



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

Date of decision: 28th JANUARY, 2026

IN THE MATTER OF:

+ **LPA 476/2025 & CM APPL. 45645/2025, CM APPL. 45646/2025**

JAMIA MILLIA ISLAMIA

.....Appellant

Through: Mr. Pritish Sabharwal, Mr. Sanjeet Kumar, Mr. Shiv Chopra and Ms. Shweta Singh, Advocates.

versus

ROSHAN ARA & ORS.

.....Respondents

Through: Mr. Shamshad, Senior Advocate with Mr. Siddharth Agarwal, Mr. Syed Hamza Ghayour and Ms. Zev Hasan, Advocates for R-1 to R-4.

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CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

HON'BLE MR. JUSTICE VIMAL KUMAR YADAV

JUDGMENT



(SUBRAMONIUM PRASAD J.)

1. The instant Appeals have been filed challenging the common judgment and order dated 23.12.2024 passed by the learned Single Judge in W.P. (C) 2470/2019 and W.P. (C) 9489/2019. [**“Impugned Judgment”**].
2. *Vide* the Impugned Judgment, the learned Single Judge partially allowed the writ petitions preferred on behalf of the Respondents No. 1 to 4, while directing the Appellant *inter alia* to consider the Respondents No. 1 to 4 for promotion to the post of Assistant Librarians in consonance with the existing Recruitment Rules.
3. Facts as narrated in the Impugned Judgment, to the extent necessary and relevant are as follows:
 - (i) The Respondents No. 1 to 4 were appointed to the post of Semi Professional Assistants in Dr. Zakir Husain Library of the Appellant, and worked in that capacity between 1990 and 1997.
 - (ii) Subsequently, the Respondents No. 1 to 4 were promoted as Professional Assistants, at which post they continued to work till their respective retirements.
 - (iii) On 30.11.2009, the Appellant circulated a draft Seniority List of non-teaching staff, wherein amongst the Professional Assistants, the Respondent No. 1 was placed at Serial No. 2, Respondent No. 2 was placed at Serial No. 3, Respondent No. 3 was placed at Serial No. 5 and Respondent No. 4 was placed at Serial No. 6, while Respondent No. 5 was placed at seniority position 16.



- (iv) The Respondents No. 1 to 4 made representations for promotion to the next post of Assistant Librarian based on their seniority position in the seniority list of Professional Assistants, on the ground that they had remained in the same Pay Band Rs. 9300-34800 with Grade Pay of Rs. 4200/-.
- (v) On 23.03.2011, the Appellant's EC approved the proposal for filling up the post of Assistant Librarian through 100% direct recruitment through a national advertisement, interpreting Clause 4.5 of the University Grants Commission (Minimum Qualifications for Appointment of Teachers and other Academic Staff in Universities and Colleges and other Measures for the maintenance of Standards in Higher Education) Regulations, 2010 [**"2010 Regulations"**], to mean that the mode of recruitment through promotion was dispensed with. On 01.04.2011, these Minutes of Meeting dated 23.03.2011 were approved by the EC.
- (vi) The Respondents No. 1 to 4 again sent representation for promotion on 28.07.2015, on the ground that they received no promotion in the last 18 years of service. To this, a reply was received on 28.11.2016 under the Right to Information Act, 2005, stating that Jawahar Lal Nehru University [**"JNU"**] was promoting Professional Assistants as Assistant Librarians by retaining the promotion mode and 8 Professional Assistants were promoted through the Departmental Promotion Committees [**"DPCs"**] convened between January, 2010 to August, 2016.



- (vii) Numerous other representations were made thereafter by the Respondents No. 1 to 4, however, the same did not yield any positive response. Instead of redressing the grievances of Respondents No. 1 to 4, the Appellant issued an Advertisement No. 02/2018-19 dated 20.04.2018, inviting applications inter alia for 2 posts of Assistant Librarian. Thereafter on 19.12.2018, the Appellant promoted the Respondent No. 5 on recommendations of a DPC, under the Persons with Disabilities category, even though he was junior to the Respondent Nos. 1 to 4.
- (viii) Against the aforesaid backdrop, the Respondent Nos. 1 to 4 filed W.P. (C) 2470/2019, wherein vide an Order dated 12.03.2019, the learned Single Judge directed that the filling up of the post of Assistant Librarian would be subject to the outcome of the writ petition. Notwithstanding the same, the Appellant issued another Advertisement No. 01/2019-20 dated 22.05.2019, again inviting application for filling up the same 2 posts of Assistant Librarian, which led to the Respondent Nos. 1 to 4 filing an application praying that the Appellant be restrained from filling the advertised posts. The same came to be dismissed vide Order dated 02.08.2019, though this Court provided clarity by reiterating that filling up of the posts would be subject to the outcome of the writ petition.
- (ix) Later, the Respondents No. 1 to 4 also preferred a challenge to the Minutes of the EC Meeting dated 23.03.2011, by way of which the Appellant-University's EC decided to dispense with



the mode of promotion, as well as the subsequent advertisement by way of W.P. (C) 9489/2019.

- (x) *Vide* the Impugned Judgment, the learned Single Judge, in agreement with the contention urged on behalf of the Respondents No. 1 to 4 (Petitioners therein), observed that since the Recruitment Rules for the post of Assistant Librarian issued by the Appellant herein were not amended, promotion would continue to be the mode of appointment to the extent of 50% as per the existing Recruitment Rules.
- (xi) While addressing the argument advanced on behalf of the Appellant about the decision taken by the EC of the Appellant-University on 23.03.2011 to adopt 100% direct recruitment as a mode of appointment to the post of Assistant Librarian, the learned Single Judge observed that nothing was brought on record to show that after the said decision, any amendment was made to the existing Recruitment Rules. With this observation, the learned Single Judge held that in absence of any amendment to the Recruitment Rules to change the mode of appointment to 100% direct recruitment, the case of Respondents No. 1 to 4 would continue to be governed by the existing Recruitment Rules, wherein 50% mode of appointment was promotion.
- (xii) The learned Single Judge also held that reliance of the Appellant on the 2010 Regulations as a ground for not considering the Respondents No. 1 to 4 was misplaced. To arrive at this conclusion, the learned Single Judge referred to another judgment passed by a learned Single Judge of this



Court in Rambir v. Ministry of Human Resource Development, Department of Higher Education and Others, (2024) SCC OnLine Del 8644, wherein it was brought out that several universities such as Jamia Hamdard, Central University of Karnataka, etc., continue to fill up the post of Assistant Librarian by promotion and direct recruitment.

- (xiii) Before the learned Single Judge, it was also argued on behalf of the Appellant that by virtue of the Respondents No. 1 to 4 having retired during the pendency of the writ petitions, the writ petitions were rendered infructuous. However, the learned Single Judge rejected this argument, while placing reliance on an Office Memorandum dated 12.10.1998 of the Department of Personnel and Training [**“DoPT OM”**], to conclude that there was no bar in considering retired employees while preparing year-wise panels, who were within the zone of consideration in the relevant years.
- (xiv) Lastly, the learned Single Judge observed that there was no roster referred to or even prepared by the Appellant to buttress its argument of preparation of a roster on the basis of which the Respondent No. 5 was promoted under the PwD category. Since no such roster was prepared, the learned Single Judge was of the view that the mandate under Section 34 of the Rights of Persons with Disabilities Act, 2016 [**“RPwD Act”**] was not followed and as such, the learned Single Judge held that the Respondent No. 5 could not be promoted out of turn, being junior to the Respondents No. 1 to 4.



- (xv) Consequently, the learned Single Judge partially allowed the writ petitions, while directing the Appellant to consider the Respondents No. 1 to 4 for promotion to the post of Assistant Librarians in consonance with the existing Recruitment Rules. The learned Single Judge also directed the Appellant to prepare a roster in consonance with the DoPT OM, in view of the promotion of Respondent No. 5 against the existing vacancies.
- (xvi) A further direction was given to the Appellant to convene a DPC to consider the Respondents for the said post and further action to be taken on the basis of DPC's recommendation(s) and existence of vacancies. Further, in the event that the Respondents No. 1 to 4 are recommended for promotions, the learned Single Judge directed that the promotion orders be issued granting promotion on notional basis. Lastly, the learned Single Judge ordered the promotion of Respondent No. 5 be subject to the reservation point in the roster.
4. Against the observations and directions of the learned Single Judge in the Impugned Judgment, the Appellant has preferred the instant Appeals.
5. Learned Counsel for the Appellant submits as under:
- (i) The learned Single Judge has overlooked the import of the Letter dated 13.01.2009 of the University Grants Commission ["UGC"], which directed that the posts of inter alia Assistant Librarian have to be filled by 100% direct recruitment through all-India advertisement, as per the qualifications prescribed by UGC.



- (ii) The Appellant-University's decision to recruit Assistant Librarians through 100% direct recruitment was done in light of the above UGC's Letter dated 13.01.2009, which also specified that UGC Regulations are mandatory in nature, after the directions contained in the said Letter were placed before the Academic Council as per Statute 16 of the Appellant-University as well as before the Executive Council as per Section 19 of the Jamia Act. As such, due procedure was followed.
- (iii) It is an admitted case that prior to 1975; the relevant recruitment rules provided for appointment to the post of Assistant Librarian 50% through promotion and 50% through direct recruitment. However, once the Jamia Millia Islamia Act, 1988 [**"Jamia Act"**] came into force in 1988, bye-laws became the first Ordinances of the Appellant-University as per Section 25(2) of the Jamia Act.
- (iv) Section 25(2) of the Jamia Act of the Executive Council gives power to the Executive Council to make amendment to the said first ordinances of the Appellant-University. Since methods of recruitment are also to be prescribed by the Executive Council, there can be no dispute as to the power of the Executive Council to make amendments therein.
- (v) A reading of Section 23 read with Section 25 of the Jamia Act makes it clear that since the post of Assistant Librarian is not found specifically mentioned in the Statutes of the Appellant-University, governance of such appointment(s) shall be as per the Ordinances. Specifically, Ordinance 6(VI) states that the



Executive Council shall decide the method of recruitment and it is as per this Ordinance that the Resolution dated 23.03.2011 came into play.

- (vi) Statute 14(2) denotes that the Executive Council has the power to make appointments to professors, readers, lecturers and other academic staff in the manner prescribed as per the Ordinances.
- (vii) After the adoption of the Resolution of the Executive Council in 2011 and subsequent to the confirmation of minutes on 01.04.2011, the Appellant-University has continued to issue advertisements for the post of Assistant Librarian to be filled through 100% direct recruitment, latest of which was issued as recent as 20.02.2023.
- (viii) The instant Appeals are distinguishable from the judgment of this Court in Rambir v. MHRD (Supra), insofar as in the said case, JNU continued to recruit in contravention of the 2010 Regulations, while the Appellant-University herein immediately adhered to the directions of UGC.
- (ix) A bare reading of Clause 4.5 of the UGC Regulations makes it clear that the mode of recruitment to be followed therein is 100% direct recruitment only, as the said clause does not make a mention about qualification for any other mode of recruitment.
- (x) The concerned amendment was one proposed to the recruitment rules and not to Ordinance 6(VI) and as such, publications and other procedures as mandated were not necessary.



6. *Per contra*, learned Senior Counsel appearing for Respondents No. 1 to 4 has vehemently opposed the present Appeal and supported the findings of the learned Single Judge in the Impugned Judgment.

7. Heard the learned Counsels for both parties at length and perused the material on record.

8. Before delving into the above, this Court deems it fit to remind itself of the scope of permissible interference for a court dealing with a Letters Patent Appeal, which has been established through various judicial pronouncements of the Apex Court as well as several High Courts. Reference may be made to the judgment of the Apex Court in Baddula Lakshmaiah v. Sri Anjaneya Swami Temple (1996) 3 SCC 52, which observed as under:

“2...A letters patent appeal, as permitted under the Letters Patent, is normally an intra-court appeal whereunder the Letters Patent Bench, sitting as a Court of Correction, corrects its own orders in exercise of the same jurisdiction as was vested in the Single Bench. Such is not an appeal against an order of a subordinate court. In such appellate jurisdiction the High Court exercises the powers of a Court of Error. So understood, the appellate power under the Letters Patent is quite distinct, in contrast to what is ordinarily understood in procedural language...”

9. Thus, this Court's jurisdiction in an LPA does not extend to re-appreciation of evidence or substituting its own findings for those of the learned Single Judge, unless the findings are perverse or lack any evidentiary basis.



10. What emerges from the arguments advanced by both sides as well as the record is that adjudication of the present Appeal revolves around the interpretation of the provisions of the Jamia Act, the Schedule contained within the Jamia Act which provides the Statutes of the Appellant-University as well as the Ordinances of the Appellant-University. Admittedly, no pertinent arguments were advanced by either party before the learned Single Judge involving the Jamia Act, Statutes, Ordinances or Regulations. However, since lengthy arguments as to the validity of the Executive Council's Resolution dated 23.03.2011 in light of the Jamia Act, Statutes, Ordinances or Regulations, took place before this Court, fair and complete adjudication would call for consideration of these aspects as well.

11. Now, it would be relevant to reproduce the relevant provisions of the Jamia Act which this Court shall deal with:

“8. The Visitor.—(1) The President of India shall be the Visitor of the University.

(2) The Visitor shall have the right to cause an inspection to be made by such person or persons as he may direct, of the University, its buildings, laboratories and equipment, and of any Centre, Department, Institution or School maintained by the University and also of the examinations, teaching and other work conducted or done by the University and to cause an inquiry to be made in like manner in respect of any matter connected with the administration or finances of the University, Centre, Department, Institution or School.

(3) The Visitor shall, in every case, give notice to the University of his intention to cause an inspection or inquiry to be made, and the University shall, on receipt of such notice, have the right to make, within thirty days from the date of receipt of the notice or such other period as the Visitor may determine, such



representations to the Visitor, as it may consider necessary.

(4) After considering the representations, if any, made by the University, the Visitor may cause to be made such inspection or inquiry as is referred to in sub-section (2).

(5) Where any inspection or inquiry has been caused to be made by the Visitor, the University shall be entitled to appoint a representative, who shall have the right to present and be heard at such inspection or inquiry.

(6) The Visitor may, if the inspection or inquiry is made in respect of the University or any Centre, Department, Institution or School maintained by it, address the Shaikh-ul-Jamia (Vice-Chancellor) with reference to the result of such inspection or inquiry, and the Shaikh-ul-Jamia (Vice-Chancellor) shall communicate to the Majlis-i-Muntazimah (Executive Council) the views of the Visitor with such advice as the Visitor may offer upon the action to be taken thereon.

(7) Where the Majlis-i-Muntazimah (Executive Council) does not, within a reasonable time, take action to the satisfaction of the Visitor, the Visitor, may, after considering any explanation furnished or representation made by the Majlis-i-Muntazimah (Executive Council) issue such directions as he may think fit and the Majlis-i-Muntazimah (Executive Council), shall comply with such directions.

(8) Without prejudice to the foregoing provisions of this section, the Visitor may, by order in writing, annul any proceeding of the University which is not in conformity with this Act, the Statutes or Ordinances: Provided that before making any such order, he shall call upon the University to show cause why such an order should not be made, and, if any cause is shown within a reasonable time, he shall consider the same.



(9) The Visitor shall have such other powers as may be prescribed by the Statutes.

19. The Majlis-i-Muntazimah (Executive Council).—

(1) The Majlis-i-Muntazimah (Executive Council) shall be the principal executive body of the University.

(2) The constitution of the Majlis-i-Muntazimah (Executive Council), the term of office of its members and its powers and duties shall be prescribed by the Statutes.

24. Statues how to be made.—*(1) The first Statutes are those set out in the Schedule.*

(2) The Majlis-i-Muntazimah (Executive Council) may, from time to time, make new or additional Statutes referred to in sub-section (1):

Provided that the Majlis-i-Muntazimah (Executive Council) shall not make, amend or repeal any Statutes affecting the status, powers or constitution of any authority of the University until such authority has been given an opportunity of expressing an opinion in writing on the proposed changes, and any opinion so expressed shall be considered by the Majlis-i-Muntazimah (Executive Council).

(3) Every new Statute or addition to the Statutes or any amendment or repeal of a Statute shall require the assent of the Visitor who may assent thereto or withhold assent or remit to the Majlis-i-Muntazimah (Executive Council) for consideration.

(4) A new Statute or a Statute amending or repealing an existing Statute shall have no validity unless it has been assented to by the Visitor.

(5) Notwithstanding anything contained in the foregoing sub-sections, the Visitor may make new or additional Statutes or amend or repeal the Statutes referred to in sub-section (1) during the period of three years immediately after the commencement of this Act.



(6) Notwithstanding anything contained in the foregoing sub-sections, the Visitor may direct the University to make provisions in the Statutes in respect of any matter specified by him and if the Majlis-i-Muntazimah (Executive Council) is unable to implement such a direction within sixty days of its receipt, the Visitor may, after considering the reasons, if any, communicated by the Majlis-i-Muntazimah (Executive Council) for its inability to comply with such direction make or amend the Statutes suitably.

25. Power to make Ordinances.—(1) Subject to the provisions of this Act and the Statutes, the Ordinances may provide for all or any of the following matters, namely:—

xxx

(o) such other terms and conditions of service of teachers and other academic staff as are not prescribed by the Statutes;

(2) The regulations and by-laws in force immediately before the commencement of this Act shall be the first Ordinances of the University and may be repealed or amended at any time by the Majlis-i-Muntazimah (Executive Council).

26. Power to make Regulations.—The authorities of the University may make Regulations consistent with this Act, the Statutes and the Ordinances for the conduct of their own business, and that of the Committees appointed by them and not provided for by this Act, the Statutes or the Ordinances in the manner prescribed by the Statutes.

12. It is also necessary to advert to the relevant provisions of the Statutes of the Appellant-University as framed under the Schedule to the Jamia Act. The same are being extracted below:

**“10. Librarian:**

(1) *The Librarian shall be appointed by the Majlis-i-Muntazimah (Executive Council) on the recommendation of a Selection Committee constituted for the purpose under Statute 25 and shall be a whole time officer of the University.*

(2) *The Librarian shall exercise such powers and perform such duties as may be assigned to him by the Majlis-i-Muntazimah (Executive Council).*

14. Powers and Functions of Majlis-i-Muntazimah (Executive Council):

(2) *Subject to the provisions of this Act, the Statutes and the Ordinances, the Majlis-i-Muntazimah (Executive Council) shall, in addition to all other powers vested in it, have the following powers, namely:—*

(ii) to appoint such Professors, Readers, Lecturers and other academic staff, as may be necessary and Principals of Institutions on the recommendation of the Selection Committee constituted for the purpose under Statute 25 and to fill up temporary vacancies therein;

(iii) to create administrative, ministerial and other necessary posts and to make appointments thereto in the manner prescribed by the Ordinances;

(v) to regulate and enforce discipline among members of the teaching, administrative and other staff of the University in accordance with these Statutes and the Ordinances;

25. Selection Committees:

TABLE	
1	2



<i>Library Staff</i>	<i>The Majlis-i-Muntazimah will appoint a permanent Selection Committee for the Library Staff, other than Librarian (from time to time).</i>
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39. Ordinances how made:

(1) The Ordinances made under sub-section (2) of Section 25 of the Act may be amended, repealed or added to at any time by the Majlis-i-Muntazimah (Executive Council) in the manner specified below.

(2) No Ordinance in respect of the matters enumerated in Section 25 other than those enumerated in clause (p) of sub-section (1) thereof, shall be made by the Majlis-i-Muntazimah (Executive Council) unless a drafts of such Ordinance has been proposed by the Majlis-i-Talimi (Academic Council).

(3) The Majlis-i-Muntazimah (Executive Council) shall not have power to amend any draft of any Ordinance proposed by the Majlis-i-Talimi (Academic Council) under clause (2), but may reject the proposal or return the draft to the Majlis-i-Talimi (Academic Council) for re-consideration, either in whole or in part, together with any amendment which the Majlis-i-Muntazimah (Executive Council) may suggest.

(4) Where the Majlis-i-Muntazimah (Executive Council) has rejected or returned the draft of an Ordinance proposed by the Majlis-i-Talimi (Academic Council), the Majlis-i-Talimi (Academic Council) may consider the question afresh and in case the original draft is reaffirmed by a majority of not less than two-thirds of the members present and voting and more than half the total number of members of the Majlis-i-Talimi (Academic Council) the draft may be sent back to the Majlis-i-Muntazimah (Executive Council) which



shall either adopt it or refer it to the Visitor whose decision thereon shall be final.

(5) Every Ordinance made by the Majlis-i-Muntazimah (Executive Council) shall come into effect immediately.

(6) Every Ordinance made by the Majlis-i-Muntazimah (Executive Council), shall be submitted to the Visitor within two weeks from the date of its adoption. The Visitor shall have the power to direct the University within four weeks of the receipt of the Ordinance to suspend the operation of any such Ordinance and he shall, as soon as possible, inform the Majlis-i-Muntazimah (Executive Council) about his objection to the proposed Ordinance. The Visitor may, after receiving the comments of the University, either withdraw the order suspending the Ordinance or disallow the Ordinance, and his decision thereon shall be final.

[Emphasis Supplied]

13. Lastly, this Court also deems it fit to reproduce below the relevant Ordinances of the Appellant-University, for the sake of convenience:

“ORDINANCE 6 (VI)

“Terms and Conditions of Service of Jamia Employees (other than Teachers, Registrar and Finance Officer)”

CHAPTER – I : APPLICATION AND DEFINITION

SECTION – I

1. Extent of Application: These rules shall apply to the Jamia employees (other than teachers).

2. Short Title and Commencement: These rules may be called the Terms and Conditions of Service of Jamia Employees (other than teachers).

CHAPTER – II : GENERAL



SECTION - I : GENERAL CONDITIONS OF SERVICE

3) Methods of Recruitment : Recruitment to posts will be made:-

by direct recruitment;

by promotion; and

by appointment of employees borrowed from Government Departments and other Institutions.

4) Recruitment by Promotion :

Appointment to a post in any grade by promotion shall be made, whether in a permanent or officiating capacity, from amongst employees serving in posts in the next lower grade. Every appointment by promotion shall be on the basis of suitability, having due regard to seniority.

5. Appointments :

(i) Appointments to the posts shall be made by the Executive Council on the recommendations of Selection Committees.

(ii) The age, educational and other qualifications for appointments to the posts and the methods of recruitment shall be as prescribed by the Executive Council, from time to time.”

14. It is pertinent to note that the post of ‘Assistant Librarian’ finds itself mentioned under Ordinance 23 (XXIII) of the Ordinances and Regulations (Academic), which is reproduced hereunder:

“Ordinance 23 (XXIII) ACADEMIC STAFF

1. The Academic Staff of the, University shall mean and include such Categories of Staff, as are appointed to conduct research or to academically assist in



teaching/research, or preparation of books and reading material, or in other allied activities of academic nature.

2. In addition to the Categories mentioned in 'Para I above, the following Categories of the University employees shall also be the Academic Staff of the University:

(1) Dr. Zakir Husain Library and other Libraries of the University:

(a) Librarian (Professional Senior, Grade-I);

(b) Deputy Librarian (Professional Senior, Grade-II);

(c) Assistant Librarian/Assistant Librarian in Senior Scale (Professional Junior/ Professional Junior in Senior Scale);

(d) Archivist; and

(e) Assistant Archivist.

(2) (a) Director of Physical Education; and

(b) Assistant Director of Physical Education/Assistant Director of Physical Education in Senior Scale.

(3) Such other Categories of the University employees, as may be assigned as Academic Staff by the Majlis-i-Muntazimah (Executive Council) from time to time:"

[Emphasis Supplied]

15. Thus, with the post of Assistant Librarian being part of the academic staff of the Appellant-University, reference is made to Section 23 of the Jamia Act, which is already extracted above. What is borne out from a reading of clause (d) under Section 23 is that the Statutes may provide for the appointment of the academic staff of the Appellant-University. Given the usage of the word "may" in Section 24, reference is also made to Section 25 of the Jamia Act, clause (o) whereof specifies that the Ordinances, subject to the provisions of the Act and the Statutes, may provide for such other terms and conditions of service of teachers and other academic staff as are not prescribed by the Statutes.



16. Perusal of the provisions of the Statutes framed under the Jamia Act does not *per se* bring out the necessary rules applicable to the appointment of Assistant Librarian or the academic staff. Only provision relevant under the Statutes is Statute 14, which sets forth the power of the Executive Council of the Appellant-University to make appointments to *inter alia* ‘other academic staff’ on the recommendation of the Selection Committee. Accordingly, attention is diverted to the Ordinances. Heavy reliance is placed by the learned Counsel for the Appellant on Ordinance 6(VI), which prescribes the ‘Terms and Conditions of Service of Jamia Employees (other than Teachers, Registrar and Finance Officer’ and is already reproduced above. It is apposite to note that the extent of application as stated in Ordinance 6(VI) does not seem to include academic staff at all. In this view, this Court has no hesitation in observing that the reliance placed by the Appellant-University on Ordinance 6(VI) is misplaced.

17. In light of the above, the only reference now left to be made is to sub-Section (2) of Section 25 of the Jamia Act, on which substantial emphasis has been placed by the learned Counsel for the Appellant-University. Section 25(2) of the Jamia Act lays down that the regulations and bye-laws that were in force immediately before the commencement of the Jamia Act shall be the first Ordinances of the Appellant-University and may be repealed or amended at any time by the Executive Council.

18. This Court, at the very outset, notes that throughout the course of hearing of the present Appeal, clarity as to the process undertaken by the Appellant-University to purportedly adopt the process of 100% direct recruitment remained unfounded. While the memorandum of Appeal proposes to tell a story of a “consequential amendment to recruitment rules,”



oral arguments before this Court proceeded on the basis that it was the Executive Council of the Appellant-University that undertook the process of amending the particular Statute(s), Ordinance(s) and/or the Regulation(s) to adopt 100% direct recruitment as the mode of recruitment to the post of Assistant Librarian. Be that as it may, it was fairly conceded during the course of hearing by the learned Counsel for the Appellant that the Jamia Act is silent on the procedure of amendment to the recruitment rules and therefore, this Court shall not delve into that question at all. With that answer in mind, the question now becomes that in absence of a formal amendment to the relevant recruitment rules, which has rightly been noted by the learned Single Judge, can the Appellant-University's 'resolution' to adopt 100% direct recruitment withstand the provisions of the Jamia Act, Statutes framed thereunder, Ordinances and Regulations?

19. Though the entire proceedings before the learned Single Judge and even before this Court have taken place on the *ipsi dixit* of the Appellant-University that there were a set of recruitment rules prior to 1988, i.e., before the enactment of the Jamia Act, there is nothing on record whatsoever to verify this factum. In this view, this Court finds it difficult to proceed on the basis that since the set of recruitment rules in place providing for 50% direct recruitment and 50% promotion in respect of the post of Assistant Librarian, the same would take the shape of first Ordinances of the Appellant-University and therefore could be amended at any time by the Executive Council. However, perusal of the Impugned Judgment passed by the learned Single Judge suggests that it is an undisputed position that as per the existing recruitment rules, appointment to the post of Assistant Librarian was 50% through direct recruitment and 50% by promotion. Yet, since the



year of the said recruitment rules still remains unclear, Section 25(2) of the Jamia Act would not come to the rescue of the Appellant-University.

20. In any event, the Minutes of Meeting dated 23.03.2011 which *inter alia* contains the Resolution No. 03 of the Executive Council to approve the proposal for filling up the post of Assistant Librarian by 100% direct recruitment, is the only document which remains reference to by this Court. This aspect, in the opinion of this Court, requires no further analysis as being correctly analysed by the learned Single Judge as follows:

“18. There is merit in the submission of learned Senior Counsel for the Petitioners that the RRs for the post of Assistant Librarian issued by Respondent No. 1 have not been amended till date and in the absence of any amendment to the RRs, promotion continues to be the mode of appointment to the extent of 50% as per existing RRs. No doubt, EC took a decision in the meeting held on 23.03.2011 to adopt 100% direct recruitment as a mode of appointment to the post of Assistant Librarian but there is nothing in the counter affidavit which even remotely suggests that post the decision, the RRs were amended. In fact, in the meeting itself, it was resolved that the RRs should be amended in accordance with the decision. Even during the course of hearing, Court has put a pointed query to counsel for Respondent No.1 if the RRs were amended and if so, whether the copy has been placed on record, in response to which it is fairly conceded that there has been no amendment to the RRs. Until the RRs are amended by Respondent No.1 to change the mode of appointment to 100% direct recruitment, case of the Petitioners will be governed only by the existing RRs, wherein 50% mode of appointment is admittedly promotion. As rightly placed by learned Senior Counsel for the Petitioners even Respondent No.1 itself recognized that promotion continued to be the mode of



appointment and which is why despite issuance of advertisements for direct recruitment, Respondent No.2 was promoted on recommendation of a DPC, which is clearly evident from his promotion order dated 19.12.2018.”

[Emphasis Supplied]

21. The above observation of the learned Single Judge leaves no room for this Court to interfere. It is, in fact, quite peculiar as to how a PwD candidate can be promoted to the same post for which only direct recruitment is prescribed for. This act of the Appellant-University, suffice to say, is done while misinterpreting the judgment of the Apex Court in Rajeev Kumar Gupta v. Union of India, (2016) 13 SCC 153. *Vide* the said Judgment, the Apex Court directed that 3% reservation be provided to all PwD candidates in the identified posts in the category of Group A and Group B irrespective of the mode of filling up of such posts. However, import of the words “irrespective of the mode of filling up of such posts,” cannot mean that the Appellant-University would bypass its own resolution to appoint persons through only direct recruitment. It does not require mentioning that provision of reservation in compliance with the judgment of the Apex Court in Rajeev Kumar Gupta (supra), could also have been provided in the process of direct recruitment. Accordingly, the act of the Appellant-University to promote the Respondent No. 5 to the very same post for only direct recruits could have been appointed to, in the opinion of this Court, rightly suggests that even the Appellant-University followed the mode of promotion, despite of having seemingly done away with the said mode by way of the Resolution No. 03 of the Executive Council dated 23.03.2011.



22. This Court also finds itself in agreement with the observation of the learned Single Judge to the effect that there is nothing in Clause 4.5 of the 2010 Regulations which provides that appointment to the post of Assistant Librarian would only be done through direct recruitment.

23. As for the reliance placed by the Appellant-University on the UGC's Letter dated 13.01.2009. The opening sentence of the said Letter states that as per the UGC Regulation/Notification, 1998, the posts of Assistant Librarian, etc. have to be filled through 100% direct recruitment, the same is a mandatory in nature and as such, must be followed by all Central Universities. The said Letter, though issued in reference to a complaint received regarding Delhi University, nevertheless also states that corrective steps be taken accordingly. Even if this Letter is the basis of the Appellant-University's Executive Council to do away with direct recruitment by way of the its Resolution No. 03 dated 23.03.2011, the said procedure still depicts arbitrariness, as no formal amendment to the recruitment rules ever took place.

24. This Court also cannot lose sight of the discussion of the learned Single Judge regarding the RTI reply brought on record in another case before a learned Single Judge of this Court in Rambir v. MHRD (supra). It was revealed that even the UGC itself took the stand that it had not notified any uniform service conditions for non-teaching staff of central universities and the universities could frame their own cadre recruitment rules and lay down requisite qualifications, promotion policies etc.

25. With the foregoing observations, this Court finds itself in complete agreement with the observations of the learned Single Judge in the



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Impugned Judgment and as such, deems it appropriate to uphold the same. Accordingly, the present Appeals are dismissed.

26. The Appellant-University is directed to comply with the directions contained in Paragraph No. 22 of the Impugned Judgment forthwith.

27. Pending application(s), if any, also stand disposed of.

SUBRAMONIUM PRASAD, J

VIMAL KUMAR YADAV, J

JANUARY 28, 2026

Rahul/AP