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

+ **W.P.(C) 18659/2025**

ADITYA GUPTA

.....Petitioner

Through: Mr. Surinder Kumar Bhasin, Mr.
Sanjay Kumar and Mr. Manish
Khowal, Advocates.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Mr. Somesh Chandra Jha and Mr.
Akash Kishore, Advocates for R-2,
NESTS.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

% **18.03.2026**

CM APPL. 16632/2026 (seeking interim relief)

1. By way of this application, the Petitioner seeks a direction to the Respondents to keep one post of Post Graduate Teacher¹ (Commerce) vacant for him. It is submitted that the Respondents have issued an advertisement dated 19th September, 2025 under the Eklavya Model Residential School² Staff Selection Commission (ESSE), 2025. It is contended that in the event the vacancies are filled pursuant to the said recruitment process, the reliefs sought in the main petition would be rendered infructuous.

2. Having regard to the aforesaid, and with the consent of counsel for the parties, this Court considers it appropriate to take up the main petition for

¹ "PGT"



hearing today itself.

3. In view thereof, no specific directions are required to be passed in the present application, and the same is disposed of.

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4. This is the second round of litigation at the instance of the Petitioner. The factual background leading to the initiation of the present proceedings is as follows:

4.1. The Petitioner was appointed as PGT (Commerce) pursuant to a recruitment exercise conducted by the National Education Society for Tribal Students³ in the year 2023. He was posted at EMRS by appointment letter dated 9th June, 2024.

4.2. The Petitioner tendered his resignation on 19th November, 2024. The said resignation, written in his own handwriting, records that it was being submitted on account of personal reasons. The resignation was accepted by order dated 5th December, 2024 issued by the Office of the Commissioner, Tribal Affairs, Joint Secretary, M.P. Special and Residential Academic Society, Bhopal,⁴ and the Petitioner was relieved from service with effect from 18th December, 2024.

4.3. Thereafter, the Petitioner approached the Respondents seeking permission to rejoin service. The first such representation was addressed to the Principal, EMRS, Indore on 24th January, 2025. The request was forwarded to NESTS; however, the same was not acceded to, as communicated by letters dated 4th March, 2025 and 8th April, 2025.

4.4. In the above circumstances, the Petitioner filed W.P.(C) 10835/2025,

² “EMRS”

³ “NESTS”



contending that the acceptance of his resignation by MPSARAS, Bhopal was invalid, as the appointing authority for the post of PGT (Commerce) was the Joint Commissioner, NESTS. During the course of arguments, however, the Petitioner confined his relief to seeking consideration of his case for rejoining service as PGT (Commerce) in any school under NESTS.

4.5. Taking note of the applicable guidelines and the limited relief sought, this Court, by order dated 25th July, 2025, directed consideration of the Petitioner's candidature, subject to availability of a vacancy in the post of PGT (Commerce). Pertinently, the said direction was passed on the basis of a specific undertaking given by counsel appearing for NESTS, which stands recorded in the order. For the sake of clarity, the relevant extract of the order is reproduced hereinbelow:

“4. Having regard to the fact that the guidelines issued by NESTS on 26.07.2024, by which the authority to accept a resignations was delegated to a State Societies, themselves contemplate situations where a resigned employee may wish to rejoin service, Mr. Amartya Ashish Sharan, learned counsel for NESTS, submits that the petitioner's candidature will be considered, subject to the availability of a vacancy in the post of PGT (Commerce).”

5. The writ petition is accordingly disposed of on above basis. It is made clear that this order does not intend to confer any right upon the petitioner to be re-appointed after such delay, in the event the vacancies have already been filled. It is intended only to facilitate consideration of his request by NESTS, if and when a suitable vacancy exists.”

[Emphasis Supplied]

5. In compliance with the aforesaid order, NESTS considered the Petitioner's case and rejected the same by communication dated 16th October, 2025, in the following terms:

“As per the policy of NESTS, rejoining of candidates after resignation is

⁴ “MPSARAS”



applicable only in respect of regular staff who have completed the probation successfully and have been confirmed in service.”

6. A perusal of the above communication demonstrates that the rejection of the Petitioner’s request is founded on a policy stipulating that rejoining after resignation is permissible only in respect of regular staff who have successfully completed probation and stand confirmed in service.

7. Noticing an apparent variance between the aforesaid clarification and the undertaking recorded in the order dated 25th July, 2025, this Court has sought a clarification from counsel for the Respondents, who, on instructions, submits that a clarification to the applicable guidelines has been issued on 25th September, 2025, which reads as under:

“Subject: Clarification on clause (vii) of the letter no. NESTS/Admin/Recruitment&RO/568/ PartI/2023-24 dated 26.07.2025-reg.

This is in continuation of the letter no. NESTS/Admin/Recruitment&RO/568/Part 1/2023- 24 dated 26.07.2025.

Clause (vii) of the Guidelines mandates that if the resigned staff desires to come back, the cases have to be referred to NESTS only. The term "staff" used in the last line of the said Clause denotes a regular staff member who has completed the probation successfully and has been confirmed in service. However, it has been observed that the State Societies/EMRS are forwarding the application for rejoining, even for those staff who have tendered their resignation during the probation and have not been confirmed in service.

Therefore, to obviate any ambiguity, it is clarified that the term "staff" in the last line of Clause (vii) of the guidelines shall be deemed always to have meant a regular staff member who has successfully completed the probation period and has been confirmed in service. You are requested to take note of the above clarification and ensure compliance accordingly.

This issues with the approval of the competent authority.”

8. The Court has considered the aforementioned contentions. Pertinently, this



Court, while disposing of W.P.(C) 10835/2025, had clarified that the direction for consideration of the Petitioner's candidature would not confer any vested right upon him. At the same time, the Court cannot lose sight of the fact that on the date when the said directions were issued, the governing guidelines did not expressly incorporate the restriction pointed out by the Respondents. Further, the Respondents had undertaken that the Petitioner's case would be considered in accordance with the prevailing guidelines.

9. In these circumstances, the Respondents could not have relied upon a subsequent clarification of the applicable guidelines which came to be issued after the order dated 25th July, 2025, directing consideration had already been passed. Thus, the Court is of the opinion that the Petitioner's case deserves to be remanded.

10. Accordingly, this petition is allowed to a limited extent by remanding the matter to the Respondents for reconsideration of the Petitioner's case in terms of order dated 25th July, 2025 passed in W.P.(C) 10835/2025, by applying the guidelines as they stood on the date of the said order.

11. Considering the fact that the recruitment process is presently ongoing, the Respondents are directed to take a decision on the Petitioner's case within a period of two weeks from today.

12. With the above directions, the petition is disposed of. Pending application(s), if any, are also disposed of.

13. The dated fixed i.e. 4th May, 2026 stands cancelled.

SANJEEV NARULA, J

MARCH 18, 2026/hc