

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...

ORIGINAL APPLICATION NO.060/00573/2016

Chandigarh, this the 6th day of December, 2017

...

**CORAM:HON'BLE MR. JUSTICE M.S. SULLAR, MEMBER (J) &
HON'BLE MS. P. GOPINATH, MEMBER (A)**

Professor (Dr.) Rajiv Bhandari son of Late Sh. K.L. Bhandari age 56 years working as Professor of Physics at Post Graduate Government College, Sector 11, Chandigarh (U.T.) (Group A)

....Applicant

(Present: Mr. D.R. Sharma , Advocate)

VERSUS

1. The Secretary, Department of Education, Chandigarh Administration, Sector 9, Union Territory Secretariat, Chandigarh.
2. The Director Higher Education, Department of Education, Chandigarh Administration, Sector 9, Union Territory Secretariat, Chandigarh.
3. The Principal, Post Graduate Government College, Sector 11, Chandigarh (U.T.)
4. Barhm Parkash Yadav @ Braham Parkash @ B.P. Yadav working as Associate Professor in Defence Studies at Post Graduate Government College, Sector 11, Chandigarh (U.T.)
5. The Administrator, U.T. Chandigarh, Raj Bhawan, Sector 6, Chandigarh.

....Respondents

Present: Mr. Arvind Moudgil, Advocate)

**ORDER (Oral)
JUSTICE M.S. SULLAR, MEMBER (J)**

1. The challenge in the instant Original Application (O.A.), instituted by applicant, Professor (Dr.) Rajiv Bhandari s/o late Sh. K.L. Bhandari, working as Professor of Physics, at Post Graduate Govt. College, Sector 11, Chandigarh, is to the impugned order dated 09.03.2015 (Annexure A-1), to the extent of his promotion/re-designation from the post of Associate Professor to Professor in Physics, under Career Advancement Scheme (CAS), of UGC Regulations, 2010, w.e.f. 25.09.2014, instead of 15.02.2012.

2. The matrix of the facts and material, culminating in the commencement and relevant for disposal of the present O.A., and expositing from the record, is that the applicant was working as Associate Professor of Physics. The University Grants Commission (UGC) issued "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 (hereinafter to be referred as "the UGC Regulations") (Annexure A-7). It was alleged that the applicant having completed three years in stage 4 (Associate Professor) and possessing the Ph.D. degree in the relevant discipline was designated as Associate Professor w.e.f. 01.01.2006. He possessed the eligibility criteria for promotion to the post of Professor w.e.f. 15.02.2012. As such, he became eligible for promotion as Professor w.e.f. 15.02.2012.

3. The case set up by the applicant, in brief, insofar as relevant, is that the respondents initiated the exercise for making promotion of Associate Professors to the post of Professors of Govt. Colleges U.T. Chandigarh through CAS. He being eligible offered himself for assessment for promotion by submitting applications along with required **PBAS** proforma. He was intimated that the pre-screening meeting for considering promotion to the post of Professor in the subject of Physics will be held on 05.11.2014. He was directed to reach, along with the requisite supporting documents, at Vice Chancellor's Conference Room, Panjab University, Chandigarh, vide letter dated 30.10.2014 (Annexure A-5). Out of 100 candidates, who applied for promotion to the post of Professor, in different subjects, only 18 candidates were shortlisted for interview

in different subjects. Consequently, the meeting of the Selection Committee for promotion from the post of Associate Professor (Physics) to Professor (Physics) under the CAS was held on 12.01.2015. The applicant attended the interview on that date. The Committee recommended his name for promotion to the post of Professor, vide minutes of meeting held on 12.01.2015 (Annexure A-2). However, Respondent No. 1 issued the impugned order dated 09.03.2015 (Annexure A-1) promoting/re-designating the applicant as Professor w.e.f. 25.09.2014 instead of 15.02.2012. It was further alleged that on coming to know that the post of Principal, Post Graduate Government College, Sector 46, is going to fall vacant on retirement of Dr. Gurjit Kaur on 30.06.2016, he represented on 13.06.2016, requesting the respondents to give him officiating charge of the said post, he being a Professor, senior to the Associate Professor, however, no response was received in this regard. Even he made repeated representations dated 29.06.2015, 06.10.2015, 03.12.2015, 03.12.2015, 07.12.2015, 21.12.2015 and 13.06.2016 (Annexure A-3 colly) to correct/change his date of promotion/re-designation as Professor (Physics) w.e.f. 15.02.2012 instead of 25.09.2014, but in vain.

4. Aggrieved thereby, the applicant has preferred the instant O.A., challenging the impugned order/action of the respondents, on the following grounds:-

“A) That the action of respondents in not promoting the applicant as Professor in Physics from 15.02.2012 is not only arbitrary and illegal but also in violation of provisions of UGC Regulations, 2010 under which the promotion from Associate Professor to the Professor has been considered, recommended and made.

B) That once the applicant being eligible has been considered and promoted/re-designated as Professor of Physics under the Career Advancement Scheme (CAS) as provided the UGC Regulations, 2010 and once the Selection Committee recommended his name as Professor of Physics with effect from 15.02.2012, the applicant deserves to be promoted as Professor in Physics with

effect from 15.02.2012. It is evident from the recommendations of the Selection Committee made on 12.01.2015 that the complete bio-data of the candidate forms the part of the proceedings and as per column no. 7 of the bio data initial as well as final, the actual date for promotion to the Professor/stage 5 is 15.02.2012.

C) That during the Screening Committee meeting held on 05.11.2014 the Bio-date submitted by the applicant was checked and verified by the Committee members in the presence of applicant. Thereafter, during the meeting held on 18.11.2014 the applicant submitted that his actual date for promotion to the Professor/stage 5 should be 10.12.2011 instead of initially claimed by him in PBAS as 15.02.2012. On the asking of Committee the date in Column No. 7 was also changed initially, however, after screening the applicant the Committee formed opinion that the 'Actual date from which stage 5 is admissible in terms of UGC Regulations 2010' will be 15.02.2012.

D) That in terms of Regulation 6.4.8 a Associate Professor completing three years of service and possessing a Ph.D. Degree in the relevant discipline is eligible to be appointed and designated as Professor, therefore, the applicant being possessing Ph.D. Degree and Associate Professor since 01.01.2006 completed three years of service as such on 01.01.2009 and as such became eligible for promotion as Professor from Associate Professor with effect from 01.01.2009. However, in terms of UGC Regulations, 2010 the applicant possessed the eligibility criteria as provided in Appendix-I, Table-II for promotion to the post of Professor with effect from 15.02.2012. Therefore, the Selection committee considered and recommended the case of applicant for promotion as Professor (Physics) with effect from 15.02.2012 as is clear from the Minutes of Selection Committee Meeting held on 12.01.2015 annexed as Annexure A-2.

E) That the Regulation 6.3.12(a) clearly provide that if a candidate applies for promotion on completion of the minimum eligibility period and is successful, the date of promotion will be from that of minimum period of eligibility.

F) That it is settled law that a senior person cannot be denied his legitimate right to hold the higher post. The action of respondents to give charge (officiating) to the private respondent No. 4 ignoring the claim of applicant is violative of his fundamental right to equality guaranteed under Articles 14 and 16 of the Constitution of India.

G) That in terms of Amended Recruitment Rules for the post of Principal, 2002, issued vide letter dated 12.04.2002 the respondent No. 4 is not even eligible for appointment to the post of Principal, therefore, on this account as well he cannot be given the charge (officiating/look after) of the post of Principal. He earned the Degree of Ph. D. only on 04.07.2007 and as required under the Rules the respondent No. 4 is not having 10 years experience of teaching/research in Universities/Colleges and Other Institutions of higher education. On the other hand the applicant is having eligibility as provided under the Rules for appointment to the post of Principal."

5. Levelling a variety of allegations and narrating the sequence of events, in detail, in all, the applicant claims that since he became eligible for promotion to the post of Professor w.e.f. 15.02.2012 but he was promoted as such w.e.f. 25.09.2014, so he is entitled to retrospective promotion w.e.f. 15.02.2012. On the

strength of the aforesaid grounds, the applicant seeks to quash the impugned order to the pointed extent, and claims retrospective promotion on the post of Professor w.e.f. 15.02.2012, in the manner, indicated herein above.

6. On the contrary, the contesting respondents have refuted the claim of the applicant, and filed written statement, wherein it was pleaded that initially the applicant was appointed as Lecturer in Govt. Polytechnic for Women, Sector 10, Chandigarh, on adhoc basis, against the leave vacancy of Sh. S.K. Suri, vide Memo dated 22.09.1981 (Annexure R-1). Thereafter, he was appointed as Lecturer in Govt. College, Sector 11, Chandigarh on adhoc basis w.e.f. 09.11.1985, and his services were regularized from the same date by the Competent Authority. Ultimately, he was awarded senior scale of Rs.3000-5000 (un-revised) w.e.f. 08.07.1992, and selection grade of Rs.3700-5700 (un-revised) w.e.f. 27.07.1998, were awarded to him, vide orders dated 11.04.1997 and 16.04.1999 respectively. However, during the course of audit investigation, by the Office of Director General, (Central) Chandigarh in 2013, the audit objection with regard to payment of excess salary to the applicant was raised, vide letter dated 05.06.2013 (Annexure R-3), inter-alia, on the ground that the adhoc service rendered at Govt. Polytechnic for Women cannot be counted towards the award of Senior Scale/Selection Grade to the applicant. Another letter dated 16.08.2013 from the Audit Department was sent to the Director Higher Education, Chandigarh Administration, for recovery of excess amount, paid to the applicant, on account of wrongly granted of Senior Scale and Selection Grade. Thereafter, two reminders dated 23.07.2014

(Annexure R-5) and 30.07.2014 (Annexure R-6) were also received from the Audit Branch for taking appropriate action, to make recovery of excess amount, paid to the applicant. The matter was stated to be still pending.

7. Exhibiting the previous instances to prove that the promoted officers were given the date of promotion from the commencement of the promotional process and preparation of PBAS. It was further pleaded as under:-

“That the cases of Associate Professors for re-designation to the post of Professors were considered in terms of provision of Rule 6.5.1 & 6.5.2 of UGC Regulation dated 30.06.2010 by the Screening Committee/Selection Committee of Panjab University, Chandigarh (Affiliating University) and on the recommendations of the Selection Committee, the following 14 Associate Professors have been re-designated to the post of Professors in the pay scale of Rs.37400-67000 +10000 AGP w.e.f. 25.09.2014, which were forwarded to the Panjab University on 25.09.2014, as per rule 6.5.1 as reproduced below, not more than 10% of the total no. of post of Associate Professor want to be re-designated as Professor provided that there shall not be more than 01 post of Professor in each department. Accordingly, keeping in view this provision, the College-wise Associate Professors being Senior in the respective department in the respective college were re-designated as Professor as per detail given below, keeping the inter-se seniority intact:-

List of Associate Professors Recommended by Panjab University Against applications Which Were Forwarded On 25.09.2014					
Sr. No.	Name of Associate Professors	Name of College	Subject	Sty. No.	Remarks, if any
1.	Dr. Anita Kaushal	PGGCG-11	English	11	-
2.	Dr. Jagdish Kumar Sehgal	PGGC-46	Commerce	12	-
3.	Dr. Binu Dogra	PGGCG-11	Music(I)	15	-
4.	Dr. Nirupma Luthra	PGGCG-11	Sociology	22	-
5.	Dr. Rosy Walia	PGGCG-11	Commerce	27	-
6.	Dr. Rajiv Bhandari	PGGC-11	Physics	35	-
7.	Dr. Nisha Aggarwal	PGGCG-42	Commerce	41	-
8.	Dr. Punam Agarwal	PGGCG-11	Commerce	56	-
9.	Dr. Saubhagya Vardhan	PGGCG-42	Music (V)	57	-
10.	Dr. Sarabjit Singh	PGGC-46	Punjabi	66	-
11.	Dr. Sneha Sharma	PGGC-46	Hindi	69	-
12.	Dr. R.P.S. Josh	PGGCG-42	Hindi	85	-
13.	Dr. Lakhbir Singh	PGGCG-42	Sanskrit	91	-
14.	Dr. Manjit Kaur	PGGCG-42	English	135	-

As per recommendation of Screening Committee, the post of Professor is personal to the incumbent and he will perform the duty assigned to him. There is no provision in the regulation to supersede in the UGC regulation in the seniority. Therefore, the promotion, if any to the next post i.e. Principal of the College is to be considered as per normal Chandigarh Education Service (Group 'A' Gazetted) Government Arts & Science Colleges, Rules 2010 which reads as under:-

- “(i) Doctoral Degree with 55% marks in Master's Degree from a recognized University or equivalent; and
- (ii) Ten years experience of Teaching or Research or in Universities or Colleges or other institutions of higher education”

As per these Rules, 75% of the total no. of posts of Principal, Lecturers in Govt. Arts & Science Colleges with 10 years of service in the grade are to be considered for Promotion, the note below Column 12 of the said Rule, stipulates:-

“Where juniors who have completed their qualifying or eligibility service are being considered for promotion, their seniors would also be considered provided they are not short of the requisite qualifying or eligibility service or two years, whichever is less, and have successfully completed their probation period for promotion to the next higher grade along with their juniors who have already completed such qualifying or eligibility service.”

That it is submitted that as per the provisions of the UGC guidelines dated 30.06.2010 as reproduced in para 8 above. There shall be one post of Professor in each department of the College and therefore a no. of the post of Professor has to be fixed as per the criteria laid down by the UGC and in no manner it amount to change of Seniority among the Professor/Associate/Assistant Professors. That is why there is no seniority of Lecturers (Professors/Associate Professors/Assistant Professors).

That while forwarding the applications to the Panjab University, Chandigarh vide this office D.O. letter dated 30.09.2014, it was intimated that these applications may be considered as per Clause 6.5.0 of UGC Regulations dated 30.06.2010. Chandigarh Administration follow Punjab pattern in the matter of pay scale and service conditions of UT employees in pursuance of notification dated 13.01.1992 which deemed to have come into force w.e.f. 01.04.1991 in UT, Chandigarh. According to this notification, the conditions of service of employees of Union Territory of Chandigarh will be the same as per the conditions of service of persons appointed to the corresponding posts in Punjab Civil Services and shall be governed by the same Rules and Orders as are for the time being applicable to the latter category of persons.”

8. The specific case of the respondents, in its additional written statement and reply to MA No. 1571/2017, is that the notification dated 03.12.1981 (Annexure A-15) was issued subsequently to joining of service by the applicant on adhoc basis. Applicant never joined on adhoc basis in pursuance of notification dated 03.12.1981 (Annexure A-15). He cannot be given the benefit of his past service, rendered against the leave vacancy in Govt. Polytechnic College for Women, Sector 10, Chandigarh, in view of

instructions dated 26.10.1995 (Annexure R-11) and dated 10.09.2007 (Annexure R-12), issued by the Punjab Govt. The applicant was stated to have fabricated his service record, by changing the date of his last date of working in Govt. Polytechnic College for Women, Chandigarh. This fact was brought to the notice of Higher Education Department as well as to the Advisor to the Administrator, vide letters (Annexure R-13 colly), and the matter regarding registration of FIR with regard to tampering or fabrication of service book, by the applicant, is under process with the police, on the basis of complaint vide communications dated 21.10.2016 and 10.01.2017 (Annexure R-14 colly).

9. According to the respondents, that they have never granted any retrospective promotion to any person, as claimed by the applicant. The orders/letters (Annexure A-37 to A-43) do not pertain to similarly situated employees, who had been promoted as Professors, on the relevant dates. The applicant had also been granted the benefit of Senior Scale and Selection Grade from the retrospective effect, as was granted to the persons, mentioned in Annexures A-37 to A-43. It was explained that the Chandigarh Administration follows the conditions of service, as applicable to the similarly situated persons, in the State of Punjab, for all intents and purposes and the Punjab Govt. also did not grant the benefit of re-designation to the post of Professor, from retrospective effect, as wrongly prayed by the applicant. So he was also not entitled for any such relief. The State of Punjab used to grant the re-designation to the post of Professor, when the concerned University sent the file after the interview to the Govt. of Punjab. It was reiterated that the Chandigarh Administration has not granted any

benefit to the similarly situated employees from the retrospective effect. All the re-designated Professors in the Education Department of Chandigarh Administration had been granted the benefit of promotion from the same date i.e. 24.09.2014, which is the date for demand of application from the applicants for their re-designation as Professors. As such, the applicant is not entitled for any relief. The date of promotion under the CAS was rightly assigned to the applicant, as per the UGC Regulations and the relevant Rules. Instead of reproducing the entire contents of the reply, and in order to avoid the repetition of the facts, suffice it to say that while virtually acknowledging the factual matrix, and reiterating the validity of the impugned order, the respondents have stoutly denied all other allegations and grounds, contained in the O.A., and prayed for its dismissal.

10. Controverting the pleadings in the written statement of the respondents and reiterating the allegations and grounds, contained in the O.A., the applicant filed his rejoinder. That is how we are seized of the matter.

11. Having heard the learned counsel for the parties, having gone through the relevant record, with their valuable assistance, and after considering the entire matter, we are of the firm view that there is no merit, and the instant O.A. deserves to be dismissed, for the reasons mentioned herein below.

12. Ex-facie the main arguments of learned counsel that the Competent Authority has promoted the applicant to the post of Professor w.e.f. 25.09.2014 and since the applicant became eligible for promotion w.e.f. 15.02.2012, so he is entitled to retrospective promotion from that date, are not only devoid of merit, but

misplaced as well, and deserves to be repelled for the following more than one reason.

13. As depicted herein above, the facts of the case are neither intricate nor much disputed and fall within a very narrow compass to decide the real controversy between the parties. Such being the position on record, now the short and significant question that arises for our consideration, in this case, is as to whether the applicant is entitled to retrospective promotion 15.02.2012, when he became eligible for promotion to the post of Professor, as claimed by him, or w.e.f. 25.09.2014, the date of preparing the **PBAS** proforma on the basis of **API** formula of the candidates, as granted to him, in the impugned order by the Competent Authority.

14. Having regard to the rival contentions of the learned counsel for the parties, to our minds, the answer must, obviously, be in the negative, as the applicant is not entitled to retrospective promotion w.e.f. 15.02.2012, the date when he became eligible for promotion to the post of Professor, as wrongly claimed by him.

15. What cannot possibly be disputed here is that the UGC issued Regulations (Annexure A-7), regulating the appointment of teachers and other academic staff in Universities and Colleges, and measures for maintaining all standards in higher education in the year 2010. Regulation 6.0.1 postulates that the method of selection procedure shall incorporate transparent, objective and credible methodology of analysis of the merits and credentials of the applicants based on weightages given to the performance of the candidates in different relevant dimensions and his/her performance on scoring system proforma, based on the Academic Performance Indicators (for brevity, **API**) as provided in this

Regulations in Tables I to IX of Appendix III. Sequellly, Regulation 6.0.7 further posits that the process of selection of Professors shall involve inviting the bio-data with duly filled Performance Based Appraisal System (for short, **PBAS**) proforma developed by the respective universities based on the **API** criteria based **PBAS** set out in this Regulation and reprints of five major publications of the candidates. According to the proviso to this Regulation, such publications submitted by the candidate shall have been published subsequent to the period from which the teacher was placed in the Assistant Professor stage –II, and such publication shall be provided to the subject experts for assessment before the interview and the evaluation of the publications by the experts shall be factored into the weightage scores while finalizing the outcome of selection. Regulation 6.0.6 also deals with the minimum qualification, norms etc. for selection of Associate Professor to the post of Professor. Similarly Regulation 6.3.7 envisages that all the selection procedure shall be completed on the day of the selection committee meeting, wherein, the minutes are recorded along with **PBAS** scoring proforma and recommendation made on the basis of merit and duly signed by all members of the selection committee in the minutes. Likewise, as per Regulation 6.3.8, CAS promotions being a personal promotion to the incumbent teacher holding a substantive sanctioned post, on superannuation of the individual incumbent, the said post shall revert back to its original cadre. Similarly Regulation 6.5.1 reads as under:-

- “(i) Ten percent of the number of the posts of Associate Professor in an Under Graduate College shall be that of Professors and shall be subject to the same criterion for selection/appointment as that of Professor in Universities,
Provided that there shall be no more than one post of Professor in each Department.

Provided further that one-fourth (25%) of the posts of Professor in Under Graduate College shall be directly recruited or filled on deputation by eligible teachers and the remaining three-fourths (75%) of posts of Professors shall be filled by CAS promotion from among eligible associate Professors of the relevant department of the Under Graduate College.

For avoidance of doubt, it is clarified that sanctioned posts include the posts approved under both direct recruitment and CAS promotion.

(ii) Identification of posts of Professor in an Under Graduate College for being filled through direct recruitment/deputation shall be carried out by the affiliating/concerned University acting in consultation with the College. Where the number of posts of Professor worked out as a percentage of the number of posts of Associate Professor for CAS promotion or direct recruitment/deputation is not an integer, the same shall be rounded off to the next higher integer.

(iii) The selection process is to be conducted by the university by receiving PBAS proformas from eligible Associate Professors based on seniority and three times in number of the available vacancies. In case the number of candidates available is less than three times the number of vacancies, the zone of consideration will be limited to the actual number of candidates available. The selection shall be conducted through the API scoring system with PBAS methodology and selection committee process stipulated in these Regulations for appointment of Professors. For direct recruitment of the 25% of the posts, the Rota-quota system shall be followed starting with the promotions and the direct recruitment quota shall be rotated in an alphabetical order.”

16. Not only that, Appendix-III Table –I pertains to proposed scores for Academic Performance Indicators (**API**) in recruitment and CAP promotions of University/College teachers. Appendix III of Table II(A), stipulates the other conditions of promotion under CAS, which provides that a person who holding the post of Associate Professor (Stage 4) and is aspiring for the post of Professor/equivalent cadres (stage 5) is required to have **API** scores- 75 per year for teaching-learning evaluation related activities (category I), 15 per year for co-curricular, extension and profession related activities (Category II), 100 per year for minimum total average annual score under categories I and II, 40 per year(120/assessment period) for research and academic Contribution (Category III), along with other educational essential qualifications, as per the provisions of UGC Regulations.

17. Therefore, a co-joint and meaningful crux of the provisions of UGC Regulations would reveal that a person is eligible for

promotion to the post of Professor, under CAS only, if he possesses all the requisite indicated essential qualification, and other applicable norms, scores of educational and other activities,. At the same time, the initiation of process of promotion, on the methodology of preparing the PBAS proforma on the basis of API scoring system, is a condition precedent for promotion. Besides it, the promotion to the post of Professor would depend upon variety of other relevant factors, such as seniority, availability of vacancy etc., to be calculated, as contemplated under the UGC Regulations, and not otherwise. The regulations nowhere provide that the date of promotion would be the date, when a person becomes eligible, as claimed by the applicant. On the contrary, the date of promotion has to be assigned from the date of initiation/preparation of PBAS methodology & other pointed relevant factors, and not prior thereto. The mere fact that a person has completed the requisite number of years and became eligible for a particular post on a particular date, ipso facto, is not, at all, the relevant factor, much less cogent, for assigning the date of promotion, in the instant case.

18. There is yet another aspect of the matter which can be viewed entirely from a different angle. It is not a matter of dispute that having considered the requisite qualification, experience and other pointed relevant activities, a panel of candidates, including the name of applicants was prepared, in pursuance of Regulation 6.5.0 of UGC Regulations, 2010, and the process for promotion was initiated on 25.9.2014, by the Competent Authority. The eligible candidates were selected by the Selection Committee. The name of the applicant was recommended for re-designation on the post of

Professor by the duly constituted Committee, vide proceedings dated 12.01.2015 (Annexure A-2).

19. As a consequence thereof, and as per the past practice, the Competent Authority has rightly assigned the date of promotion as 25.09.2014, i.e. the date of initiation of recruitment process/preparation of **PBAS** proforma on the basis of **API** scoring system, to 11 eligible candidates, including the applicant (at Sr. No. 5) vide impugned order dated 09.03.2015 (Annexure A-1). If feeble and un-substantiated argument of counsel for the applicant for retrospective promotion, is accepted, then it will amount to nullifying the entire process of promotion, as contemplated under the UGC Regulations. Not only that, the applicant, who is junior and stands at Sr. No. 5 of the list of promoted Professors, would become senior to other promoted Professors (senior professors at Sr. No. 1 to 4), at their back, which is not legally permissible.

20. Therefore, it is held that the applicant is not, at all, entitled to retrospective promotion w.e.f. 15.02.2012, the alleged date of his eligibility. On the other end, he was entitled, and rightly assigned date of promotion, along with other similarly situated promoted Professors, as 25.09.2014, vide impugned order dated 09.03.2015 (Annexure A-1). In this manner, the impugned order, does not suffer from any disability and illegality, as claimed by the applicant, deserves to be and is hereby maintained, in the obtaining peculiar facts and special circumstances of the present case.

21. Sequel, it will not be out of place to mention here that during the pendency of the O.A., the applicant has moved an M.A. NO. 060/01571/2017 for permission to place on record the office

orders dated 19.01.2017, 19.01.2017 and 05.09.2016, along with four other letters (Annexures A-37 to A-43), in an attempt to claim parity qua the persons mentioned therein. In the wake of notice, the respondents filed reply to the application, wherein it was specifically denied that the persons mentioned in the orders/letters (Annexures A-37 to A-43) do not pertain to similarly situated employees and the applicant cannot claim parity in this relevant connection.

22. Be that as it may, as to whether the applicant is entitled to claim parity with the persons mentioned in the orders/letters (Annexure A-37 to A-43), or not, cannot possibly be decided, at this stage, by this Court, in the absence of any proper/specific pleadings and material on record, in this regard, particularly when the respondents have refuted his claim of parity. Therefore, in the absence of proper pleadings and material, on record, we are of the considered opinion that it would be in the interest and justice would be sub-served, if the matter of parity is left open to be decided, by the Competent Authority, at the first instance. Thus, we grant liberty to the applicant to move appropriate detailed representation, claiming parity, and the matter is left open to be decided by the Competent Authority, at the first instance.

23. No other point, worth consideration, has either been urged or pressed by the learned counsel for the parties.

24. In the light of aforesaid prismatic reasons, the O.A. is dismissed and the impugned order (Annexure A-1) is hereby maintained. However, the parties are left to bear their own costs.

25. Needless to mention, in case the applicant files an appropriate representation, claiming the parity with the cases of

persons, mentioned in the orders/letters (Annexure A-37 to A-43), within a period of one month, from today, then the Competent Authority is directed to decide the same, by passing a speaking and reasoned order, in accordance with law, within a period of two months thereafter.

(P. GOPINATH)
MEMBER (A)

(JUSTICE M.S. SULLAR)
MEMBER (J)
Dated: 06.12.2017

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