
(2012) 12 DEL CK 0291

In the Delhi High Court

Case No : LPA No. 289 of 2012 and CM No's. 6542 of 2012 (Delay) and C.M. No. 6543 of 2012

University of Delhi and Another

APPELLANT

Vs

Nalini Prabhakar

RESPONDENT

Date of Decision : 06-12-2012

Acts Referred:

Citation : (2012) 12 DEL CK 0291

Hon'ble Judges : D. Murugesan, C.J.;Rajiv Sahai Endlaw, J

Bench : Division Bench

Advocate : Pinky Anand, with Ms. Beenashaw Soni, Mr. Aayush Chandra, Ms. Ankita Mishra and Ms. Namrata, for the Appellant; S.K. Rungta with Mr. Prashant Singh, Ms. Pratiti Rungta and Ms. Rashmi J., for the Respondent

Final Decision : Dismissed

Judgement

D. Murugesan, Chief Justice

CM No. 6542/2012 (Delay of 209 days in filing the appeal)

1. The above application filed by University of Delhi seeks for a direction to condone the delay of 209 days in filing the appeal challenging the order dated 29.07.2011 passed in the writ petition. The respondent filed the writ petition challenging the decision of the Executive Council (EC) of the University of Delhi dated 30.09.2003 in not accepting the recommendations of the Managing Committee (MC) for regularization of the respondent. By the order under appeal, the learned Judge disposed the writ petition with the following directions:-

25. For the aforementioned reasons, this petition succeeds. A direction is issued to Respondent No. 2 to convene a meeting of its MC and consider the case of the Petitioner for being regularized in terms of the observations of the Supreme Court in para 44 in State of Karnataka v. Umadevi within a period of four weeks from today. The Petitioner's regularization without any benefit of arrears of pay or allowances will be from the date on which the first vacancy for a permanent

post in the Department of English in Respondent No. 2 occurred after her appointment. This will also be the date for the purposes of her seniority and calculation of qualifying service for pension, if any. The MC will proceed on the basis that the Petitioner's initial appointment was properly made and that she continued as a temporary lecturer for over 15 years not on account of any interim order of a Court or Tribunal. Within a period of two weeks thereafter, the MC will forward the Petitioner's case to the EC for approval. The EC will take a decision on the said recommendation in accordance with law within a period of four weeks thereafter and convey it forthwith to Respondent No. 2 with a copy to the Petitioner. The consequential orders will be issued by Respondent No. 2 within a further period of two weeks.

26. The writ petition is disposed of with the above directions with costs of Rs. 5,000/- which will be jointly paid by Respondents 1 and 2 to the Petitioner within four weeks.

2. In filing the appeal, the above application has been filed seeking for condonation of delay of 209 days.

3. We have gone through the application and a perusal of the application shows that order dated 29.07.2011 was placed before the Managing Committee on 09.08.2011. The Managing Committee forwarded its recommendations for being considered by the Executive Council on the same day. The decision of the Managing Committee should have been placed before the Executive Council in a period of four weeks, i.e., from 09.08.2011. Admittedly, the same has not been placed even now and the appeal has been filed only on 16.03.2012.

4. The explanation offered by the University is that since the Executive Council meeting was scheduled to be held on 21.03.2012, the recommendations of the Managing Committee was not placed within four weeks as directed by the Court. Secondly, it is stated that a letter dated 25.08.2011 written by Sh. Brij Behari was received by the Ministry of Human Resource Development pointing out that the respondent was not qualified to be appointed to the post and for that reason cannot be regularized and in any event, the respondent did not undergo the selection process. Thereafter, a decision was taken and the appeal was filed only on 16.03.2012.

5. From the above dates, we find that there is absolutely no reason as to why the recommendation of the Managing Committee was not placed within four weeks before the Executive Council as directed by this Court. Firstly, we noticed that after the recommendations of the Managing Committee was received on 09.08.2011 an emergency meeting of Executive Council was held on 03.09.2011. The recommendations were not placed before the said meeting. Even thereafter, yet another emergency meeting of the Executive Council was held on 27.02.2012. Even on that day, recommendations of Managing Committee was not placed. Secondly, though the petitioner had relied upon a letter written by Sh. Brij Behari, it is seen that the said letter was dated 25.08.2011 and the same

was received in the University on 05.09.2011. Hence, the University should have explained the delay from 05.09.2011 till 16.03.2012 when the appeal was filed. In the absence of any satisfactory explanation whatsoever, we are not inclined to condone the delay.

6. That apart, going by the order under challenge, the learned Judge has ultimately directed the Executive Council to take a decision on the recommendations of Managing Committee in accordance with law within a period of four weeks thereafter and convey the same forthwith to the petitioner therein. In view of the above, we are not inclined to condone the delay. Accordingly, the application is dismissed and consequently, the appeal and the pending applications are also dismissed.