



* IN THE HIGH COURT OF DELHI AT NEW DELHI

Reserved on: 08th July, 2026.

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+ W.P.(C) 4111/2022

MRS MANPREET KAUR

.....Petitioner

Through: Mr. Padma Kumar S., Advocate.

versus

INDIRA GANDHI DELHI TECHNICAL UNIVERSITY FOR
WOMEN AND ORS

.....Respondents

Through: Mrs. Avnish Ahlawat, SC for
GNCTD Services with Mr. N.K.
Singh, Ms. Aliza Alam and Mr.
Mohnish Sehrawat, Advocates.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

JUDGMENT

SANJEEV NARULA, J.:

1. The Petitioner, who is serving as a Private Secretary with the Indira Gandhi Delhi Technical University for Women [*“the University”*], assails communications dated 15th December, 2021 and 21st January, 2022, whereby her request for promotion to the post of Assistant Registrar under the Recruitment Rules notified on 13th January, 2017 was not considered.

The Controversy

2. The controversy in the present petition has two facets. The first concerns the manner in which the ratio of 1:3 prescribed between Private Secretaries and Section Officers under the Recruitment Rules notified on 13th January, 2017 was required to be operated. The second concerns



whether the Petitioner, having completed the qualifying service prescribed under those Rules prior to their amendment, acquired a right to be considered for promotion under the unamended regime.

Factual Background

3. The Petitioner was initially appointed as a Stenographer on 20th June, 2003 and was promoted as a Senior Stenographer on 21st December, 2009. On 1st April, 2015, she was promoted as a Private Secretary on *ad hoc* basis. By order dated 19th August, 2016, issued by the Registrar, her promotion was regularised with effect from 1st April, 2015.

4. The University notified the Recruitment Rules for the post of Assistant Registrar on 13th January, 2017 [*“the 2017 Rules”*]. The sanctioned strength of the post was four, of which 50% were to be filled by direct recruitment and 50% by promotion. The promotional quota was to be filled from Private Secretaries and Section Officers in the ratio of 1:3, subject to completion of five years’ regular service in the feeder grade. In the absence of an eligible candidate, the promotional posts could be filled by deputation. The Rules further contemplated selection by a Departmental Promotion Committee [*“DPC”*], which was to include an interview.

5. The Petitioner completed five years’ regular service as a Private Secretary on 1st April, 2020. In the meantime, the University initiated an exercise for revision of the 2017 Rules. For that purpose, a committee was constituted on 26th September, 2019. The proposed revised Rules were considered by the Academic Council on 10th July, 2020 and approved by the Board of Management on 11th August, 2020.

6. The revised Recruitment Rules for the post of Assistant Registrar were notified on 2nd June, 2021 [*“the 2021 Rules”*]. The division of posts



between promotion and direct recruitment remained unchanged at 50% each. The Rules, however, omitted the separate promotional ratio of 1:3 between Private Secretaries and Section Officers and instead placed both categories in a common feeder cadre, prescribing “08 years regular service” as the eligibility requirement for promotion. The promotional quota continued to be filled by promotion, failing which by deputation.

7. On 5th July, 2021, the Petitioner submitted a representation to the University seeking consideration for promotion under the 2017 Rules, on the ground that she completed the prescribed qualifying service prior to the 2021 Rules coming into force. She sent a reminder on 16th November, 2021.

8. By communication dated 15th December, 2021, the University informed the Petitioner that her request for consideration under the 2017 Rules could not be acceded to. It was explained that, of the four sanctioned posts of Assistant Registrar, only two fell within the promotional quota and that, on applying the prescribed ratio of 1:3 between Private Secretaries and Section Officers, the corresponding promotional entitlement worked out to 0.5 post and 1.5 posts, respectively.

9. The Petitioner thereafter submitted a representation dated 20th December, 2021 to the Chancellor, the Chairman of Board of Management and other authorities. The University, by communication dated 21st January 2022, reiterated its earlier stand that the 1:3 ratio translated into a 25% share for Private Secretaries and a 75% share for Section Officers, and that the Petitioner was “*not eligible*” for consideration under the 2017 Rules.

10. Aggrieved, the Petitioner has approached this Court seeking quashing of the communications dated 15th December, 2021 and 21st January, 2022, a direction to convene a DPC for considering her promotion to the post of



Assistant Registrar from the date such consideration became due, and grant of consequential benefits, including seniority, pay, allowances, and interest.

Petitioner's Contentions

11. In support of the petition, Mr. Padma Kumar S., counsel for the Petitioner, makes the following submissions:

11.1. The University has misconstrued the ratio of 1:3 prescribed between Private Secretaries and Section Officers under the 2017 Rules. A quota prescribed between two feeder sources cannot be applied arithmetically by dividing the existing posts into fractions. It must be operated through a continuing cycle of vacancies so that, over every four promotional vacancies, one is filled from the Private Secretary channel and three from the Section Officer channel. Reliance is placed upon the decisions of the Supreme Court in *State of Punjab & Ors. v. Dr. R.N. Bhatnagar & Anr.*¹, *All India Federation of Central Excise v. UOI & Ors.*² and of the High Court of Punjab and Haryana at Chandigarh in *Achal Bisht v. Chandigarh Institute of Hotel Management & Catering Technology*³.

11.2. The interpretation adopted by the University permanently extinguishes the promotional avenue expressly created for Private Secretaries. Since the promotional strength is only two posts, four promotional vacancies could never become simultaneously available.

11.3. The Petitioner completed five years' regular service on 1st April, 2020, when the 2017 Rules were in force. Since the DPC ought to have been convened during 2020-21, when she became eligible for consideration, the subsequent amendment enhancing the qualifying service from five to eight

¹ (1999) 2 SCC 330.

² (1999) 3 SCC 384.



years could not divest her of the right to be considered for promotion under the unamended Rules. Reliance is placed upon ***Rajesh Kumar Giri & Ors. v. Union of India & Ors.***⁴ to contend that where the qualifying service is enhanced, existing feeder-cadre incumbents must be protected through an appropriate transitional provision.

11.4. The failure to convene a DPC under the 2017 Rules, followed by reliance upon the revised eligibility condition introduced under the 2021 Rules, constitutes malice in law. The impugned communications have unlawfully deprived the Petitioner of her right to be considered for promotion under the 2017 Rules. In terms of the decision in ***Sunil Kumar Mehra v. MCD & Anr.***⁵, the Petitioner is entitled to retrospective consideration and all consequential benefits.

11.5. Without prejudice, the Petitioner completed eight years' regular service even under the 2021 Rules on 1st April, 2023. Despite the same, the University has not convened a DPC and has instead continued to fill the promotional posts through other routes.

Respondents' Contentions

12. Opposing the petition, Mrs. Avnish Ahlawat, SC for GNCTD (Services) appearing on behalf of the Respondents, submits as follows:

12.1. There were only two posts within the promotional quota. In the absence of a post-based roster or an express mechanism for operating the ratio, no whole post could be assigned to the Private Secretary channel under the 1:3 formula. One post could have fallen to that channel only if four promotional vacancies were available.

³ CWP No. 13249 of 2018, decided on 10th February, 2020.

⁴ W.P.(C) 4959/2014, decided on 2nd February, 2015.



12.2. The process of revising the Recruitment Rules commenced on 26th September, 2019, before the Petitioner completed five years' service. The 2021 Rules were approved by the Board of Management on 11th August, 2020 and notified on 2nd June, 2021. Since no DPC was convened and no selection process commenced under the 2017 Rules, the Petitioner did not acquire any vested right to be considered under those Rules. Her eligibility for promotion is, therefore, governed by the 2021 Rules, which were in force when consideration for promotion could take place.

12.3. Reliance is placed on *State of Himachal Pradesh & Ors. v. Raj Kumar & Ors.*⁶, *UOI v. Manpreet Singh Poonam & Ors.*⁷, *State of Odisha & Ors. v. Sreepati Ranjan Dash*⁸ and *Jagdish Prasad & Ors. v. P.M. Manoj Kumar & Ors.*⁹, to contend that the existence of a vacancy does not confer a right to promotion or to consideration under the rules prevailing on the date when the vacancy arose, and that the applicable rules are those in force when consideration for promotion takes place

12.4. The University never denied consideration of the Petitioner's case for promotion *per se*. However, such consideration can only be undertaken in accordance with the 2021 Rules, upon the Petitioner fulfilling the eligibility conditions prescribed therein.

12.5. At present, both posts within the promotional quota continue to remain unfilled by regular promotion. Of the two posts, one has been occupied by a consultant on contract since 28th December, 2022, while the other has been filled through deputation with effect from 2nd January, 2026.

⁵ 2013 SCC OnLine Del 1858.

⁶ (2023) 3 SCC 773.

⁷ (2022) 6 SCC 105.

⁸ 2026 SCC OnLine SC 879.



Issues for Determination

13. The following issues arise for consideration:

- a. Whether the ratio of 1:3 prescribed under the 2017 Rules was required to be operated through a continuing cycle of promotional vacancies, or could be applied by dividing the two promotional posts into fractional shares of 0.5 and 1.5;
- b. Whether, upon completing five years' regular service while the 2017 Rules were in force, the Petitioner acquired a right to be considered for promotion under those Rules notwithstanding the subsequent notification of the 2021 Rules;
- c. Whether the Petitioner is entitled to retrospective consideration for promotion and consequential benefits on account of the University's failure to convene a DPC under the 2017 Rules; and
- d. What relief, if any, ought to be granted in view of the Petitioner having subsequently fulfilled the eligibility conditions prescribed under the 2021 Rules.

Analysis

Operation of the 1:3 Ratio

14. There is merit in the Petitioner's challenge to the manner in which the University has interpreted the ratio of 1:3.

15. The 2017 Rules contemplated a two-stage allocation. First, the sanctioned posts of Assistant Registrar were to be divided equally between direct recruitment and promotion. Thereafter, the vacancies falling within the promotional quota were to be apportioned between Private Secretaries and Section Officers in the ratio of 1:3. The second prescription was a

⁹ 2026 SCC OnLine SC 970.



source quota. It did not reserve an identified fraction of the sanctioned posts permanently for either feeder cadre. Nor could it be implemented by treating half a post as belonging to Private Secretaries and one-and-a-half posts as belonging to Section Officers.

16. In ***R.N. Bhatnagar***, the Supreme Court considered the issue of a recruitment quota of 75:25 between departmental promotees and direct recruits and held that the quota must be operated through a running roster applied to vacancies as and when they arise, not by earmarking posts in the cadre. The Court observed that each vacancy is to be filled according to the next roster point, irrespective of whether it arises from the retirement of a promotee or a direct recruit. Thus, under a 75:25 quota, the first three vacancies would be filled by promotees, the fourth by a direct recruit, and the sequence would continue thereafter. Applying the same principle, the Punjab and Haryana High Court in ***Achal Bisht*** held that, under a 2:1 quota, the first two vacancies would go to promotees, the third to a direct recruit, and the cycle would repeat thereafter.

17. ***All India Federation of Central Excise*** drew a distinction between a source quota and a post-based reservation system. It held that where promotion is governed by a normal quota between different feeder channels, officers, upon promotion to the higher cadre, cease to have the “*birthmarks*” of their previous categories and the identity of the feeder channel from which they were promoted “*ceases to exist*”. As a result, there is no question of filling a vacancy in the higher cadre created by the retirement of an officer from a particular feeder channel by another officer from the same feeder channel. This decision emphasised that the prescribed ratio under normal quota is maintained by operating the roster against successive



vacancies, and not by earmarking posts for particular feeder channels.

18. Tested against the aforesaid principles, the University's interpretation cannot be sustained. The ratio of 1:3 required a cycle of four promotional vacancies to be operated over time. It did not require four promotional posts to exist or fall vacant simultaneously. The first, second, third and fourth promotional vacancies were required to be assigned in accordance with the running roster maintained under the prescribed ratio. If such a roster had not been maintained, it was required to be reconstructed from the existing position in the cadre and the history of appointments made under the Rules.

19. The contention that no roster or implementation mechanism had been devised does not advance the Respondents' case. An administrative failure to prepare or maintain a roster cannot override or dilute the Recruitment Rules. Once the Rules prescribed a quota between the feeder sources, it was incumbent upon the University to give effect to that prescription by maintaining, or where necessary reconstructing, a running vacancy roster. Its omission to do so cannot be invoked as a basis for disregarding one of the prescribed feeder channels or rendering the statutory quota otiose.

20. The consequence of the University's interpretation exposes its fallacy. Since only two posts fall within the promotional quota, the Private Secretary channel would never receive a whole post unless the sanctioned strength itself were increased. The promotional avenue expressly created for that feeder cadre would thus become wholly illusory throughout the operation of the 2017 Rules. A construction which renders an express part of the Recruitment Rules nugatory must be rejected.

21. The communication dated 21st January, 2022 suffers from a further infirmity. It treated the Petitioner as "*not eligible*" merely because 25% of



two posts did not yield a whole vacancy. Eligibility and availability of a vacancy are distinct concepts. Having completed the prescribed qualifying service, the Petitioner was eligible for consideration. The only question was when her feeder source became entitled, under the roster, to consideration against a promotional vacancy. The absence of a vacancy at a particular roster point could not render an otherwise eligible employee ineligible.

22. The impugned communications cannot, therefore, be sustained. However, setting them aside only resolves the legality of the grounds on which the Petitioner's claim under the 2017 Rules was not considered. It does not establish an accrued right to consideration under those Rules. That question turns on whether, before the 2021 Rules came into force, a promotional vacancy had arisen and the Petitioner's feeder source had become entitled to consideration under the running roster. That issue must be examined separately.

Whether the Petitioner acquired right to consideration under the 2017 Rules

23. The Petitioner completed five years' regular service while the 2017 Rules were in force. Equally, the internal process for revising those Rules did not, by itself, suspend or displace them. Until the 2021 Rules were notified on 2nd June, 2021, the 2017 Rules continued to govern the field.

24. The constitution of the Revision Committee on 26th September, 2019, consideration of the proposed Rules by the Academic Council on 10th July, 2020, and their approval by the Board of Management on 11th August, 2020, were merely steps in the rule-making process. They did not amend the existing Recruitment Rules or alter the Petitioner's service conditions. The existing Rules continued to govern the field until the revised Rules were duly notified.



25. The converse is equally true. Mere fulfilment of the eligibility criteria under the existing Rules does not confer a vested right to be considered under those Rules. Eligibility only places an employee within the zone of consideration; it creates no accrued right to promotion or to the continued application of the prevailing eligibility regime.

26. The legal position now stands authoritatively settled in **Raj Kumar**. The Supreme Court held that there is no rule of universal application that vacancies must necessarily be filled on the basis of the law which existed on the date when they arose. A government servant has no vested right to promotion, but only a right to be considered in accordance with the Rules prevailing on the date of consideration. The Supreme Court expressly overruled the proposition, derived from **Y.V. Rangaiah v. J. Sreenivasa Rao**¹⁰, that vacancies arising under the old Rules must necessarily be filled under those Rules.

27. **Raj Kumar** further explained that **Rangaiah** did not lay down an invariable ‘old vacancy-old rule’ doctrine. The decision in **Rangaiah** turned on the statutory requirement to prepare an annual panel of approved candidates against anticipated vacancies during the panel’s currency. The employees were denied consideration only because that mandatory exercise had not been undertaken. It was in that context that the Court held that vacancies arising before the amendment of the Rules would be governed by the unamended Rules.

28. The position here is materially different from **Rangaiah**. The 2017 Rules imposed no statutory obligation on the University to prepare an annual panel or complete the promotional process within a prescribed timeframe.



Although the Petitioner relied upon a model calendar for convening DPCs, neither the instruction nor any material demonstrating its binding adoption by the University has been placed on record. In any event, a general administrative guideline cannot be equated with the statutory mandate that formed the foundation of the decision in **Rangaiah**. Consequently, the mere occurrence of a vacancy before the 2021 Rules came into force did not entitle the Petitioner to be considered under the 2017 Rules.

29. In **Sreepati Ranjan Dash**, the Supreme Court, while applying the principles of **Raj Kumar**, noted that, although the employees had asserted their claim under the existing Executive Instructions, the competent authorities had identified the eligible officers, forwarded their names and requested the Government to convene a DPC, no DPC had in fact been convened before the new Recruitment Rules came into force. The Court, in those circumstances, declined to direct that promotions be considered under the superseded Executive Instructions.

30. Likewise, in **Manoj Kumar**, applications had been invited under the earlier Rules and certain Head Constables had been promoted to the post of ASI-Executive on an *ad hoc* basis *vide* a promotion order dated 13th November, 2014, issued by the Office of the Director General of Police. The Supreme Court noted that those *ad hoc* promotions were made for a limited period, the promotees were subsequently reverted, and no permanent or vested right accrued by reason of such *ad hoc* appointments. Applying **Raj Kumar**, the Supreme Court held that consideration for regular promotion had to proceed in accordance with the Recruitment Rules in force at the time of such consideration, and not under the superseded Rules.

¹⁰ (1983) 3 SCC 284.



31. The facts of the present case point the same way. Before the 2021 Rules came into force, no process for filling the post under the 2017 Rules had been initiated. No DPC had been convened, no zone of consideration drawn, no service records placed before the competent authority, and no recommendation made. Significantly, the Petitioner herself sought consideration under the 2017 Rules only on 5th July, 2021, after the 2021 Rules had already come into force. Thus, mere completion of five years' service, or the existence of vacancies, did not entitle her to consideration under the 2017 Rules.

Effect of Rajesh Kumar Giri

32. The decision in ***Rajesh Kumar Giri***, relied upon by the Petitioner, does not carry her case any further. In that case, the Department of Personnel and Training [“DoPT”] had issued an Office Memorandum dated 31st December, 2010 providing that, where the eligibility service prescribed for promotion was enhanced and the change was “*likely to affect adversely*” persons holding the “*feeder grade posts on regular basis*”, a note could be included in the revised Recruitment Rules preserving the existing eligibility service for such incumbents. The Cadre Controlling Ministry itself recognised that such a provision ought to have been incorporated in the amended Recruitment Rules, but declined to take corrective action on the ground that the omission had occurred when the Rules were revised.

33. A Division Bench of this Court found that the Cadre Controlling Ministry had declined to act on that recommendation on an erroneous appreciation of the legal position. It, therefore, directed the Ministry to process the recommendation, amend the Recruitment Rules by incorporating the note contemplated by paragraph 3.1.3 of the DoPT Office Memorandum,



and thereafter consider the petitioners for promotion under the amended 2011 Rules with the note inserted therein.

34. In the present case, there is no material to show that the DoPT Office Memorandum relied upon in **Rajesh Kumar Giri** applied to the University or had been adopted by it. Nor is there any indication that the omission of a protective or transitional clause from the 2021 Rules was inadvertent. More importantly, the 2021 Rules have not been challenged on the ground that the absence of such a provision renders them arbitrary or otherwise invalid.

35. A protective clause cannot be read into the Recruitment Rules merely because the earlier qualifying service requirement was less onerous. In the absence of a binding statutory or administrative mandate, or a successful challenge to the validity of the 2021 Rules on that ground, **Rajesh Kumar Giri** affords no basis to carve out an exception in the Petitioner's favour.

Plea of malice in law

36. The plea is equally unpersuasive. The expression cannot be employed as a substitute for every error of law. An administrative decision may be legally unsustainable without being actuated by malice in law. As noted in **Sunil Kumar Mehra**, the latter ordinarily connotes the exercise of power for an unauthorised purpose or an act done “*without lawful excuse*”, that is, “*an act wrongfully done without reasonable or probable cause*”.

37. In **Sunil Kumar Mehra**, the petitioner had already been promoted to the higher post on an *ad hoc* basis. A regular vacancy had arisen, he was eligible to be considered for regular promotion, and the employer was under a legal duty to convene the DPC. Yet, despite the vacancy remaining available, the DPC was not convened for over nine years. The employer offered no explanation beyond a vague reference to “*administrative*



reasons”, without disclosing the facts constituting those reasons. It was in those exceptional circumstances that the prolonged and unexplained delay in convening the DPC was held to amount to malice in law and retrospective promotion was granted.

38. The present case stands on a different footing. The Petitioner was never appointed as Assistant Registrar, even on an *ad hoc* basis. Further, the process of revising the Recruitment Rules had commenced before she completed the requisite five years’ service. While that exercise did not displace the 2017 Rules, it dispels any suggestion that the Rules were amended, or the promotional process deferred, to deny the Petitioner consideration for promotion.

39. It cannot also be borne out from the record that the University consciously deferred the convening of a DPC in order to await the notification of the 2021 Rules. Significantly, the Petitioner herself sought consideration only after the 2021 Rules had come into force. The erroneous interpretation adopted in the communications dated 15th December, 2021 and 21st January, 2022 cannot, without more, retrospectively convert the earlier non-convening of a DPC into an act actuated by malice in law.

Retrospective Promotion and Consequential Benefits

40. Even otherwise, the existence of a promotional vacancy and satisfaction of the prescribed eligibility conditions do not, by themselves, create a vested right to promotion from the date on which the vacancy arose. The Petitioner’s right under the applicable Recruitment Rules was only to be considered for promotion in accordance with law. Promotion to the post of Assistant Registrar required consideration by a DPC. The Court cannot presume suitability or place the Petitioner in the promotional cadre from a



date preceding such assessment.

41. In *Manpreet Singh Poonam*, the Supreme Court reiterated that the mere existence of a vacancy, by itself, does not create a right to retrospective promotion where the applicable Recruitment Rules prescribe promotion through a selection process. Promotion ordinarily takes effect after the candidate is duly considered and found suitable by the competent selection body in accordance with the applicable Rules. Retrospective promotion cannot be granted *de hors* those Rules.

42. The Petitioner is, therefore, not entitled to a direction for retrospective promotion, seniority, pay or allowances from 1st April, 2020, 1st April, 2023 or any other anterior date under the 2017 Rules.

Consideration under the 2021 Rules

43. The inquiry, however, does not end there. The Petitioner asserts that she has since completed the qualifying service prescribed under the 2021 Rules and is, therefore, entitled to consideration in terms thereof.

44. The 2021 Rules continue to treat promotion from the cadre of Private Secretaries as the primary mode of recruitment to the post of Assistant Registrar. Deputation is envisaged only where no suitable candidate is available for promotion. The statutory preference, therefore, remains in favour of promotion from the feeder cadre.

45. The Respondent's own submissions reveal that neither of the two promotional posts has been filled through regular promotion. One is occupied by a consultant and the other by a deputationist. Significantly, the deputation appointment was made on 2nd January, 2026, after the Petitioner had completed the qualifying service prescribed under the 2021 Rules.

46. Having invoked the 2021 Rules to deny consideration under the



earlier regime, the Respondents cannot disregard the same Rules once the Petitioner fulfilled the qualifying service prescribed thereunder. Since promotion remains the preferred mode of recruitment, eligible departmental candidates ought to have been considered before resorting to deputation.

47. This conclusion is reinforced by the Respondents' own stand that the University has never declined to consider the Petitioner under the 2021 Rules. If so, there is no justification for continuing the promotional posts under *ad hoc* arrangements without convening a DPC.

Conclusion & Relief

48. Accordingly, the writ petition is partly allowed in the following terms:

- a. The communications dated 15th December, 2021 and 21st January, 2022 are quashed. This shall not be construed as reviving the 2017 Rules or as recognising any right in favour of the Petitioner to retrospective consideration under those Rules.
- b. The University shall convene a duly constituted DPC and consider the Petitioner, along with all other eligible candidates in the feeder grades, for promotion to the post of Assistant Registrar under the 2021 Rules.
- c. The DPC shall be convened and its proceedings completed within eight weeks from today. The recommendations shall be placed before the competent authority and an appropriate decision taken thereon within four weeks thereafter.
- d. The existing engagement of a consultant or appointment of a deputationist against the posts falling within the promotional quota shall not be treated as a ground to postpone the promotional exercise. Any consequential adjustment in those arrangements shall be made by the University in accordance with law and the terms governing the respective



engagements.

e. In the event the Petitioner is found fit and is granted promotion, the promotion and attendant benefits shall take effect from the date of the promotion order issued pursuant to the recommendation of the DPC. She shall not be entitled, by virtue of this judgment, to retrospective seniority or monetary benefits.

49. The present petition is disposed of in the above terms.

SANJEEV NARULA, J

JULY 23, 2026/ab