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IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment reserved on: 27.01.2026

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Judgment delivered on: 04.02.2026

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LPA 603/2023 & CM APPL. 43535/2023

NETAJI SUBHASH UNIVERSITY OF TECHNOLOGY AND ANR
.....Appellants

Through: Ms. Avnish Ahlawat, Standing
Counsel with Mr. Nitesh Kumar
Singh, Adv.

versus

M P CHAUDHARY

.....Respondent

Through: Mr. Tushar Singh and Ms. Akshra
Arshi, Advs.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE TEJAS KARIA

J U D G M E N T

DEVENDRA KUMAR UPADHYAYA, C.J.

1. This *intra-Court* appeal filed under Clause X of the Letters Patent questions the validity of the judgment and order dated 05.07.2023 passed by the learned Single Judge in *W.P.(C) 2230/2021* filed by the respondent whereby, the petition has been allowed and notice of termination dated 31.12.2020 has been quashed and the appellant-University has been directed to issue a fresh Show Cause Notice (*hereinafter referred to as the 'SCN'*) to the respondent, granting him an opportunity to file his response.



2. It has also been directed by the learned Single Judge by passing the impugned judgment and order that the SCN shall be accompanied by all relevant documents, including the complaints and report of the committee which are stated to be against the respondent and were the cause for termination of his services. The impugned judgment also directs that after considering the response to be filed by the respondent, a fresh decision shall be taken by the appellant-University in accordance with law by passing a reasoned and speaking order.

3. The facts which are necessary for appropriate adjudication of the issue involved in this appeal are noticed as under:

3.1 The appellant-University has been incorporated under Section 3 of the Delhi Netaji Subhas University of Technology Act, 2017 (*hereinafter referred to as the 'Act, 2017'*) which is a body corporate having perpetual succession and a common seal.

3.2 Section 20 of the Act, 2017 provides for certain Authorities of the appellant-University that includes the Board of Management (*hereinafter referred to as the 'Board'*) which is a Statutory Board in terms of Section 23 of the Act, 2017 and is the principle executive authority of the appellant-University, having all powers necessary to administer the appellant-University subject only to the provisions of the Act, 2017, Statutes and the Ordinances and Regulations to be made under the Act, 2017.

3.3 Section 31 of the Act, 2017 provides that Statutes to be made there under may provide for all or any of the matters enumerated therein, which include composition of Selection Committee for direct recruitment in respect



of Group-A (teaching and non-teaching) and other services for all Group-A, B and C (teaching and non-teaching) employees of the appellant-University. The Statutes can also provide for the manner of appointment of the officers of the appellant-University, terms and conditions of their service and their powers, duties and emoluments. As per Section 31 of the Act, 2017, the manner of appointment of the teachers of the appellant-University, other than academic staff and other employees and their emoluments, can also be provided for by making the relevant Statutes.

3.4 Section 31(h) of the Act, 2017 permits the Statutes to be made providing for the manner of appointment of teachers and other academic staff working in any other university or industry for a specified period for undertaking a joint project, and their terms and conditions of service and emoluments.

3.5 The First Statutes of the appellant-University have been framed under Section 32 read with Section 31 of the Act, 2017. Statute 15 provides for Selection Committee to be constituted for making recommendation to the Board for appointment for the posts of Professors, Associate Professors, Assistant Professors, other teachers and other academic staff. As per Statute 15(2) of the First Statutes, the Selection Committee for appointment against the aforesaid posts shall comprise of the Vice-Chancellor who shall be its Chairperson and an academicians to be nominated by the Chancellor, one Pro-Vice-Chancellor/Dean to be nominated by the Board, Head of the Department (*hereinafter referred to as the 'HoD'*)/School who will be members of the Selection Committee.



3.6 Apart from the aforesaid members, three experts are to be nominated by the Vice-Chancellor who are not connected with the appellant-University, from a panel of not less than 7 names to be approved by the Board for each Department/School/Center. Section 15(2) of the Act, 2017 further provides that an academicians of the rank of Professor representing SC/ST/OBC/minority/women/differently abled categories shall also be nominated by the Vice-Chancellor, if any of the candidates representing these categories is an applicant and if the other members of the Selection Committee do not belong to that category.

3.7 Constitution of the Selection Committee is also given under Section 15 of the Act, 2017 for appointment to the post of Head of College maintained by the appellant-University. The Selection Committee for appointment to the posts of various categories of staff other than the academic staff is also given therein.

3.8 Statute 16 of the First Statutes provides that the Board may invite a person of high academic distinction and professional attainment to accept the post of Professor/Associate Professor or any other equivalent academic post in the appellant-University on such terms and conditions as it may deem fit and appoint the person to such post initially for two years and extendable for one more year.

3.9 We may also take note of Section 2(k) of the Act, 2017 which defines an 'employee' to mean any person appointed by the University. Section 2(w) of the Act, 2017 defines 'staff' to mean all teaching and non-teaching staff of the appellant-University.



3.10 Having noticed the scheme of the Act, 2017 and that of the First Statutes of the appellant-University as above, the facts leading the respondent to institute the proceedings of the writ petition before the learned Single Judge also needs to be noted.

4. On the recommendation of the Board of Governors of the Netaji Subhash Institute of Technology, the predecessor of the appellant-University, as resolved in its meeting held on 20.05.2016, a notification was issued on 20.07.2016, containing the guidelines for appointment of Adjunct, Honorary, Visiting Faculty and Emeritus Professors. As per the said guidelines, the Visiting Faculty could be appointed from amongst the academic personnel from Universities, Institutes, R & D Labs, Industry or Government of India or Aboard, including those on sabbatical leave or retired for brief period (maximum two years) with or without remuneration. It also provides that such faculty are expected to work full time taking academic responsibilities at part with the regular faculty members and shall be appointed by the Director (of the erstwhile Netaji Subhash Institute of Technology) on recommendation of the HoD. The Guidelines further provided that the Visiting Faculty shall be engaged against the vacant position and they shall be paid Honorarium, however, will not be entitled to any retirement benefits.

5. A Selection Committee comprising of the Vice-Chancellor, Dean (Faculty of Law), Dean (Academics), Senior Most Professor and HoD (Mathematics) met on 30.07.2019 and considered the candidature of the respondent for appointment as Visiting Faculty in terms of the Guidelines



recommended that the respondent be appointed as Visiting Faculty in the Department of Mathematics.

6. Pursuant to the said recommendation of the Selection Committee, an Offer of Appointment was issued to the respondent to the post in question on 02.08.2019. The appointment was to be made initially for a period of one year with certain terms and conditions such as that the respondent was expected to work full time and taking academic responsibilities at par with the regular faculty members that he shall be provided with mutually agreed Honorarium and facilities at the discretion of the Vice-Chancellor. Offer of Appointment also stated that the shall be only engaged against the vacant post up to the age of 70 years and that he shall be paid Honorarium, which shall, however, be not more than the salary of the regular professor minus pension and further that he shall not be entitled to any retirement benefits.

7. The Offer of Appointment dated 02.08.2019 also stipulated that the respondent shall be inducted for a period initially of one year / or on need basis, however, in the event of appointment of regular faculty, services of the respondent may be dispensed with. The respondent was not agreeable with the condition (e) as given in the Offer of Appointment dated 02.08.2019 and accordingly, he objected to the same and therefore, the said Clause (e) was removed and a fresh Offer of Appointment was issued to the respondent on 16.08.2019 pursuant to which he joined the appellant-University and his pay was fixed by means of Office Order dated 30.08.2019.



8. The appointment of the respondent was extended *vide* order dated 05.08.2020 with effect from 06.08.2020, however, certain complaints were received from the students containing the allegation that the respondent had not been taking classes properly and that the answer sheets of the students in the examinations were not correctly marked by him. Accordingly, a committee was formed by the appellant-University which randomly checked the answer sheets and in the sample re-evaluation of the answer sheets, the said committee found considerable difference in awarding the marks by the respondent and therefore, recommended that each answer sheet of the students be re-evaluated. The said committee re-evaluated answer sheets of 223 students out of which marks of 194 students were upgraded in the re-evaluation. Based on the same, the Controller of Examination submitted a report to the appropriate authority of the appellant-University which recommended that the respondent be debarred from participating any examination related duties.

9. On 16.12.2020, HoD (Mathematics) sent a letter to the Dean, stating therein that it has been decided that services of the respondent were not required and therefore, his services may be terminated. A termination notice dated 31.12.2020 was served upon the respondent, simply stating that on the recommendation of the Dean and the HoD, the services of the respondent were terminated with immediate effect. The respondent submitted a representation against the notice of termination of his services, however, since no response was received, he instituted the proceedings of *W.P.(C) 2230/2021* challenging the notice of termination dated 31.12.2020.



10. During the pendency of the said petition, an opportunity of personal hearing by a committee of officials, which included the Registrar, Deputy Registrar and HoD (Mathematics) of the appellant-University, was provided to the respondent. Thereafter, a detailed speaking order was passed on 05.03.2021 by the appellant-University justifying the notice of termination of services of the respondent.

11. The learned Single Judge took note of the speaking order dated 05.03.2021 which was passed on the basis of a post decisional hearing provided to the respondent, however, the learned Single Judge came to the conclusion that the respondent was an employee within Section 2(k) of the Act, 2017 and since he was appointed through a selection process on the basis of the recommendation of the Selection Committee and had worked full time discharging academic responsibilities at par with the regular faculty, therefore, Statute 24(4) of the First Statutes of the appellant-University shall be attracted and since the provisions therein, have not been followed, the termination of the services of the respondent cannot be justified.

12. Learned Single Judge also held that it is not only that the notice terminating the services of the respondent is found foul of Statute 24(4) of the First Statutes but the same is also bad for want of observance of principles of natural justice. Accordingly, while passing the impugned judgment and order, learned Single Judge has quashed the notice terminating the services of the respondent dated 31.12.2020 and has directed the appellant-University to give a SCN following the Statute 24(4) of the First Statutes and take a fresh decision with a further stipulation that the SCN to



be issued to the respondent shall contain the complaints and reports of the committee etc. on the basis of which his services were terminated.

13. It has been argued on behalf of the appellant-University that since the appointment of the respondent was made on contractual basis as such, his appointment will be governed by the terms of the Offer of Appointment and Statute 24(4) of the First Statutes will have no application and therefore, learned Single Judge has erred in law in placing reliance on the said provision which vitiates the impugned judgment and order. It has also been argued by the learned counsel representing the appellant-University that the manner in which the appointment of the respondent was made, clearly shows that he cannot be treated to be an employee of the appellant-University within the meaning of Section 2(k) of the Act, 2017 and therefore, the question of application of the provisions of the First Statutes including Statute 24(4) does not arise and in this view of the matter, the view taken by the learned Single Judge, in support of the judgment and order impugned herein, is erroneous.

14. *Per contra* learned counsel representing the respondent has, while defending the impugned judgment and order passed by the learned Single Judge, submitted that since the appointment was made by the competent authority on the recommendation of a duly constituted Selection Committee and as such, he has to be treated to be an employee under Section 2(k) of the Act, 2017 and therefore, his services could not have been terminated without following the mandate of Statute 24(4) of the First Statutes of the University.



15. Supporting the impugned judgment and order passed by the learned Single Judge, it has further been argued by the learned counsel for the respondent that in absence of any provision for termination of service of the respondent in the Offer of Appointment, resort needs to be taken to the provisions contained in Statute 24(4) of the First Statutes and further that the impugned action which resulted in termination of the services of the respondent being in flagrant violations of the principles of natural justice, and fair play, cannot be justified.

16. We have given our anxious consideration to the submissions made by learned counsel for the respective parties and have also perused the records available before us on this appeal.

17. The sole question which needs our determination in this case is as to whether, for terminating the services of the respondent, the appellant-University was under obligation to follow the provisions contained in Statute 24(4) of the First Statutes of the appellant-University and further, as to whether, the termination of the services of the respondent has precipitated without following the principles of natural justice and, thus, the same is vitiated.

18. We have already noticed the scheme of appointment of teaching and non-teaching staff in the appellant-University as given in the Act and the First Statutes. The procedure to be followed for making a regular appointment can be found in Statute 15 of the First Statutes which provides for constitution of various selection committees for appointment of various teaching and non-teaching staff of the appellant-University, however, what



is noticeable is that apart from Statute 15 of the First Statutes, the provisions contained in Statute 16 of the First Statutes also provide for a special mode of appointment, according to which the Board is empowered to invite a person of high academic distinction and profession attainments to accept the post of Procession/Associate Professor or any other equivalent post of the appellant-University on such terms and conditions as it may deem fit, and appoint the person to such post initially for a period of two years extendable for one more year.

19. Thus, as per the scheme of the First Statutes itself, in addition to the regular mode of appointment which emanates from Statute 15 of the First Statutes of the appellant-University, a parallel mode of appointment which has been termed to be a special mode of appointment, could also be found in Statute 16 of the First Statutes.

20. When we minutely scrutinize the procedure followed for appointing the respondent as Visiting Faculty in the Department of Mathematics of the appellant-University, what we find is that the Selection Committee constituted for the purposes of recommending his appointment is not the same as provided for in the Statute 15 of the First Statutes. It is also to be noticed that from the records available before us it is not clear as to whether, any advertisement etc was issued with wide publication while initiating the process of selection against the post in question. Thus, we are of the considered opinion that appointment of the respondent cannot be terms to be a regular appointment in terms of Statute 15 of the First Statutes, however, having said that we may note that his appointment is referable to Statute 16 of the First Statutes which empowers the Board to invite a person of high



academic distinction and professional attainment to accept the post of Professor/Assistant Professor or any other equivalent post in the appellant-University and appoint him on such terms and conditions as may be deemed fit.

21. If we peruse the Guidelines, we find that the Guidelines are in tune with Statute 16 of the First Statutes and accordingly, we are of the considered opinion that the appointment of the respondent is referable to Statute 16 and therefore, it cannot be said that while causing severance of relationship between the appellant-University and the respondent, Statute 24(4) of the First Statutes of the appellant-University will have no application and it will be governed by the terms of the Offer of Appointment.

22. Since we have already recorded a finding that appointment of the respondent is referable to Statute 16 of the First Statutes, we are also of the opinion that he shall be termed to be an employee within the meaning of Section 2(k) of the Act, 2017. Statute 24(4) of the First Statutes provides that if an employee is to be removed on an allegation of misconduct, he cannot be removed unless he has been given a reasonable opportunity of showing cause against the action proposed to be taken for his/her removal. Statute 24(4) of the First Statutes, in our opinion is a provision which embodies in itself the principles of natural justice. Admittedly, before issuing the notice of terminating the services of the respondent, no opportunity as envisaged in Statute 24(4) of the First Statutes was afforded to him and therefore, the notice of termination is clearly in violation of the Statute 24(4) and hence is not sustainable.



23. Even otherwise, if we assume that Statute 24(4) of the First Statutes will have no application in the instant case, the principles of fair play and natural justice require an opportunity to be given to the respondent for the reason that his removal was a result of certain complaints and alleged misconduct and not affording an opportunity of hearing, in such a situation, would necessarily amount to non-observance of the principles of natural justice.

24. It is needless to say that any action having the potential of resulting into civil consequences can be taken by an authority only after following the principles of natural justice by giving an opportunity of hearing and putting forth his defense, especially if such an action results in removal from employment, that too on the basis of certain allegations of misconduct.

25. Learned Single Judge has in our opinion, come to the correct conclusion that notice of termination of services of the respondent dated 31.12.2020 was vitiated. We also agree with the finding recorded by the learned Single Judge that the post decisional hearing provided to the respondent, which resulted in passing of a fresh order dated 05.03.2021 does not meet the requirement of the principles of natural justice, for the reason that it is nowhere on record that while providing the opportunity of post decisional hearing, the respondent was ever confronted with the material against him, namely, the complaints and the report of the committee on the basis of which the impugned action of terminating his services had precipitated.



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26. For the aforesaid reasons expressing our complete agreement with the judgment and order passed by the learned Single Judge, we do not find any good ground to interfere with the same in this *intra-court* appeal which is hereby dismissed.

27. The pending application stands disposed of.

28. There will be no order as to costs.

**(DEVENDRA KUMAR UPADHYAYA)
CHIEF JUSTICE**

**(TEJAS KARIA)
JUDGE**

FEBRUARY 04, 2026/MJ