority for a period of three years.



12. Clause 2 of the Ordinance 4 (IV) of the Ordinance of the respondent – University provides that if for any reason it has not been possible to appoint a person as Head of the Department who is senior to the person who has already served or is serving as Head of the Department, it shall be open to the Vice-Chancellor to appoint that person as Head of the Department whenever a vacancy next occurs if he can otherwise be so appointed.

13. Thus, as per the scheme in Ordinance 4 (IV) of the Ordinance of the respondent – University, in such a situation where it was not possible to appoint a person as Head of the Department who is otherwise senior to the person who has already served or is serving as a Head of the Department, the Vice-Chancellor has been vested with the authority to appoint that person as Head of the Department whenever a vacancy next occurs, provided that such a person is otherwise eligible to be so appointed.

14. If we examine the facts of the instant case, we do not find any illegality in the order dated 14.08.2024, whereby Prof. Mohd. Mudassir Husain has been appointed as Head of the Department concerned.

15. In this regard there are certain undisputed facts which may be noticed. On 14.08.2021, Prof. Ataur Rahman Khan completed his term as Head of the Department and at that time as per the seniority, Prof. Mohd. Mudassir Husain was due to be appointed as Head of the Department, however, he could not be appointed for the reason that he was on sanctioned Extraordinary Leave. Thus, in place of Prof. Mohd. Mudassir Husain, the next senior Professor in the department, Prof. Zishan Husain Khan was appointed as Head of the Department w.e.f. 15.08.2021. Prof. Zishan Husain Khan's term as Head of the Department came to an end on



2026:DHC:2704-DB



14.08.2024 and thereafter, though in terms of *inter-se* seniority amongst the Professors in the department, the appellant was next senior most, however, Prof. Mohd. Mudassir Husain was appointed as Head of the Department vide Office Order dated 14.08.2024. The said appointment of Prof. Mohd. Mudassir Husain has been made by the Vice-Chancellor in exercise of his powers available to him under Clause 2 of Ordinance 4 (IV) of the Ordinance of the respondent – University.

16. It is noteworthy that Clause 2 of Ordinance 4 (IV) of the respondent – University is applicable in a situation where a Professor by virtue of seniority is due to be appointed as Head of the Department but for certain reasons he is not appointed and some other person in his place is appointed. On completion of term of the other Professor as Head of the Department, it is the discretion and prerogative of the Vice-Chancellor to appoint the person who was earlier not appointed as Head of the Department despite being senior. It is in these facts that on occurrence of vacancy in the office of the Head of the Department on completion of the term of Prof. Zishan Husain Khan on 14.08.2024, Prof. Mohd. Mudassir Husain has been appointed as Head of the Department. Though, after Prof. Zishan Husain Khan, it is the appellant who was the next senior most Professor amongst the Professors. The appointment of Prof. Mohd. Mudassir Husain as Head of the Department has been made for the reason that on earlier occasion, i.e. on 14.08.2021 when the vacancy in the office of Head of the Department had occurred, Prof. Mohd. Mudassir Husain could not be appointed for the reason that he was on sanctioned Extraordinary Leave.



17. Clause 2 of Ordinance 4 (IV) of the Ordinance of the respondent – University permits such an appointment to be made by the Vice-Chancellor.

18. The main plank of argument made by learned counsel for the appellant is that in view of the communication dated 09.10.2014 issued by Department of Higher Education, Ministry of Human Resource Development, Government of India, the appointment of Head of the Department can be made by a regular Vice-Chancellor and not by an officiating Vice-Chancellor. The communication dated 09.10.2014 issued by Department of Higher Education, Ministry of Human Resource Development, Government of India, provides that acting Vice-Chancellor can perform the routine nature of works of the University which includes appointments on temporary basis and convening the meetings of the Committees like Finance Committee, Executive Council and Academic Council. It further provides that decisions like amending the Statutes, bringing new Ordinances or amending the Ordinances, appointment of permanent teaching and non-teaching staff, creation of new posts etc., should not be taken by the acting Vice-Chancellors.

19. In our opinion, as has been held by learned Single Judge, appointment of Head of the Department by acting or officiating Vice-Chancellor is not barred by the said communication dated 09.10.2014. What it bars is that officiating Vice-Chancellor cannot take decisions for amending the Statutes, bringing new Ordinances, amending the Ordinances or making appointment on permanent basis of teaching or non-teaching staff. It also bars the officiating Vice-Chancellor from taking any decision for creation of new posts, etc.



20. The appointment of Head of the Department on occurrence of vacancy in the office is a routine work, which the officiating Vice-Chancellor can perform.

21. We may also point out that the appointment of Head of the Department of a department is not an appointment against any permanent teaching post. The office of Head of the Department is rather administrative in nature and is not made against a post. The office of Head of the Department is charged with the senior most Professor in the department and therefore, it cannot be said that such appointment of Head of the Department is not a routine work.

22. We, thus, agree with the finding recorded by learned Single Judge in this regard and hold that contention of the learned counsel for the appellant that the appointment of the Head of the Department could not be made by officiating Vice-Chancellor, is untenable.

23. The challenge by the appellant while filing the underlying writ petition was also made to the Office Order dated 12.09.2025, whereby Prof. Mohd. Mudassir Husain was allowed to avail casual leave on 01.09.2025 with permission of station leave due to his personal work. The said Office Order, as already noted above, also granted *ex-post facto* approval on discharging the routine duty of Head of the Department by Prof. Mukesh Pratap Singh, the next senior Professor in the department on the said date, i.e. on 01.09.2025.

24. We do not find any illegality in the said Office Order dated 12.09.2025 as well for the reason that during pendency of the earlier writ



petition filed by the appellant namely, *W.P.(C) 11876/2024*, the *inter-se* seniority of the teachers in the Department of Applied Sciences & Humanities was recast and Prof. Mukesh Pratap Singh was held to be senior to the appellant and accordingly, on Prof. Mohd. Mudassir Husain going on casual leave on 01.09.2025, the charge to perform routine duties of Head of the Department on the said date, i.e. on 01.09.2025, was rightly given to the next senior most Professor namely, Prof. Mukesh Pratap Singh.

25. Learned Single Judge has elaborately dealt with the issues and has rightly dismissed the writ petition filed by the appellant.

26. For the reasons aforesaid, we do not find any good ground to interfere with the judgment passed by learned Single Judge, which is under challenge herein.

27. Resultantly, the appeal fails, which is hereby dismissed.

28. However, there will be no orders as to costs.

DEVENDRA KUMAR UPADHYAYA, CJ

TEJAS KARIA, J

MARCH 27, 2026

“shailndra”