

**Central Administrative Tribunal
Principal Bench**

OA No.1214/2016

New Delhi, this the 6th day of November, 2019

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. A.K. Bishnoi, Member (A)**

Dr. K.K. Prasad,
Lecturer (Mathematics)
S/o Late Sh. Shivaprasana Prasad,
R/o 1347-A/13, GF, Govindpuri,
Near Petrol Pump, PO Kalkaji, Delhi

Presently posted at :-
Meera Bai Institute of Technology (DTTE),
GNCT of Delhi, Maharani Bagh, New Delhi,
Aged about 48 years.

...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,
Department of Training | & Technical Education,
GNCT of Delhi,
Muni Maya Ram Marg,
Pitam Pura, Delhi-88.
3. The Principal,
Meera Bai Institute of Technology,
Department of Training & Technical Education,
Maharani Bagh, New Delhi-65.
4. Lt. Governor of Delhi,
GNCT of Delhi,
Raj Niwas, Shamnath Marg,
Delhi.
5. Union Public Service Commission,
Through its Secretary,

Dholpur House, Shahjahan Road,
New Delhi.

6. Director,
Department of Training & Technical Education,
GNCT of Delhi,
Muni Maya Ram Marg,
Pitam Pura, Delhi-88.

...Respondents

(By Advocate : Ms. P.K. Gupta)

ORDER (ORAL)

Justice L. Narasimha Reddy, Chairman :

The applicant was appointed as a Lecturer (Mathematics) in Polytechnic in the Department of Technical Education of the Delhi Administration on 16.01.1995. He has also acquired Ph.D degree on 30.11.2011. He contends that four posts of Head of Department (HoD) fell vacant in the year 2011 and inspite of his repeated representations, no steps were taken for filling those posts.

2. The applicant filed OA No.2449/2015 in this regard. That was disposed of on 13.07.2015, directing the respondents to take necessary steps. Since no steps were taken, the applicant filed CP No.725/2015. It was represented by the respondents that the case of the applicant was referred to the UPSC and further steps

would be taken, depending upon the outcome thereof. The CP was closed on 15.02.2016, observing that the process would be completed within a reasonable time. This OA is filed stating that the respondents did not take any steps in the matter for appointment to the post of HoD (Science and Humanities), despite the orders of the Tribunal. Direction is sought to the respondents to complete the process of appointment to the post of HoD, within a reasonable time.

3. The respondents filed counter affidavit opposing the OA. It is stated that the issue could not be finalised on, account of the necessity to amend the Recruitment Rules (RRs), in the light of the guidelines issued by the AICTE. It is stated that the RRs were amended only on 19.09.2017 and according to the new RRs, the appointment to the post of HoD can be made, only through direct recruitment. As regards the plea of the applicant that the post, existed before the Rules were amended, and must be filled according to the un-amended rules, the respondents state that the AICTE norms, which were in force in the year 2010, did not provide for the post of HoD in Science and Humanities.

4. The applicant filed rejoinder. He has also placed before us today, copies of the orders, through which, the HoD was appointed in the year 2010 for Science and Humanities also.

5. We heard Shri Sourabh Ahuja, learned counsel for applicant and Ms. P.K. Gupta, learned counsel for respondents.

6. The applicant acquired the Ph.D degree in the year 2011 and ever since then, he has been making efforts to get appointed as HoD, against the existing vacancy. Having submitted several representations, he filed OA No.2449/2015. That was disposed of on 13.07.2015, directing the respondents to pass a reasoned and speaking order, on the representation made by the applicant. In CP No.725/2015, the respondents represented that the matter has been referred to UPSC for constituting DPC. The proposed amendment to the Rules or the absence of any provision for HoD in Science and Humanities was not pleaded at all.

7. It is no doubt true that the respondents amended the RRs through notification dated 19.09.2017, and that

under the new Rules, the appointment to the post of HoD is only through direct recruitment. However, it is a settled principle of law that whenever rules are amended, the vacancies that existed before such amendment, need to be filled, in accordance with the norms that were available, at the relevant point of time, particularly, for promotion. Reference in this context is made to the judgment of this Tribunal in OA No.3146/2015 dated 30.04.2019.

8. In their attempt to overcome the principle, laid down in the said OA, the respondents came forward with a plea that the norms stipulated by the AICTE in the year 2010 did not provide for promotion to the post of HoD in Science and Humanities. This again is proved to be not correct, in view of the order dated 14.01.2010. Through the said order, the respondents have appointed Shri Ravi Dutt Sharma as HoD (Science and Humanities).

9. Viewed from any angle, the denial of consideration of the case of the applicant for promotion to the post of HoD (Science and Humanities) cannot be countenanced.

10. Therefore, the OA is allowed. Respondents are directed to consider the case of the applicant, for promotion to the post of HoD Science and Humanities, along with other eligible candidates and complete the exercise, within a period of three months, from the date of receipt of a certified copy of this order. We make it clear that appointment, if made, shall be prospective in nature and shall be on the same parameters, as in the case of Shri Ravi Dutt Sharma.

There shall be no orders as to costs.

(A.K.Bishnoi)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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