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

Date of decision: 06.10.2025

(5)+ W.P.(C) 2278/2020

SHRIOM DALAL

.....Petitioner

Through: Mr. Sourabh Ahuja and Mr.
Keshav Singh, Advs.

versus

GOVT. OF NCT OF DELHI & ORS

.....Respondents

Through: Mr. Nitesh Kumar Singh, Ms.
Aliza Alam, Mr. Mohnish
Sehrawat, Advs. Mr. B.S.
Rawat, CI DITTE for R1 and
R2
Mr. Anil Soni, Sr. Adv. with
Ms. Pearl Sharma, Adv. for
AICTE

(6)+ W.P.(C) 1030/2021 & CM APPL. 2840/2021

GOVT OF NCT OF DELHI & ANR.

.....Petitioners

Through: Mr. Nitesh Kumar Singh, Ms.
Aliza Alam, Mr. Mohnish
Sehrawat, Advs. Mr. B.S.
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Ms. Pearl Sharma, Adv for R-
AICTE.

versus

SHRIOM DALAL & ANR.

.....Respondents

Through: Mr. Sourabh Ahuja and Mr.
Keshav Singh, Advs.



CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA
HON'BLE MS. JUSTICE MADHU JAIN

NAVIN CHAWLA, J. (ORAL)

1. These petitions have been filed, challenging the Order dated 10.10.2019 passed by learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as the 'Tribunal') in O.A. No. 3022/2015, titled *Shriom Dalal v. Govt. of NCTD & Ors.*, whereby the learned Tribunal allowed the O.A. filed by Mr. Shriom Dalal (hereinafter referred to as the 'petitioner'), with the following directions:

“15. We, therefore, allow this OA, and direct that the applicant shall be entitled to count his service rendered in the State of Haryana as Lecturer (Computer Engineering), for the purpose of CAS. He shall be entitled to be paid the benefits from 01.10.2019 onwards, but not the arrears for the period earlier thereto. There shall be no order as to costs.”

2. The petitioner challenges the Impugned Order only to a limited extent, insofar as it confines the benefit of the Career Advancement Scheme (CAS) to the petitioner only from 01.10.2019 onwards.

3. The respondent/Government of NCT of Delhi, however, challenges the Impugned Order on the ground that the petitioner was not entitled to have his past service rendered as Lecturer (Computer Engineering) in the Government Polytechnic College Jhajjar, Haryana, counted for the purposes of CAS.

4. To appreciate the controversy raised in these petitions, the only fact essential for consideration is that, admittedly, the petitioner had



worked as a Lecturer (Computer Engineering) in the Government Polytechnic College, Jhajjar, Haryana, from 03.03.1997 to 20.09.2000, before being appointed, through the Union Public Service Commission, as Lecturer (Computer Engineering) in the Directorate of Training and Technical Education (DTTE), Government of NCT of Delhi.

5. He applied for counting of his past service for the purpose of the CAS, which was denied by the respondent *vide* Order dated 23.04.2015 issued by the Government of NCT of Delhi, on the ground that, at the time of his recruitment with the State of Haryana, one of the prerequisite qualifications was that the candidate must possess a qualification in an All India Examination (GATE or equivalent), which the petitioner did not possess. The relevant portion of the said Order reads as under:

“Consequently a meeting of the committee was held on 22.04.2015 to examine the case of Shri Om Dalal, Lecturer GND Polytechnics wherein the Committee, opined, that as per the AICTE guidelines dated 20.09.1989, qualifying an all India examination (such as of GATE or Equivalent), as one the prerequisite qualification at the. time of recruitment, to the post for which the service is to be counted, was essential and since he does not possess the qualification all India examination (GATE or equivalent), his case is not recommended for counting of past service w.e.f. 03.03.1997 to 20.09.2000 as requested for the same vide letter dated 22.09.2011. Hence the case of Shri Om Dalal has been rejected as he does not fulfill essential qualification mandated under AICTE guidelines for benefits of Career Advancement scheme.”



6. Aggrieved thereby, the petitioner challenged the said Order before the learned Tribunal in the form of the above O.A.

7. The learned Tribunal, in principle, agreed with the petitioner that qualifying the GATE Examination was not an essential qualification for appointment to the post of Lecturer and, therefore, could not have been a ground to deny him the benefit of counting his past service rendered with the State of Haryana. The relevant portion of the Impugned Order reads as under:

“12. The only ground on which the applicant was denied the benefit of past service is that he did not hold the minimum qualification prescribed by the AICTE for appointment as Lecturer, i.e., clause 9.2(e). According to the respondents, the AICTE issued guidelines in the year 1989 stipulating that a candidate must have - (a) Bachelor's degree in appropriate branch of Engineering, or, M.Sc first class degree in appropriate branch of study for teaching posts in Humanity and Sciences; and (b) qualified in an all India examination (such as GATE/NET or equivalent). On this basis, it is stated that the applicant did not fulfil the qualifications. Had this been stated by the AICTE, the 3rd respondent, the things would have been different altogether. In their elaborate affidavit, the 3rd respondent did not raise any doubt as to the fulfilment of the qualification by the applicant.

13. One important aspect is that the Delhi Administration itself issued a notification dated 04.04.1996 prescribing the method of recruitment and qualifications for appointment to the post of Lecturer (Computer Engineering). According to this, the essential and desirable qualifications are mentioned as under:

*"Essential:
Bachelor's Degree in Computer*



Engineering/Technology from a recognised University or equivalent.

Desirable:

- (i) Qualified in all India Examination such as GATE.*
- (ii) Master's Degree in Computer Engineering/ Technology from a recognised University or equivalent."*

Even this desirable qualification was dropped subsequently. When this is the state of affairs in their own institutions, the respondents 1 and 2 cannot insist that it should be different in other institutions.

14. The record discloses that many Lecturers, who were appointed in private institutions in the State of Karnataka, but were later on appointed by the Delhi Administration, were permitted to count their past service for the purpose of CAS. In OA No.1614/2014, it was held that the Delhi Administration cannot apply different yardsticks in the context of counting of past service. Assuming that there is some uncertainty in this behalf, a balancing act needs to be conducted. We are of the view that even while permitting the applicant to count his past service, the arrears up to this period can be denied to him."

8. Mr. Nitesh Kumar Singh, Advocate, appearing for the Government of NCT of Delhi, submits that in terms of the Notification dated 20.09.1989 issued by the All-India Council for Technical Education (AICTE), one of the essential qualifications for appointment to the post of Lecturer was that the candidate must have qualified in an All-India Examination (such as GATE or an equivalent).

9. He submits that since the petitioner, at the time of his appointment with the Government of Haryana, had not qualified the



GATE Examination, the service rendered by him with the Government of Haryana could not be counted for the purposes of granting the benefit under the CAS.

10. He further places reliance on Clause 9.2 (b) and 9.2 (e) of the Circular dated 30.12.1999 issued by the AICTE, to contend that the past service can be counted only if the candidate possesses qualifications not lower than those prescribed by the AICTE for the post of Lecturer. Clauses 9.2 (b) and 9.2 (e) of the said Circular are reproduced as under:

“9.2 Counting of Service outside the Institution

Previous continuous service, as a Lecturer or equivalent in college, national laboratory, or other scientific organizations such as CISR, ICAR, DROD etc., or in any public sector industrial undertaking may be counted for placement of Lectures in senior scale/ selection Grade provided that:

xxx

(b) The qualifications for the posts were not lower than the qualifications prescribed by ACITE for the post of Lecturer;

xxx

(e) The concerned Lecturer has possessed all the minimum qualifications prescribed by ACITE for appointment as Lecturers.”

11. He also places reliance on the clarification dated 04.01.2016 issued by the AICTE, and specifically on paragraphs 33 and 44 thereof, to submit that no relaxation is permissible for the purpose of counting past service. We quote the relevant clauses as under:

<i>SI. No</i>	<i>Issue</i>	<i>Clarification</i>
33	<i>(a) Procedure to verify the past service record for counting the service under CAS.</i>	<i>(a) Past service to be counted for CAS, subject to the endorsement of complete service record by the appropriate</i>



	<p>(b) Consideration for stepping up of Pay of Senior faculty at par with Junior [who has been given benefit of the service, rendered in the private/Govt. Institutions for the purpose of CAS) in Govt. Institutions governed by CCS/FR & SR Rules,</p> <p>(c) Total period of past service rendered may be counted for the purpose of CAS to the faculty.</p>	<p>approving authority University/State Department of Technical Education) in accordance with GOI Rules. Stepping up shall be in accordance with FR & SR Rules of GOI, as admissible.</p> <p>(b) Based on the recommendation of Selection Committee, the Central/State/UT Govt. May decide as per their norms/terms and conditions at the time of appointment.</p>
	XXX	XXX
44.	<p>(a) Applicability of Item No. 10 of the AICTE clarification issued vide F. No. FD/PSSC/Clarif /2003/ dated 10-9-2003 for the purpose of counting past service for CAS, with respect to Para 9.2 (b) of AICTE notification dated 30-12-1999.</p> <p>(b) Consideration to relax the qualifications prescribed in AICTE notification, 1989 (Diploma) for the purpose of counting past service under CAS.</p>	<p>(a) There is no relaxation provided in respect of Para 9.2(b) of AICTE notification dated 30-12-1999, for counting of past service under CAS. Para 9.2 (b) shall be read as it is.</p> <p>(b) No relaxation is admissible.</p>

12. On the other hand, the learned counsel for the petitioner submits that, in terms of the Circular/Notification dated 20.09.1989, qualifying the GATE Examination was not an essential qualification for appointment to the post of Lecturer. In support of his submission, he places reliance on the Judgment of this Court in **Govt. of NCT of Delhi & Ors. v. Dr. Amira Nisar**, 2022:DHC:77-DB. He submits that, therefore, the insistence of the respondent on the petitioner having qualified the GATE Examination for the purposes of counting his service rendered with the State of Haryana, was rightly rejected by the learned Tribunal in the Impugned Order.

13. He further submits that the learned Tribunal has erred in restricting the benefit of CAS only with effect from 01.10.2019 on the



premise that there was some uncertainty in this regard prior thereto. He submits that there was no such uncertainty, as the AICTE, in its Circulars/Notifications dated 20.09.1989 and 30.12.1999, had not prescribed qualifying GATE as an essential qualification for the purposes of counting past service.

14. He also draws our attention to the counter affidavit filed by the AICTE, which supports the above contention of the petitioner, and the relevant portion thereof is reproduced below:

“8. It is submitted that at the time when the petitioner joined the Government of NCT of Delhi as Lecturer through UPSC on 21.09.2000, the relevant provision relating to counting of past service were outlined under Clause 9 in the 5th CPC AICTE notification dated 30.12.1999. In these provisions, there was no essential condition of GATE for the purpose of grant of CAS benefits and therefore the rejection of his claim by the Government of NCT of Delhi for taking into the account the previous service rendered by the petitioner in Government of Haryana was not in accordance with the guidelines prescribed by the Answering Respondent. As a matter of fact, the AICTE latest 7th CPC Notification dated 01.03.2019 (Diploma) known as AICTE Regulations 2019 which have also stipulated the provisions for counting of past service under para 2.22 does not prescribe any condition of qualifying the GATE exam for direct recruitment as well as promotion. It is clear from the guidelines under para 2.22 which is reproduced below:

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Promotion of a teacher as Lecturer, Head of Department, Principal or any other placement of lecturer in Senior Scale I Selection Grade provided that:

xxx

9. It is submitted that in view of the above, The



AICTE is inclined to accept the judgment given by the Hon'ble Court and is in favour of its 6 implementation by the Government of NCT of Delhi to allow the counting of past service rendered by the petitioner in the Government of Haryana for the purpose of CAS benefits. The AICTE does not intend to controvert the claim of the petitioner for counting of past service since the rejection of the petitioner by the Government of NCT of Delhi has not been inconsonance with the guidelines of the AICTE on the subject. Moreover, the stand if the AICTE while filing the affidavit before the Hon'ble Tribunal has also not put forth the plea that GATE was essential qualification when the petitioner was appointed in Government of Haryana.

10. It is submitted that as regards the prayer of the petitioner for giving him the consequential benefits with interest, it is mentioned that looking at the facts and circumstances of the case, it is clear that the petitioner was making representation to the Government of NCT of Delhi from the very beginning. His request has been rejected on a ground which had no basis and in fact the petitioner was forced to approach the Hon'ble CAT to grant him necessary relief. The Hon'ble CAT has allowed the prayer of the petitioner and therefore his contention stand vindicated. The verdict of the Tribunal has partially given the relief in as much as his prayer for counting of past service has been allowed but the benefit has been given from the prospective date. On one hand he has been made eligible for grant of CAS benefits for which he was entitled from the very beginning of due date and on the other hand the benefit has not been given from the same date. This has caused financial loss to the petitioner which does not seem to be justified since he had already worked during the period for which he was entitled to avail the CAS benefits on account of counting of his past service. The AICTE does not have any objection if the consequential benefits are granted to him with



retrospective effect by the Government of NCT of Delhi. In any case it is for the Government of NCT of Delhi to take a call on this as that Government is the employer of the petitioner and is fully competent to take a decision on their own in this regard.”

15. The learned counsel for the AICTE supports the case of the petitioner.

16. We have considered the submissions made by the learned counsel for the parties.

17. In *Dr. Amira Nisar* (supra), this Court has rejected the plea of the respondent/Government of NCT of Delhi that the counting of past service for the purposes of CAS can be denied where the candidate has not cleared the GATE qualification. We quote from the Judgment as under:

“11.5. The argument advanced on behalf of the petitioners, in our opinion, is flawed for the reason that it ignores the contents of paragraph 4 of the 1989 notification. For the sake of easy referral, the relevant portion of the said paragraph is extracted hereafter:

“.....4.It is proposed that recruitment at the level of lecturers will be from those who qualify through a qualifying examination, details of which shall be developed by the AICTE and intimated to the various State and institutions. Until this operational mechanism is developed, the existing procedures of reattachment will continue in relaxation of this recruitment.....”

xxx

11.9. In effect, AICTE moved from the position of relaxing the rigour of desirable qualification [that required passing of an All-India Examination (such as GATE or equivalent)]to completely dropping the said criterion from the guidelines contained in the 1999 notification.

xxx



12.2. As alluded to hereinabove, the respondent was appointed to the post of Lecturer (EE) in BSF Polytechnic on 31.03.2000. Since in our view, as discussed above, AICTE via paragraph 4 of its 1989 notification had relaxed the condition of qualifying an All-India Examination (such as GATE or equivalent) for appointment to the post of Lecturer, this objection taken by Ms Seth need not detain us.

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15.3. As discussed above, because of the provision contained in paragraph 4 of the 1989 notification, whereby the requirement to pass an All-India Examination (such as GATE) was relaxed, there was no difference in the qualifications prescribed by BSF Polytechnic for the post of Lecturer (EE) and that which was prescribed by AICTE for the post of Lecturer.”

18. This Court has, therefore, held that even as per the AICTE Circular/Notification dated 20.09.1989, it was not essential for a candidate to have qualified the GATE Examination for appointment to the post of Lecturer. The same position was followed by the Government of NCT of Delhi. The denial of counting of the petitioner's past service rendered with the Government of Haryana was, therefore, unwarranted, unsustainable, and has rightly been set aside by the learned Tribunal.

19. As far as the date from which the petitioner would be entitled to the benefit, we find that the representation of the petitioner had been rejected by the Order dated 23.04.2015 passed by the respondent/Government of NCT of Delhi. The petitioner had immediately approached the learned Tribunal by way of the O.A. There was no delay on the part of the petitioner in the filing of the

