



\$~53

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

+ W.P.(C) 15072/2024

TUHEENA MUKHERJEE

.....Petitioner

Through: Mr. Shadan Farasat, Senior Advocate
with Mr. Harshit Anand and
Mr. Aman, Advocates.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Ms. Ginny Jetley Rautray and
Ms. Yashika, Advocates for R-2, 3.
Mr. Jagdish Chandra Solanki,
Mr. Sujeet Chaudhary and Haanju
Saxena, Advocates.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

% **13.03.2026**

CM APPL. 15483/2026 (seeking urgent interim directions)

1. By way of this application, the Petitioner seeks an interim direction permitting her to apply for the post of Professor at Level 14 and to participate in the ongoing internal promotion cycle under the Internal Promotion Scheme, 2017, which commenced on 24th February, 2026.
2. The Court is of the opinion that the relief sought in the application is so closely intertwined with the issues arising in the writ petition that any meaningful consideration of the interim prayer would, in substance, require an examination of the writ petition itself. In these circumstances, and with the consent of counsel, the writ petition was taken on board today itself for final disposal, instead of confining the hearing to the interim application.
3. In view of the order rendered in the writ petition, this application does not survive for separate consideration and is disposed of accordingly.



W.P.(C) 15072/2024

4. The Petitioner assails order dated 1st August, 2024, passed by the Indian Institute of Foreign Trade, Delhi [“IIFT”], rejecting her claim that her placement as Assistant Professor Level 13A1 at IIT Kharagpur, with effect from 9th February, 2018, ought to have been recognised by IIFT after she joined service on 2nd July, 2018. On that basis, she also seeks further consideration for the next higher academic level.

5. The case, thus, turns on a short point. The Petitioner was selected and appointed by IIFT under a separate recruitment process as Assistant Professor Level 12. The question is whether, notwithstanding that appointment, she can compel IIFT to treat her as having entered its service at a higher level on the strength of the status attained by her in another institution prior to joining. For the reasons recorded below, this question must be answered against the Petitioner.

Undisputed Chronology

6. The Petitioner was serving as Assistant Professor (Level 12) at IIT Kharagpur, on a regular basis with effect from 9th February, 2015. Subsequently, IIFT issued an advertisement dated 17th November, 2017, inviting applications for the posts of Professor, Associate Professor and Assistant Professor. The advertisement stipulated that pay scales would be governed by the UGC/CFTI Regulations. In the tabulated particulars, Assistant Professor was shown against the Academic Grade Pay [“AGP”] bands of INR 6,000, INR 7,000 and INR 8,000, while Associate Professor was separately shown against the AGP of INR 9,500.

7. The Petitioner applied and was called for interview on 23rd January, 2018, for the post of “Assistant Professor Level 2”. This was followed by a



letter dated 15th February, 2018 offering her appointment as Assistant Professor (Level 2), on contract basis for three years, in the pay matrix of INR 1,01,500-1,67,400, i.e., Level 12.

8. Before the Petitioner entered service at IIFT, IIT Kharagpur issued an office order dated 4th May, 2018, approving her movement from Level 12 to Level 13A1 with effect from 9th February, 2018.

9. Upon joining IIFT, however, her placement remained at Level 12. By office order dated 2nd July, 2018, IIFT recorded that she had joined as Assistant Professor (Level 2) in Level 12. Thereafter, by office order dated 4th October, 2018, her pay was fixed at INR 1,32,100 with effect from 2nd July, 2018 as Assistant Professor at Level 12. Later, by memorandum dated 18th September, 2019, IIFT rejected her request for enhancement from Level 12 to Level 13A1, while recording that she had been selected for the post of Assistant Professor at Pay Level 12 and that her last pay drawn at IIT Kharagpur had been protected in the Institute as per rules.

10. The subsequent record under the Internal Promotion Scheme is consistent with this position. By email dated 12th March, 2024, a Screening Committee was constituted to consider the Petitioner from Stage 2 to Stage 3. Thereafter, by office order dated 24th April, 2024, she was promoted from Stage 2 to Stage 3 with effect from 2nd July, 2022.

Submissions of the Parties

11. Mr. Shadan Farasat, Senior Advocate for the Petitioner, makes the following submissions in support of the petition:

11.1. Prior to joining IIFT, the Petitioner had already been placed at Assistant Professor Level 13A1 at IIT Kharagpur with effect from 9th February, 2018, and that this position had crystallised before she entered



service at IIFT on 2nd July, 2018. In view of Regulation 10 of the applicable UGC framework, past regular service rendered in another recognised institution is liable to be counted for the purposes of direct recruitment and career advancement. Consequently, the academic stage already attained by the Petitioner could not be disregarded merely because she thereafter joined another institution. Regulation 10 is extracted as follows for convenience:

“10.0 Counting of Past Services for Direct Recruitment and Promotion under CAS

Previous regular service, whether national or international, as Assistant Professor, Associate Professor or Professor or equivalent in a University, College, National Laboratories or other scientific/professional organisations such as the CSIR, ICAR, DRDO, UGC, ICSSR, ICHR, ICMR and DBT, should count for the direct recruitment and promotion under the CAS of a teacher as Assistant Professor, Associate Professor, Professor or any other nomenclature, provided that:

(a) The essential qualifications of the post held were not lower than the qualifications prescribed by the UGC for Assistant Professor, Associate Professor and Professor, as the case may be.

(b) The post is/was in an equivalent grade or of the pre-revised scale of pay as the post of Assistant Professor (Lecturer) Associate Professor (Reader) and Professor.

(c) The concerned Assistant Professor, Associate Professor and Professor should possess the same minimum qualifications as prescribed by the UGC for appointment to the post of Assistant Professor, Associate Professor and Professor, as the case may be.

(d) The post was filled in accordance with the prescribed selection procedure as laid down in the Regulations of the University/State Government/Central Government/ Institutions concerned, for such appointments.

(e) The previous appointment was not as guest lecturer for any duration.

(f) The previous Ad-hoc or Temporary or contractual service (by whatever nomenclature it may be called) shall be counted for direct recruitment and for promotion, provided that:

(i) the essential qualifications of the post held were not lower than the qualifications prescribed by the UGC for Assistant Professor, Associate Professor and Professor, as the case may be;

(ii) the incumbent was appointed on the recommendation of a



duly constituted Selection Committee/Selection Committee constituted as per the rules of the respective university;

(iii) the incumbent was drawing total gross emoluments not less than the monthly gross salary of a regularly appointed Assistant Professor, Associate Professor and Professor, as the case may be; and

(g) No distinctions shall be made with reference to the nature of management of the institution where previous service was rendered (private/local body/Government), while counting the past service under this clause.”

11.2. The advertisement dated 17th November, 2017 issued by IIFT did not unequivocally confine the post of Assistant Professor to a particular academic stage, but broadly invited applications for faculty positions in accordance with the applicable UGC/CFTI regulatory framework, under which placement is determined based on qualification and experience. In these circumstances, the academic level already attained prior to joining ought to have been considered while determining her placement in IIFT.

11.3. IIFT itself recognised the continuity of the Petitioner’s prior service by extending pay protection on her joining IIFT. Having done so, IIFT could not have declined to recognise the corresponding academic stage attained by her. Such a course results in an internal inconsistency, inasmuch as the financial consequences of her previous service were acknowledged while the academic status flowing from the same service was disregarded.

11.4. The refusal to recognise the Petitioner’s placement at Level 13A1 with effect from 9th February, 2018 had a cascading effect on her career progression, as it confined her to a lower academic stage for a considerable period and consequently delayed her eligibility for consideration to the next higher academic level. Particular reliance is placed on ***Mahatma Gandhi University & Ors. v. Rincymol Mathew***¹, to contend that prior regular

¹ (2022) 16 SCC 727.



service must receive due recognition for career advancement purposes.

12. The Respondents, on the other hand, oppose the petition and make the following submissions:

12.1. The Petitioner entered service at IIFT through a separate recruitment process pursuant to the 2017 advertisement and was considered by the Selection Committee for the post of Assistant Professor (Level 2). Following the interview, she was issued a letter dated 15th February, 2018 offering appointment as Assistant Professor in Pay Matrix Level 12, which was a defined post at a defined entry level. The Petitioner accepted the offer on those terms and joined service accordingly. Having accepted the appointment and acted upon it, the Petitioner cannot subsequently seek to alter the entry level of the post to which she was appointed.

12.2. Regulation 10 of the UGC framework permits counting of past regular service for the limited purposes contemplated therein of determining eligibility and progression under the Career Advancement Scheme [“CAS”] but does not authorise the rewriting of a fresh appointment made through an independent selection process or the substitution of the entry level expressly offered and accepted by the candidate.

12.3. The Petitioner’s last pay drawn at IIT Kharagpur was duly protected in accordance with the applicable rules at the time of her joining IIFT. However, such pay protection cannot be equated with or extended to a claim for protection of academic stage or designation as asserted by Petitioner.

12.4. The Petitioner continued to serve at the said level for several years after joining and raised the present claim belatedly. The challenge is therefore liable to fail on account of delay, laches and acquiescence, and no consequential right to consideration for the higher post of Associate



Professor can arise on the basis of a claim which is itself untenable.

Issues for Consideration

13. In the light of the pleadings, the record, and the submissions advanced by counsel, the controversy may be reduced to the following questions:

- (i) Whether the Petitioner can claim recognition at IIFT as Assistant Professor Level 13A1 with effect from 9th February, 2018, notwithstanding her appointment at IIFT through a separate recruitment process as Assistant Professor at Pay Matrix Level 12, and whether Regulation 10 of the applicable UGC framework, read with the decision in ***Rincymol Mathew***, supports such a claim.
- (ii) Whether the DoPT instructions concerning lien, technical resignation, pay protection and probation advance the Petitioner's case.

Analysis

Issue No. 1

14. The Petitioner's case on this issue rests on one central fact, and that fact is not in dispute. Before she entered service at IIFT, IIT Kharagpur had, by office order dated 4th May, 2018, approved her movement from Level 12 to Level 13A1 with effect from 9th February, 2018. The Petitioner therefore asserts that, as on the date she joined IIFT, she had already attained Level 13A1 at her previous institution.

15. That, however, does not conclude the matter in her favour. The relief sought is not merely recognition of an earlier attainment at IIT Kharagpur. The relief sought is recognition at IIFT as Assistant Professor Level 13A1 with effect from 9th February, 2018. That claim encounters difficulty at the threshold. The Petitioner joined IIFT only on 2nd July, 2018. She could not, in law, be recognised in the service of IIFT from a date when she had not yet



entered that service at all. The date pleaded in the prayer is, by itself, inconsistent with the admitted record.

16. Even if one were to put the date aside and read the claim more considerately as one for recognition of Level 13A1 from the date of joining IIFT, the contemporaneous recruitment record does not support it. The advertisement issued by IIFT on 17th November, 2017 did state that pay scales would be governed by the UGC/CFTI Regulations, but it did not leave the position of Assistant Professor wholly undefined. In its detailed particulars, it specifically placed Assistant Professor in the AGP bands of INR 6,000, INR 7,000 and INR 8,000, while Associate Professor was separately shown in the AGP band of INR 9,500.

17. The significance of that structure becomes clearer when seen alongside the academic pay revision memorandum dated 27th October, 2017. That memorandum maps AGP INR 8,000 to Academic Level 12, AGP INR 9,000 to Academic Level 13A1, and AGP INR 9,500 to Academic Level 13A2. Thus, Level 12, Level 13A1 and Level 13A2 are not interchangeable descriptions of the same post. They are distinct stages in the academic pay structure. Once that is kept in view, the Petitioner's submission that the advertisement was ambiguous enough to absorb Level 13A1 as a matter of course becomes difficult to sustain.

18. The subsequent steps in the recruitment process are equally clear. IIFT called the Petitioner for interview on 23rd January, 2018 specifically for the post of "*Assistant Professor Level 2*". The offer dated 15th February, 2018 again described the post as "*Assistant Professor (Level 2)*" and placed it in the pay matrix of INR 1,01,500-1,67,400 i.e., Level 12. When the Petitioner joined, IIFT issued an office order dated 2nd July, 2018 recording



that she had joined as Assistant Professor (Level 2) in Pay Matrix Level 12. Thereafter, by office order dated 4th October, 2018, her pay was fixed at INR 1,32,100 with effect from 2nd July, 2018 as Assistant Professor at Level 12. Finally, by memorandum dated 18th September, 2019, IIFT rejected her request for enhancement to Level 13A1 while recording that she had been selected for the post of Assistant Professor at Pay Level 12 and that her last pay drawn at IIT Kharagpur had been protected in the Institute.

19. It is true that the Petitioner accepted the IIFT offer on 15th February, 2018 before IIT Kharagpur formally issued its order dated 4th May, 2018 moving her to Level 13A1 with effect from 9th February, 2018. That circumstance explains why she raised her grievance immediately after joining IIFT. But that only explains the sequence. It does not alter the legal effect of the terms of the appointment she ultimately entered at IIFT. Once the recruitment process, the interview, the offer, the joining order, the pay-fixation order and the rejection memorandum all consistently proceed on the footing that her IIFT appointment was at Level 12, the Court cannot ignore that record and reconstruct the appointment on a different basis merely because she had, before joining, attained a higher stage elsewhere.

20. The Petitioner sought to draw support from the fact that she had applied through proper channel and that IIFT was aware of her service at IIT Kharagpur. That may well be so. However, even if one assumes, for the sake of argument, that the Petitioner satisfied the conditions enumerated in Regulation 10 of the UGC framework, the consequence still does not follow that her IIFT appointment stood converted from Level 12 to Level 13A1. Satisfaction of the threshold conditions for counting prior regular service cannot be conflated with a right to rewrite the entry level of a fresh



appointment.

21. Regulation 10, on which substantial reliance has been placed, is directed to the “*Counting of past services for direct recruitment and promotion under CAS*”. The emphasis of the provision is on reckoning previous regular service so that a teacher does not lose credit for service rendered in an earlier institutional setting. It is not couched as a mandate that whenever a candidate had reached a higher academic stage elsewhere before joining a new institution, the fresh appointment must automatically stand recast to that higher stage irrespective of the level for which the recruitment was held and the terms on which the appointment was offered and accepted.

22. The decision of the Supreme Court in ***Rincymol Mathew*** does not carry the Petitioner’s case further. In that case, the controversy was whether the respondent’s earlier service could be counted for the purposes of benefits under CAS. The Supreme Court upheld the counting of that earlier service because the respondent had been initially appointed through a selection process, had served on probation which was subsequently declared, and had thereafter continued in regular pay scale as Assistant Professor and Associate Professor. The Court therefore held that such regular service was liable to be counted for the purpose of grant of CAS benefits in terms of Regulation 10 of the UGC Regulations. The ratio of that decision is thus concerned with reckoning prior regular service for CAS advancement. It does not lay down that where a candidate joins another institution through a separate recruitment process, the new institution must substitute the level of entry expressly offered and accepted with the higher stage previously attained elsewhere.

23. The Petitioner’s submission also elides an important distinction



between pay protection and post or stage protection. The memorandum dated 18th September, 2019 expressly records that her last pay drawn at IIT Kharagpur had been protected in the Institute. IIFT thus did not ignore her previous service altogether. What it declined to do was to convert the IIFT appointment itself from Level 12 to Level 13A1. The two are not the same. A rule permitting protection of last drawn pay does not, without more, compel transplantation of the academic stage held in the previous institution into the fresh post secured in the new institution.

24. The decision in *Union of India & Ors. v. N. Murugesan & Ors.*², though arising in a different service setting, is also instructive on principle. The Supreme Court observed that where an appointment has been made in accordance with the applicable rules, and the rules do not prohibit the form of appointment adopted by the employer, a court of law cannot confer on an employee a status different from the one that was conferred and accepted. The Court further emphasised that the nature of an appointment made through direct recruitment, whether on a regular basis or on a tenure basis, lies within the discretion of the employer in the absence of a statutory bar. These observations reinforce the more limited and sound proposition that judicial review cannot ordinarily be used to recast the essential terms of a concluded appointment. In the present case, the Petitioner participated in the recruitment process for Assistant Professor (Level 2), accepted the appointment offered at Pay Level 12, and joined service on those terms. In the absence of any statutory provision compelling a different result, the Court cannot now reconstruct that appointment as one made at Level 13A1.

25. This Court therefore accepts that, before joining IIFT, the Petitioner



had attained Level 13A1 at IIT Kharagpur. But that fact, by itself, did not give her a legal right to insist that her fresh appointment at IIFT, secured through an independent selection process for Assistant Professor Level 2 and entered into at Level 12, be recast as an appointment at Level 13A1. The claim for recognition at IIFT as Assistant Professor Level 13A1, whether from 9th February, 2018 or even from the date of joining, must therefore fail. Thus, for the reasons noted above, the first issue must be answered against the Petitioner.

Issue No. 2

26. The Petitioner next relies on the DoPT instructions on technical resignation and lien, and on the Master Circular on probation and confirmation in Central Services. The submission, in substance, is that once she had been granted lien or extraordinary leave by IIT Kharagpur, and later tendered a technical resignation, IIFT was bound not only to protect her pay, but also to protect the post or academic stage last held by her, namely Level 13A1. It is further urged that the period of probation prescribed for her at IIFT was inconsistent with the applicable instructions.

27. This line of argument does not carry the Petitioner's case any further. To begin with, the contemporaneous record placed before the Court does not show an order by which IIT Kharagpur transferred the Petitioner to IIFT on an equivalent post or directed that the stage held by her at IIT Kharagpur should stand protected in the new institution. What the record does show is that IIT Kharagpur, on 29th June, 2018, granted the Petitioner extraordinary leave from 1st July, 2018 to 30th June, 2019, to enable her to accept the offer of Assistant Professor at IIFT, and expressly recorded that, in the event of

² (2022) 2 SCC 25.



her failure to return on expiry of that leave, she would be deemed to have resigned from her post at IIT Kharagpur with effect from the following day. That document cannot, by any fair reading, be treated as a direction that the academic level held by her at IIT Kharagpur must stand carried into the fresh appointment at IIFT.

28. Even if one proceeds on the assumption most favourable to the Petitioner, namely that her eventual severance from IIT Kharagpur answered the description of a technical resignation, the DoPT instructions still do not yield the consequence she demands. The DoPT circular on technical resignation and lien states that where a Government servant joins another post in Government after technical resignation, the benefit of past service may be given if otherwise admissible, and specifically provides for pay protection and reckoning of past service for annual increments. The same circular also states that, on technical resignation, seniority in the post held on substantive basis continues to be protected. But none of these provisions says that the higher post, grade, or academic stage last held in the earlier institution must, as a matter of right, be transplanted into the fresh appointment in the new organisation. The distinction between protection of pay and protection of post is thus built into the scheme of the circular itself.

29. That distinction is decisive here. IIFT did, in fact, proceed on the footing that the Petitioner's last pay drawn at IIT Kharagpur was protected. The memorandum dated 18th September, 2019 records this in express terms. What IIFT declined was enhancement of the Petitioner's pay level from 12 to 13A1, because she had been selected for the post of Assistant Professor at Pay Level 12. Once that position is kept in view, the Petitioner's reliance on the DoPT instructions loses much of its force. Those instructions may



support pay protection in a proper case. They do not, on their own terms, require a fresh appointment to be rewritten at a higher level.

30. The Petitioner's reliance on the concept of lien is equally misplaced. The same DoPT circular explains that lien represents the right of a Government employee to hold a regular post, whether permanent or temporary, either immediately or on the termination of the period of absence. It also provides for retention of lien in limited circumstances and its termination on acquisition of lien in another permanent post. These provisions regulate the employee's relationship with the parent post. They do not create a rule that, upon joining another post through a separate recruitment process, the employee becomes entitled to have the post in the new institution equated with the post or stage last held in the old one. Lien, in other words, preserves a right *vis-à-vis* the parent establishment; it does not redefine the terms of a fresh appointment made elsewhere.

31. The argument founded on probation is weaker still. The Petitioner's own appointment order issued by IIFT dated 15th February, 2018 makes it plain that the appointment offered to her was on contract basis for three years in Level 12, co-terminus with the period of contract, though capable of extension or later regularisation depending on overall performance. The offer further provided that she would be governed by the Service Bye-laws of the Institute and other rules framed or adopted by it from time to time. In these circumstances, a challenge based on the DoPT instructions on probation in Central Services does not advance the core controversy.

32. The DoPT Master Circular on probation and confirmation also does not assist the Petitioner. It clarifies that appointments on contract basis, tenure basis, re-employment after superannuation or absorption ordinarily



carry no probation. At the same time, it provides that where a Government servant is appointed to another post by direct recruitment, confirmation in the new entry grade becomes necessary notwithstanding that the officer held the earlier post on a substantive basis, since the new post may not be in the same line or discipline and prior suitability does not automatically carry forward. Thus, whether the Petitioner's appointment at IIFT is viewed as a contractual engagement or as a fresh appointment through direct recruitment, the circular does not support the proposition that the academic stage earlier held at IIT Kharagpur must automatically be imported into the entry level at IIFT.

33. There is also a more basic difficulty in the Petitioner's submission. The IIFT appointment was not shown to be one made under any DoPT rule compelling post parity with the parent institution. It arose out of a distinct recruitment process under IIFT's own advertisement and on terms contained in its own offer of appointment. In the face of that recruitment record, general instructions on technical resignation, lien, pay protection and probation cannot be read so as to override the specific post and level for which the Petitioner was considered and appointed. At the highest, those instructions explain why protection of last drawn pay may be granted, or how past service may be treated where the governing framework so permits. They do not furnish a legal basis to convert the petitioner's IIFT appointment at Level 12 into an appointment at Level 13A1.

34. Issue No. 2 is answered accordingly. The DoPT instructions relied upon by the Petitioner do not advance her case beyond what has already been considered.

35. In view of the findings returned on Issues Nos. 1 and 2, the



foundation of the Petitioner's further claim also disappears. The claim for consideration for the next higher academic stage, namely Associate Professor Level 13A2, was built on the premise that the Petitioner was entitled, as of right, to be treated by IIFT as having entered its service at Level 13A1. Since that premise has not been accepted, no independent right to such consequential consideration survives.

36. It is therefore unnecessary to examine separately the Respondents' objection founded on delay, laches and acquiescence. It is equally unnecessary to enter upon a separate issue concerning the Petitioner's claim for further advancement, since that claim cannot outlast the rejection of the principal relief.

37. The writ petition is, accordingly, dismissed.

SANJEEV NARULA, J

MARCH 13, 2026/nk