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* **IN THE HIGH COURT OF DELHI AT NEW DELHI****Judgment reserved on: 06.04.2026**

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Judgment delivered on: 09.04.2026

+ LPA 198/2026 & CM APPL. 21404/2026

PRINCE KUMAR

.....Appellant

Through: Mr. R. K. Saini and Mr. Abhishek,
Advs.

versus

DELHI TECHNOLOGICAL UNIVERSITY AND OTHERS

.....Respondents

Through: Mrs. Avnish Ahlawat with Mrs. Tania
Ahlawat, Mr. Nitesh Kumar Singh,
Ms. Aliza Alam and Mr. Mohnish
Sehrawat, Advs.**CORAM:****HON'BLE THE CHIEF JUSTICE****HON'BLE MR. JUSTICE TEJAS KARIA****J U D G M E N T****DEVENDRA KUMAR UPADHYAYA, C.J.**

1. Heard the learned counsel for the parties.
2. This *intra-Court* appeal challenges the order dated 20.02.2026 passed by the learned Single Judge whereby W.P.(C) 8606/2019 instituted by the appellant has been dismissed.
3. Certain facts, in brief, which have bearing on this appeal may be noted. An advertisement for filling up various posts of Assistant Professor was issued on 28.09.2017 by the respondent no.1– Delhi Technological



University (hereinafter referred to as University). Amongst others, one post of Assistant Professor in the discipline of Management in Delhi School of Management was advertised, which was reserved for candidates belonging to the reserved category of Scheduled Caste (hereinafter referred to as SC). One more post of Assistant Professor in the same discipline, which was reserved for the reserved category candidates belonging to the SC category in the University School of Management and Entrepreneurship (East Delhi Campus) of the University, was also advertised. The appellant, who belongs to the SC category, pursuant to the said advertisement dated 28.09.2017, applied for appointment to the post of Assistant Professor in Management.

4. The advertisement dated 28.09.2017 gave details of the positions, the reservation applied, the pay scales and essential qualifications, etc. The advertisement also stipulated the process of recruitment according to which the University would conduct a screening test for shortlisting the candidates, and thereafter the shortlisted candidates would make a presentation before a Committee in the concerned department and other invitees of the University prior to appearing before the Selection Committee. The said stipulation in the advertisement was made in Note 4, which is extracted herein below:-

“4. The University shall conduct a screening test for short listing of candidates. The shortlisted candidates will make a presentation before a committee in the concerned department and other invitees of DTU, prior to appearing before the Selection Committee.”

5. The appellant appeared in the screening test, which was conducted for short-listing the candidates and was declared successful. Accordingly, he was invited for making presentation and also to appear in the interview



before the Selection Committee. The Selection Committee held its meetings on 04.12.2017, 05.12.2017, 06.12.2017 & 07.12.2017, and accordingly, its Minutes were prepared on 07.12.2017, according to which, one candidate belonging to the SC category; Mr.Yashdeep Singh was selected for the post in question, having secured 59 out of 100 marks. The Minutes of Meeting of the Selection Committee are on record, a perusal of which reveals that in respect of the other post reserved for SC category candidates, the Selection Committee opined that 'None Found Suitable'(NFS). The result of the selection held pursuant to the advertisement dated 28.09.2017 was declared on 08.12.2017.

6. The appellant sought certain informations under the Right to Information Act and also made representations to the respondent – University to consider his candidature in view of the fact that in the subsequent advertisement issued on 14.05.2018, the post reserved for the SC category, which remained unfilled pursuant to the earlier advertisement dated 28.09.2017, was not carried forward as a backlog vacancy. The representation made by the appellant was not decided, which impelled the appellant to institute the proceedings of W.P.(C) 4055/2019 with the prayer for issuing a direction to the respondent – University to decide his representation dated 30.06.2018 and also to consider the appellant's candidature for appointment to the post of Assistant Professor against the vacant post.

7. Learned Single Judge of this Court disposed of the said writ petition by means of an order dated 22.04.2019 directing the respondent – University to decide the representation made by the appellant, dated 30.06.2018 within



two weeks. In compliance of the said order dated 22.04.2019 passed by the learned Single Judge in W.P.(C) 4055/2019, the representation of the appellant was considered and decided by the respondent – University by means of an letter dated 06.05.2019, whereby the appellant was informed that on the basis of presentation and interview the Selection Committee had not recommended his name for appointment to the post in question. By the said letter dated 06.05.2019, it was also informed to the appellant that on the basis of the recommendations of the Selection Committee, Mr.Yashdeep Singh was appointed to the post in question under the SC category.

8. The appellant thereafter instituted the proceedings of the underlying writ petition, namely W.P.(C) 8606/2019, challenging the letter dated 06.05.2019, whereby his representation was rejected. He also prayed that the respondent – University be directed to appoint the appellant to the post in question against the advertisement issued in the years 2017 and 2018.

9. During the pendency of the W.P.(C) 8606/2019, an interim order was passed on 26.08.2019, directing therein that any appointment to the post in question would be subject to further orders.

10. It is also to be noted that during the pendency of the underlying writ petition, the respondent – University issued a fresh advertisement on 14.03.2024 inviting applications for various faculty positions pursuant to which the appellant made his application and participated in the said recruitment process; however, he was not successful. The writ petition instituted by the appellant, wherein the order rejecting his representation dated 06.05.2019 was challenged with a further prayer to issue a direction to appoint him against the post in question, has been decided by the impugned



order dated 20.02.2026 by the learned Single Judge. It is this order dated 20.02.2026, passed by the learned Single Judge, which has been assailed in these proceedings.

11. Impeaching the impugned order dated 20.02.2026 passed by the learned Single Judge, it has been argued on behalf of the appellant by the learned counsel representing him that the recommendations made by the Selection Committee, which was held pursuant to the advertisement dated 28.09.2017 in respect of one post reserved for the SC category candidates to the effect that 'None Found Suitable' (NFS), is absolutely illegal for the reason that the advertisement did not stipulate any criteria or Benchmark for declaring a candidate as suitable. It has also been argued on behalf of the appellant that even the Selection Committee in its proceedings did not prescribe or fix any benchmark or criteria for adjudging any candidate to be suitable/non-suitable. And since no such prescription of Benchmark was made either in the advertisement or by the Selection Committee in its proceedings, declaration to the effect that none was found suitable (NFS) is absolutely arbitrary, which has resulted in denial of appointment of the appellant against the post in question under the reserved category of SC.

12. Learned counsel representing the appellant has stated that the learned Single Judge, without appreciating the aforesaid arguments, has dismissed the writ petition solely on the ground that in the subsequent recruitment process held pursuant to the advertisement dated 14.03.2024, though the appellant had participated, however, he could not succeed as he had secured less marks than the benchmark fixed by the Selection Committee. His submission, thus, is that right of the appellant seeking appointment on the



basis of selection held pursuant to the advertisement dated 28.09.2017 would not get extinguished solely because he could not be selected on the basis of the selection held in pursuance of the subsequent advertisement dated 14.03.2024, however learned Single Judge has completely ignored the aforesaid aspects of the matter, which renders the impugned order as not sustainable.

13. It has been vociferously contended by the learned counsel for the appellant that the appellant has been made a prey to None Found Suitable – (NFS syndrome) and as a matter of fact because of this syndrome, without fixing any benchmark either having been stipulated in the advertisement dated 28.09.2017 or by the Selection Committee itself, making a declaration that None was Found Suitable (NFS), cannot be justified as the same is absolutely arbitrary resulting in denial of right of the appellant to be appointed.

14. Opposing the appeal, learned counsel for the respondent – University has contended that in the facts and circumstances of the case and on account of later developments, the impugned order passed by the learned Single Judge does not warrant any interference in this appeal for the reason that in the selection held pursuant to the advertisement dated 14.03.2024, the appellant had participated but did not succeed. She has also argued that though in the selection held pursuant to the advertisement dated 28.09.2017 no benchmarks were fixed for adjudging the suitability of a candidate, however, the Selection Committee held pursuant to the later advertisement dated 14.03.2024 clearly prescribed the benchmark for adjudging the suitability of the candidates, according to which the benchmarks for reserved



category candidates belonging to the SC category was fixed to be 50. In the said selection process, the appellant did not secure the benchmark as the marks obtained by him were 47.8, as a result of which he was not found suitable and thus he remained unsuccessful.

15. The contention raised on behalf of the respondent – University, thus, is that in the facts and circumstances of the instant case and also taking into account the developments, which took place subsequent to the selection held pursuant to the advertisement dated 28.09.2017, no relief could have been granted to the appellant and, therefore, the order passed by the learned Single Judge, which is under challenge herein, does not call for any interference.

16. We have given our anxious consideration to the respective submissions made by the learned counsel for the parties and have also perused the records available before us including the Minutes of the Selection Committee dated 10.05.2025, which was held pursuant to the advertisement dated 14.03.2024 and the list of selected candidates, dated 04.06.2025, which was declared pursuant to the selection held in terms of the advertisement dated 14.03.2024.

17. So far as the submission made by learned counsel for the appellant that making a declaration by the Selection Committee that None was Found Suitable (NFS) for one post of Assistant Professor under the reserved category of SC pursuant to the advertisement dated 28.09.2017, is concerned, what we notice is that no such stipulation as to what would be the benchmark for adjudging the suitability of the candidates was made in the advertisement. We also notice, which is apparent from a perusal of the



Minutes of the Selection Committee held pursuant to the advertisement dated 28.09.2017, that even the Selection Committee had not fixed any criteria or benchmark for adjudging a candidate suitable. In absence of any such stipulation regarding benchmark either in the advertisement dated 28.09.2017 or by the Selection Committee, in our considered opinion, declaring that None was Found Suitable (NFS) for the post in question does not appear to be justified.

18. The Selection Committee is supposed to evaluate the overall performance of the candidates and consider their *inter se* merit. On the basis of marks awarded by the Selection Committee in the selection process, candidates are recommended for appointment to the post in the order of determined by the Selection Committee in the process of selection. However, making a declaration that no candidate is found suitable, i.e. NFS, for appointment against a particular post without there being any stipulation or prescription as to what would be the benchmark or criteria for adjudging the suitability of the candidates, such a declaration, in our considered opinion, is absolutely arbitrary and does not appeal to reason in any manner, whatsoever.

19. Admittedly in the instant case, the advertisement dated 28.09.2017 did not prescribe the benchmark to be followed during the course of selection for adjudging the candidates as suitable; neither the Selection Committee fixed any such benchmark and, therefore, in absence of such prescription either in the advertisement or in the proceedings of the Selection Committee making a declaration that no candidate was found suitable in our opinion, belies logic.



20. However, what we also notice is that the selection pursuant to the advertisement dated 28.09.2017 was complete on declaration of result on 08.12.2017, though the appellant instituted the first petition namely W.P.(C) 4055/2019 after a period of about one and half years from the declaration of the result pursuant to the advertisement dated 28.09.2017 and thereafter two recruitment processes, one pursuant to the advertisement dated 14.05.2018 and the other pursuant to the advertisement dated 14.03.2024, have been resorted to by the respondent – University. Thus, much water has already flown under the bridge since the selection pursuant to the advertisement dated 28.09.2017 was held and appointment was also made. We may also note that the appellant had participated in the selection held pursuant to the advertisement dated 14.03.2024, where the Selection Committee had fixed the benchmark of 50 for the post reserved for SC category candidates for adjudging the candidates as suitable, however, he could not secure the benchmark for the reason that he had secured only 47.8 marks as is apparent from the Minutes of the Selection Committee dated 10.05.2025. In fact, the mistake committed during the course of selection held pursuant to the advertisement dated 28.09.2017 was rectified in the selection process adopted by the respondent – University in respect of the advertisement dated 14.03.2024 by fixing the benchmarks for adjudging the suitability of the candidates. Relevant portion of the minutes of the meeting of Selection Committee held pursuant to advertisement dated 14.03.2024 is extracted hereunder:

“The minimum percentage of marks, as decided by the committee, for the suitability of selection of candidates to the post of Assistant Professor in the discipline of Management



(USME) is 60 marks for UR/General, 55 marks for OBC and EWS and 50 marks for SC, ST and PwBD categories.”

21. It is also to be noticed that *vide* advertisement dated 14.03.2024, 05 posts of Assistant Professor in the discipline of Management reserved for SC category candidates were advertised by the respondent – University against which 04 SC category candidates have been appointed *vide* notice of appointment dated 04.06.2025, but the appellant could not be appointed for the reason that he had admittedly secured marks in the said selection, which were less than the benchmarks. Appointment on the 05th post pursuant to the advertisement dated 14.03.2024 has not been made on account of the pendency of the W.P.(C) 8606/2019.

22. The question in the facts and circumstances of the present case is as to *what relief the appellant would have been entitled to even if W.P.(C) 8606/2019, which was in respect of the selection held pursuant to the advertisement dated 28.09.2017, was allowed.* Admittedly, the selection pursuant to the advertisement dated 28.09.2017 was held without fixing the benchmark for adjudging the suitability of the candidates, however the post against which the appellant was seeking appointment on the basis of the selection held in pursuance of the advertisement dated 28.09.2017 has subsequently been included in the subsequent selections and the appellant though participated in the selection held in pursuance of the advertisement dated 14.03.2024, but he was unsuccessful. In these circumstances, the only relief which could have been granted to the appellant in W.P.(C) 8606/2019, in our considered opinion, is that whenever the selection takes place, either there should be a stipulation regarding benchmark in the advertisement itself or benchmark should be fixed by the Selection Committee during the course



of selection for adjudging the suitability of the candidates. Claim of the appellant for appointment pursuant to the selection held in terms of the advertisement dated 28.09.2017 could not be acceded to at this point of time on account of the changed circumstances, which have occurred for the reason of subsequent developments, which took place after filing of W.P.(C) 8606/2019.

23. We have already noticed that the mistake committed by the respondent – University while conducting the selection process pursuant to the advertisement dated 28.09.2017, where they did not fix any benchmark for adjudging the suitability of the candidates, was rectified in the selection held pursuant to the subsequent advertisement dated 14.03.2024. In the said selection, though the appellant participated, however, he was unsuccessful and, accordingly, at this stage, relief of consideration of the claim of the appellant for appointment pursuant to the selection held in terms of the advertisement dated 28.09.2017 cannot be granted.

24. For the aforesaid reasons, we do not find any plausible reason to interfere with the impugned order dated 20.02.2026 passed by the learned Single Judge whereby W.P.(C) 8606/2019 has been dismissed.

25. Learned counsel for the appellant has also submitted that during the course of the hearing of the instant appeal, the documents, namely the Minutes of the Meeting of the Selection Committee dated 10.05.2025, which was held pursuant to the advertisement dated 14.03.2024, and the result whereof, could not have been taken on record by this Court in the proceedings of the instant appeal. The said submission, in our opinion, is not tenable for two reasons. Firstly, because the contents of the Minutes of



the Selection Committee dated 10.05.2025 as also result declared pursuant to the said selection are not being denied by the appellant and secondly, proceedings of *intra-Court* appeal are said to be continuance of the proceedings of the writ petition and, therefore, if in the opinion of the Court any document is necessary for appropriate adjudication of the issues involved between the parties, it is permissible for the Court to take such documents on record. The Minutes of the Selection Committee, dated 10.05.2025, which pertain to the advertisement dated 14.03.2024 and the result of the said selection have significant bearing on adjudicating the prayers made by the appellant, and therefore, in the interest of justice, the said documents have been taken on record by us.

26. In view of the foregoing discussions made and reasons given, we do not find any good ground to interfere with the impugned order passed by the learned Single Judge.

27. Resultantly, the appeal fails, which is hereby dismissed along with the pending application.

28. No orders as to costs.

(DEVENDRA KUMAR UPADHYAYA)
CHIEF JUSTICE

(TEJAS KARIA)
JUDGE

APRIL 09, 2026
S.Rawat