



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Reserved on: 13.11.2025
Pronounced on: 04.12.2025

+ **W.P.(C) 8522/2011**
RP PARASHAR

.....Petitioner

Through: In-person.
versus

MCD AND ORS

.....Respondents

Through: Ms. Beenashaw Soni, SC with
Ms.Mansi Jain, Adv. for MCD

CORAM

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE MADHU JAIN

J U D G M E N T

NAVIN CHAWLA, J.

1. This petition has been filed challenging the Order dated 16.07.2009 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as, 'Tribunal') in T.A. No. 170/2009, titled ***Dr. R.P. Parashar and Ors. v. The Commissioner, Municipal Corporation of Delhi and Anr.***, dismissing the same with the following findings:

"11. ... We note that as per the orders of Hon'ble Lok Adalat, the MCD vide its order dated 7.12.2005 appointed the Applicant No.1 (Dr. R P. Parashar) to the post of Vaid redesignated as Medical Officer (Ayurveda) on regular basis in the pay scale of Rs. 8000-13500. It is also noted that the appointment was not made retrospectively in view of the settlement arrived between the parties.

12. We also find that the Applicant No.1, who joined under the 1975 Regulation, was governed by the promotion quota system then available for the post. Further, he was selected by the direct recruitment process in the year 1989. His case was well covered and protected



by the judgment of Hon'ble High court of Delhi in Amir Raza Zaidi's case (supra). In this backdrop, his appointment as Medical officer (Ayurveda) by MCD has been in compliance of the directions issued by Hon'ble High Court and Lok Adalat.

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14. Taking into account the total facts and circumstances of the case, we come to the considered conclusion that the grievances of the Applicant No.1 does not exist and there is no merit in the other 2 Applicants' plea for promotion. In the result, the Transfer Application, being devoid of merits, is dismissed. No costs."

2. Also in challenge is the Order dated 06.09.2011 passed by the learned Tribunal in R.A. No. 287/2011 in TA No. 170/2009, whereby the review filed by the petitioner against the aforementioned Order was dismissed with the following finding:

"6. In view of the reasons stated above, we do not find any error in our orders dated 16.07.2009 passed in the TA No.170/2009. Resultantly, the RA being devoid of merits is dismissed in circulation."

FACTS OF THE CASE

3. Briefly stated, the facts in which the present petition arises are that the petitioner joined the Municipal Corporation of Delhi (MCD) as a Pharmacist on 21.03.1983. As per the Recruitment Regulations for the post of Vaid/ Hakim/Homeopathic Doctors dated 02.05.1975 (hereinafter referred to as '1975 Regulations'), the method of recruitment to the said post was 25% quota for the departmental promotion and 75% by direct recruitment. The 1975 Regulations further prescribed 5 years of experience to become eligible for consideration for promotion.



4. By an amendment dated 10.01.1983, which was notified on 31.03.1984, the method of recruitment was altered and the post became one that was to be filled up 100% by direct recruitment.
5. It is the case of the petitioner that the petitioner, having joined service prior to the enforcement of the amendment, should have been governed by the 1975 Regulations and accordingly granted promotion to the post of Vaid from 1988.
6. Parallely, the petitioner had also taken part in the direct recruitment process for the said post of Vaid. On 12.04.1989, he was interviewed and placed at serial No. 14 of the panel but was not appointed.
7. After agitating his grievances before the competent authorities against both, his non-promotion in accordance with the 1975 Regulations as well as his non-appointment *via* the direct recruitment process, the petitioner filed two separate writ petitions.
8. The first petition, being W.P.(C) 308/2000, titled ***Dr. R.P. Parashar and Ors. v. MCD and Ors.***, was filed for grant of promotion to the post of Vaid retrospectively from the date when the petitioner become eligible as per the 1975 Regulations.
9. The second petition, being W.P.(C) 670/2004, titled ***Dr. R.P. Parashar v. MCD and Ors.***, was filed by the petitioner praying for appointment of the petitioner to the said post *via* the direct recruitment process.
10. The second petition, being W.P.(C) 670/2004, came to be decided on 12.11.2005 by way of a settlement before the Lok Adalat, wherein it was decided that the petitioner would be treated as



appointed to the post of Vaid *via* direct recruitment, prospectively.

11. In the meantime, the first petition seeking promotion to the post of Vaid from 1988, being W.P.(C) 308/2000, which was pending before this Court, came to be transferred to the learned Tribunal and on such transfer, came to be numbered as T.A. No. 170/2009

12. The Impugned Order dated 16.07.2009 came to be passed in the said T.A., aggrieved of which, the petitioner had first filed W.P.(C) 4473/2010, titled ***Dr. R.P. Parashar v. The Commissioner, MCD & Ors.***, before this Court. The same was dismissed as withdrawn with liberty being granted to the petitioner to file a review against the Order dated 16.07.2009.

13. The review so filed was then dismissed by the learned Tribunal *vide* its Order dated 06.09.2011.

14. Aggrieved of the Impugned Orders dated 16.07.2009 and 06.09.2011, the petitioner has now filed the present petition.

SUBMISSIONS OF THE PETITIONER-IN-PERSON

15. The petitioner, who appears in-person, submits that for appointment to the post of Vaid by way of promotion and by way of direct recruitment, he had two separate and independent causes of action and had rightfully filed two separate writ petitions, being W.P.(C) No. 670 of 2004 (regarding appointment to the post by way of direct recruitment) and W.P.(C) No. 308 of 2000 (regarding appointment by way of promotion).

16. With regard to the consent Order dated 12.11.2005 passed in the Lok Adalat in W.P.(C) No. 670 of 2004, he submits that he agreed to



the same without giving up his claim for appointment to the post of Vaid with effect from 1988 by way of promotion. He highlights that W.P.(C) 308 of 2000 was pending as on the date of the settlement.

17. He places reliance of the Judgement dated 10.09.2007 of this Court in W.P.(C) No. 2414/1998, titled *Amir Raza Zaidi & Ors. v. MCD and Anr.*, and Judgment dated 25.09.2008 of this Court in W.P.(C) No. 419/2008, titled *A. Kuldip Singh v. MCD and Ors.*, to submit that similarly situated individuals have been granted the benefit of promotion under the 1975 Regulations.

18. He submits that having already got the benefit of appointment to the post of Vaid with effect from 1989 under direct recruitment, in case he gets appointment to the said post by way of promotion, he will only gain seniority by one year, without any arrears or pay and allowances, and without upsetting anybody's seniority on the said post, either by promotion or by direct recruitment.

19. He submits that therefore, the learned Tribunal has committed a grave error in denying him the said benefit by stating that his grievance does not exist and, therefore, the Impugned Orders are liable to be set aside.

SUBMISSIONS OF THE LEARNED COUNSEL FOR THE RESPONDENT NO.1

20. The learned counsel for the respondent no.1, on the other hand, submits that the petitioner being a party to the Consent Order in Lok Adalat of this Court in W.P.(C) No. 670 of 2004, is now estopped from resiling from his earlier stand. She submits that having accepted the appointment to the post of Vaid prospectively, that is, from 2005



via the direct recruitment process, with no liberty reserved by the petitioner at the time of the passing of the said consent Order with regard to his claim for promotion, the petitioner is not entitled to agitate the same.

21. She submits that granting retrospective promotion to the petitioner would have a cascading effect on the seniority of others who joined the respondents as Voids between 1988 and 2005.

22. She further submits that the Judgements of this Court in ***Amir Raza*** (supra) and in ***Kuldip Singh*** (supra) are not applicable to the petitioner as the petitioner had not satisfied the eligibility criteria for promotion prior to the amendment of the 1975 Regulations in 1984. She contends that the case of the petitioner can also be distinguished from the aforementioned Judgements on the ground that in said Judgements, the individuals who did not meet the eligibility criteria prior to the amendment had been directed to be considered for promotion on account of age-related bars and concerns related to stagnation in their careers.

23. She submits that therefore, the present petition is liable to be dismissed, being devoid of any merit.

ANALYSIS AND FINDING

24. We have considered the submissions made by the petitioner-in-person and the learned counsel for the respondent no.1 and have perused the record.

25. The petitioner had two claims with regard to his appointment to the post of Void. The first concerned to the grant of retrospective



promotion to the said post from 1988 in accordance with the 1975 Regulations, which is the subject matter of the present writ. The second was for appointment to the said post *via* direct recruitment with effect from 1989, which was a subject matter of W.P.(C) No. 670 of 2004.

26. He accepted appointment to the post of Vaid, prospectively from 2005 under the direct recruitment process, that is, under the second claim, *vide* a consent Order dated 12.11.2005 passed in the Lok Adalat of this Court in W.P.(C) No. 670 of 2004. We quote the said consent Order dated 12.11.2005:

*“Director (Personnel) of the MCD says that the MCD is prepared to offer the petitioner the post of Vaid on the basis of his selection made and his name being figuring in the panel of the select one. **But the offer will be with immediate effect and not retrospectively.** **The claimant, who is present, accepts the offer and says that he should be given the letter of appointment immediately.** In view of the settlement arrived at between the parties, directions are given to MCD to issue the appointment letter to the petitioner forthwith.
Petition stands disposed of.”*

(emphasis supplied)

27. A reading of the above would show that the consent Order was unqualified and contained no reservation of rights with regard to the claim of promotion. It is also not the case of the petitioner that the said Order was obtained under any mis-representation or fraud. Hence, in our view, the claim of retrospective promotion would not survive.

28. Even otherwise, it is a settled principle of service jurisprudence that candidates have a right to be considered for promotion in the light



of the existing rules, which implies the “rule in force” as on the date when the consideration takes place. Reliance to this effect can be placed on the Judgment of the Supreme Court in *State of Himachal Pradesh & Ors. v. Raj Kumar & Ors.*, (2023) 3 SCC 773, wherein it was opined as under:

“82. A review of the fifteen cases that have distinguished Rangaiah would demonstrate that this Court has been consistently carving out exceptions to the broad proposition formulated in Rangaiah. The findings in these judgments, that have a direct bearing on the proposition formulated by Rangaiah are as under:

82.1 There is no rule of universal application that vacancies must be necessarily filled on the basis of the law which existed on the date when they arose, Rangaiah case must be understood in the context of the rules involved therein.

82.2 It is now a settled-proposition of law that a candidate has a right to be considered in the light of the existing rules, which implies the "rule in force" as on the date consideration takes place. The right to be considered for promotion occurs on the date of consideration of the eligible candidate.

82.3 The Government is entitled to take a conscious policy decision not to fill up the vacancy arising prior to the amendment of the rules. The employee does not acquire any vested right to being considered for promotion in accordance with the repealed rules in view of the policy decision taken by the Government. There is no obligation for the Government to make appointments as per the old Rules in the event of restructuring of the cadre is intended for efficient work of the unit...”

(emphasis supplied)

29. In the present case, the petitioner is claiming consideration for



promotion from 1988, that is, after the coming into effect of the amendment to the 1975 Regulations in 1984. Hence, in accordance with **Raj Kumar** (supra), he will be governed by the amended version of the 1975 Regulations and would not be entitled to the same.

30. We further do not find merit in the claim of parity being sought with the Judgements of this Court in **Amir Raza** (supra) and in **Kuldip Singh** (supra).

31. In **Amir Raza** (supra), it was opined as under:

“7. ... It would also be relevant to point out that 2 out of 4 petitioners had become eligible for promotion to the post of Unani Hakim before the promulgation of the 1984 regulations. Therefore, their cases, in any event, are to be considered as per the 1979 Regulations. In respect of the other two petitioner, keeping in view the peculiar position, it would be appropriate for the respondents to consider giving relaxation in the rules so that they do not stagnate and retire on the same post on which they were appointed without obtaining a single promotion in their entire service career. ...”

32. Thereafter, this Court in **Kuldip Singh** (supra), opined as under:

“The contention of learned counsel for the Petitioner is that the Petitioner is entitled to the benefit of the judgment in Amir Raza Zaidi & Ors. Vs. Municipal Corporation of Delhi & Anr. WP (C) No. 2414/1998, pronounced on September 10, 2007. His contention in fact is that the present Petitioner is senior to those Petitioners. He draws our attention to the fact that the seniority of the Petitioner has not been denied in the Counter Affidavit. We have perused the judgment with which we are in respectful agreement. Two features are important. Firstly, that the Petitioner is, for no fault of his own, facing the age bar. Secondly,



as per the said judgment the Petitioner would be governed by 1979 Recruitment Regulations and not by the amended Recruitment Regulations 1984.

We were inclined to summon the Commissioner MCD being of the view that the MCD has been obdurate and unfair in not considering the Petitioner and giving him due consideration only for the reason that he had not approached the High Court along with the Petitioners' in WP (C) No. 2414/1998. It seems to us to be an absurd proposition that the benefit is not granted to equally placed persons merely because some of them have not entered into litigation.

In these premises, Mr. Sanjeev Sabharwal, counsel for MCD correctly submits that a DPC shall be completed within two months from today. The Petitioner appears to be the only person left in service who has not obtained a single promotion in his entire career.

MCD is, therefore, directed to consider the Petitioner in the same manner as the Petitioners in WP (C) No. 2414/1998, were considered, but as a special case."

33. The petitioner was appointed as a Pharmacist in the MCD on 21.03.1983 and as on the date of the amendment did not satisfy the criteria of having 5 years' experience. Furthermore, the petitioner was not prevented by any age restriction from participating in the direct recruitment process. In fact, it is through the said process that he ultimately came to be appointed. Therefore, his case is clearly distinguishable from **Amir Raza** (supra) and **Kuldip Singh** (supra), wherein the relief was granted to the employees, who due to being age barred, could not have participated in the direct recruitment process in terms of the amended Rules.

34. As far as the observation of the Court in **Amir Raza** (supra) and



Kuldip Singh (supra) that those who had achieved the qualifying service before the amendment in the Rules should be governed by the unamended Rules, the same can no longer be considered as good law in view of the subsequent exposition of law by the Supreme Court, which we have also referred herein-above. Therefore, the petitioner cannot be granted relief on that basis as well.

35. Pertinent to note is also the fact that, *vide* Office Order No.A.C(Estt.)/HC(M)/North/CED/2015/3641 dated 19.10.2015, the North Delhi Municipal Corporation appears to have further revised the date of appointment of the petitioner to the post of Medical Officer (Ayurveda), that is, the redesignated post of Vaid, to 11.08.1989 on notional basis without any arrears of pay. Therefore, in any case the petitioner has already been granted appointment to the said post by way of direct recruitment with effect from 1989.

36. In these peculiar facts, we even otherwise, do not find this to be a fit case to interfere with the Impugned Orders passed by the learned Tribunal.

37. Accordingly, we find no merit in the present petition. The same is dismissed. There shall be no orders as to costs.

NAVIN CHAWLA, J.

MADHU JAIN, J.

DECEMBER 04, 2025/rv/ik