



2023.DHC.5762

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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 1386/2017 & CM APPL. 6405/2017 -Stay., CM APPL. 52156/2019 -Dir. by Petr.

ASHA GUPTA

..... Petitioner

Through: Mr.Anil Nauriya with Mr.Sunita Hazarika, Mr.Ritesh Dhar Dubey, Advs.

versus

UNIVERSITY OF DELHI & ANR

..... Respondent

Through: Mr.Mohinder JS Rupal, Adv for R-1.
Mr.Ravinder Agarwal, Adv for R-2.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

12.07.2022

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1. The petitioner, who was working as a Reader in Political Science in Bharati College, University of Delhi (hereinafter referred to as College) and was thereafter absorbed as a Director in the Directorate of Hindi Medium Implementation, a department under University of Delhi (hereinafter referred to as Directorate) w.e.f. 03.09.2007 has approached this Court seeking the following reliefs:-

a) issue an appropriate Writ, direction or order directing the Respondents to treat the Petitioner's conditions of service including her date of superannuation on the basis of the resolution No 126 dated 27 December 2007 passed by the Executive Council of the Respondent University specifically with regard to her case;

b) issue an appropriate Writ, direction or order directing the Respondents to release the petitioner's salary along with the annual increments due to her;



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c) issue an appropriate Writ, direction or order directing the Respondents to pay ail present and other entitlements accruing to the Petitioner on her superannuation on the basis of her admitted date of retirement, that is, April 30, 2017; and

d) pass such other or further order as may, in the interests of justice, be considered necessary.

2. The primary contention of learned counsel for the petitioner is that when the petitioner gave up her lien in College where she was working as a Reader, she was on the basis of resolution passed by the Executive Council of the University assured that she would be entitled to the benefit of the enhanced retirement age of 65 years even as a Director in the Directorate. However, subsequently the respondent University sought to resile from the said assurance on the purported advice of the University Grants Commission (UGC) and, therefore, decided to treat the petitioner as having superannuated on 30.04.2012 and her subsequent period of service was later sought to be treated as contractual employment, compelling her to approach this Court.
3. Learned counsel for the petitioner submits that the petitioner having rendered services as a Director in Directorate till 30.11.2016 against due salary and having thereafter served till 30.04.2017 without receiving any salary cannot be penalised on account of the University's purported ignorance of the legal position that only teaching staff members were entitled to the extension till the age of 65 years. He, therefore, contends that the petitioner is entitled to receive all benefits including her unpaid salary as also retiral benefits till 30.04.2017.



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4. On the other hand, Mr.Rupal, learned counsel for the respondent no.1 University urges that once the UGC clarified that the post of Director in the Directorate was a non-teaching post and was, therefore, governed by the retirement age of 60 years, the respondent no.1 had no other option but to treat the petitioner as having been superannuated on 30.04.2012.
5. After some arguments, it has been put to learned counsel for the respondent no.1 as to whether taking into account that the petitioner has actually served against receipt of due salary till 30.11.2016, the said respondent would be willing to give a quietus to the matter by agreeing to take into account her service till 30.11.2016 for all contents and purposes including release of her retiral benefits. He prays for and is granted time to obtain instructions.
6. Learned counsel for the petitioner also prays for time to obtain instructions as to whether the petitioner is willing to give up her claim for any benefits for the period from 01.12.2016 to 30.04.2017, during which she claims to have discharged the functions of a Director in the Directorate, albeit without any salary.
7. At request, list on 24.08.2022.

REKHA PALLI, J

JULY 12, 2022

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