

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

% *Date of decision : July 08, 2015*

+ **LPA 377/2015**

DR D S NAGESH & ANR Appellant
Represented by: Mr.Kamlesh Kumar, Adv.

versus

DIRECTORATE OF TRAINING &
TECHNICAL EDUCATION & ORS Respondent
Represented by: Mr.Raman Duggal, Standing
Counsel for GNCTD.
Mrs.Avnish Ahlawat, Adv.for
R-2/DTU
Mr.Anil Soni, Adv.for
R-3/AICTE.
Mr.Ripu Daman Bhardwan,
CGSC for R-4/MHRD.

CORAM:
HON'BLE MR. JUSTICE PRADEEP NANDRAJOG
HON'BLE MS. JUSTICE MUKTA GUPTA

MUKTA GUPTA, J. (ORAL)

CM 10716/2015

Exemption allowed subject to just exceptions.

CM 10715/2015

For the reasons stated in the application the delay of 8 days in filing the appeal is condoned.

LPA 377/2015

1. Aggrieved by the order dated March 25, 2015 dismissing the writ petition filed by the appellants seeking directions to the Delhi Technical

University (in short the University) to recall its letters dated August 16, 2013 and July 17, 2013 by which three non-compounded increments granted to the petitioners for acquiring Ph.D. degrees during the period of service have been withdrawn, the appellants prefer the present appeal.

2. Dr.D.S.Nagesh and Dr.Vipin were appointed as Assistant Professors in the Department of Mechanical Engineering and Department of Production and Industrial Engineering on August 14, 2000 and May 26, 2000 respectively. Dr.D.S.Nagesh acquired his Ph.D. degree on June 12, 2008 whereas Dr.Vipin on February 23, 2008. On March 05, 2010 the Government of India, Ministry of Human Resources & Development (MHRD) issued circulars to all NITs that all Professors who have taken higher education while in service would be entitled to three non-compounded increments. On July 18, 2010 for Dr.D.S.Nagesh and on October 17, 2010 for Dr.Vipin the pay was re-fixed and three compounded increments for acquiring Ph.D. degree were also given with effect from September 01, 2008. However, the three compounded increments were withdrawn vide office order dated July 17, 2013 which was challenged in the writ petition.

3. Vide the impugned order the learned Single Judge held that three non-compounded increments were given as incentives to persons working in the same post. However, on acquiring higher qualification promotions were duly granted to the appellants herein and thus they cannot in addition to promotions claim the second benefit of incentive of three non-compounded increments.

4. In the counter affidavit filed the respondent/university has clarified that teachers working in the erstwhile Delhi College of Engineering now

DTU were governed by the AICTE pay scales approved by the Govt.of NCT Delhi. The 5th AICTE pay scales and other incentives admissible to the teachers were implemented by the Govt.of NCT Delhi vide order dated February 11, 2003 with effect from January 01, 1996. However, the Ministry of Human Resources & Development, Govt.of India implemented the 5th AICTE pay scales with effect from January 01, 1996 and other incentives available under Career Advancement Scheme (CAS) with effect from October 1998. It was clarified that the orders of the MHRD, GOI were not directly applicable to the employees under the GNCTD unless duly accepted and notified. Vide the order dated July 29, 2010 the GNCTD approved the 6th AICTE pay scales and other service conditions for the teachers of degree level technical institutes. With the implementation of the order the lecturers were designated as Assistant Professor and Assistant Professors were designated as Associate Professors, however there was no change in the case of Professors. Clause 13 of the Order dated July 29, 2010 provided as under:

“Teachers who complete their Ph.D. degree while in service shall be entitled to three non-compounded increments if such Ph.D. is in the relevant branch/ discipline and has been awarded by a university implying with the process prescribed by the UGC. If Ph.D. is prescribed as an essential qualification for the post, no incentive increment shall be given. This would not be eligible if a person has got increments for Ph.D. in any other relevant discipline”.

5. From the order dated July 29, 2010 it is clear that if Ph.D. was a prescribed essential qualification for the post no incentive increment could be given. It is not disputed by both the appellants that Ph.D. was a prescribed essential qualification for the post of Associate Professor

meaning thereby that an Associate Professor will not be entitled for three non-compounded increments for acquiring Ph.D. degree during service as per Clause 13 of Order dated July 29, 2010. Consequently, there is no infirmity in the impugned judgment.

6. The appeal is dismissed.

CM 10714/2015

Dismissed as infructuous.

(MUKTA GUPTA)
JUDGE

(PRADEEP NANDRAJOG)
JUDGE

JULY 08, 2015
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