

**Central Administrative Tribunal
Principal Bench**

OA No.384/2016

New Delhi, this the 16th day of March, 2017

**Hon'ble Mr. Justice Permod Kohli, Chairman
Hon'ble Mr. K.N. Shrivastava, Member (A)**

Professor Dr. Binod Kumar Kanaujia, Aged around 46 years
S/o Late Sh. CHhote Lal
R/o 1-C, SFS DDA Flats Highway Apartments
Gazipur, Delhi-110096.
Presently posted at
Ambedkar Institute of Advance Communication
Technologies & Research.

..Applicant

(By Advocate: Shri Sourabh Ahuja)

Versus

1. Govt. of NCT of Delhi
Through its Chief Secretary
Delhi Sachivalaya, Players Building
I.P. Estate, New Delhi-2.
2. Principal Secretary/Secretary
(Technical Education)
Directorate of Training & Technical Education
GNCT of Delhi, Muni Maya Ram Marg
Pitam Pura, Delhi-88.
3. Lt. Governor of Delhi
GNCT of Delhi
Raj Niwas, Shamnath Marg
New Delhi.
4. Dr. Rajiv Kapoor, Professor
Electronics and Communication Engineering
Delhi Technological University,
Delhi, Presently looking after
the charge of Officiating Principal
Of Ambedkar Institute of Advanced Communication
Technologies and Research, GNCT of Delhi.
5. Director, Department of Training
& Technical Education, GNCT of Delhi
Muni Maya Ram Marg
Pitampura, Delhi-88.

..Respondents

(By Advocate: Shri Vijay Pandita)

ORDER (ORAL)**Justice Permod Kohli, Chairman :-**

This OA has been filed seeking quashment of the order dated 21.01.2016 whereby Professor Alok Prakash Mittal, originally respondent No.4 was appointed as the officiating Principal of Ambedkar Institute of Advanced Communication Technologies & Research, under the Directorate of Training and Technical Education, Govt. of NCT of Delhi. The grievance of the applicant is that the original respondent No.4, Professor Alok Prakash Mittal, was appointed to the post of Principal on officiating basis without considering the applicant and other eligible candidates. The case of the applicant is that he is working as Professor in the Department of Electronics and Communication Engineering in Ambedkar Institute of Advanced Communication Technologies & Research and is eligible for consideration for appointment to the post of Principal in the said Institution. The respondent Nos. 1 to 3, however, ignoring the claim of the applicant for his appointment to the post of Principal and without according any consideration to his candidature, appointed Professor Alok Prakash Mittal.

2. During the pendency of this Application, Professor Alok Prakash Mittal resigned from the post and in his place Dr. Rajiv Kapoor, Professor, Electronics and Communication Engineering, Delhi Technological University, Delhi was appointed as Principal in the Ambedkar Institute of Advanced Communication Technologies & Research, Govt. of NCTD of Delhi. This OA was accordingly amended and Dr. Rajiv Kapoor has been impleaded as party respondent No.4 in the OA.

3. During the pendency of this OA, the applicant also joined in the School of Computational & Integrative Sciences, Jawahar Lal Nehru University, New Delhi by resigning from the post of Professor in the Ambedkar Institute of Advanced Communication Technologies & Research. Vide order dated 26.07.2016, the request of the applicant for technical resignation from the post of Professor in the Ambedkar Institute of Advanced Communication Technologies & Research was accepted to enable him to join his new assignment on the post of Professor in the School of Computational and Integrative Sciences, Jawahar Lal Nehru University, New Delhi subject to retaining his lien for a period of two years. It was under these circumstances

that the applicant approached this Tribunal and he was permitted to join the JNU University subject to retaining his lien vide order dated 16.08.2016.

4. Pursuant to the directions of this Tribunal, the respondents have placed on record the office notings indicating the selection/appointment of Professor Alok Prakash Mittal as Principal of the Amebdkar Institute of Advanced Communication Technologies and Research. From the aforesaid notings it appears that the applicant was not considered for appointment to the post of Principal. As a matter of fact, except Professor Alok Prakash Mittal, no other candidate was considered.

5. This clearly indicates that the respondents adopted pick and choose method for appointment to the post of Principal. The parties are *ad idem* that the appointment to the post of Principal is governed by the All India Council for Technical Education [Pay Scales, Service Conditions and Qualifications for the Teachers and other Academic Staff in Technical Institutions(Degree) Regulations, 2010](A-10) as notified vide communication dated 05.03.2010. The rules lay down the qualifications for appointment to the post of

Principal. The following qualification/eligibility criterion has been laid down in the rules:-

Progrm.	Cadre	Qualifications	Experience
	Principal/ Director	Qualifications as above that is for the post of Professor, as applicable. Post PhD publications and guiding PhD students is highly desirable.	In case of research experience, good academic record and books/research paper publications/ IPR/ Patents record shall be required as deemed fit by the expert members of the Selection Committee. If the experience in industry is considered, the same shall be at managerial level equivalent to Professor level with active participation record in devising/ designing, developing, planning, executing, analyzing quality control, innovating, training, technical books/ research paper publications/ IPR/ patents, etc. as deemed fit by the expert members of the Selection committee.

6. The applicant claims to be possessing the requisite qualification as also the eligibility under the aforesaid Rules and belongs to the same institute. Even the respondents have not disputed the eligibility of the applicant.
7. The post of Principal has been filled up by picking up earlier Professor Alok Prakash Mittal and later Dr. Rajiv Kapoor without adopting any procedure or method in consonance with the mandate of Articles 14 and 16 of the Constitution. Such an appointment even on officiating basis, is impermissible under law, except where it is just a stop-

gap-arrangement. In the present case, the officiating arrangement is continuing for the last so many years at least from the date Prof. Alok Prakash Mittal was appointed, i.e., 21.01.2016. Therefore, such arrangement is not a stop-gap-arrangement but has assumed the character of a regular appointment. The appointment to the post of Principal has to be in accordance with the rules and by adopting the procedure in consonance with Articles 14 and 16 of the Constitution by inviting applications from the eligible candidates, which procedure has not been adopted in the present case. Thus, the initial appointment of Prof. Alok Prakash Mittal and later of Dr. Rajiv Kapoor, respondent No.4, are illegal. Since the post is of Principal, we do not feel it appropriate to stop their functioning as the institute would become headless, which may not be in the interest of the institution itself. However, at the same time, we are of the considered opinion that the post of Principal has to be filled up on regular basis by according consideration to all the eligible candidates by inviting applications and by adopting the process of selection by the competent authority.

8. In this view of the matter, this OA is disposed of with the following directions:-

- (i) The official respondents shall initiate the process of filling up the post of Principal on regular basis in the Ambedkar Institute of Advanced Communication Technologies and Research within a period of one month by inviting applications from the eligible candidates;
- (ii) On receipt of the applications by fixing cut-off date, the process of selection shall be completed within a period of two months and the appointment shall be made within two weeks thereafter.

9. It goes without saying that the applicant is at liberty to apply, subject to his eligibility and in the event the applicant applies for the post, his candidature shall be considered along with other eligible candidates in accordance with rules. We make it clear that in the event the selection of the Principal is not made within the time frame mentioned hereinabove, the respondent No.4 shall cease to be the Principal.

(K.N. Shrivastava)
Member(A)

(Justice Permod Kohli)
Chairman

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