



2025:DHC:9344



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Decided on 25.10.2025

+ W.P.(C) 13393/2018
PANKAJ TOMARPetitioner
Through: Mr. Raj Singh Phogat, Advocate.

versus

GURU GOBIND SINGH INDRAPRASTHARespondent
Through: Mr. Jasbir Bidhuri, Advocate.

CORAM:
HON'BLE MR. JUSTICE PRATEEK JALAN

PRATEEK JALAN, J (ORAL)

1. This petition, under Article 226 of the Constitution of India, concerns the petitioner's request for transfer of his services from Indira Gandhi Delhi Technical University for Women ["IGDTUW"], to the respondent – Guru Gobind Singh Indraprastha University ["GGSIPU"], by which he claims to have been originally employed. He also assails an order of GGSIPU dated 29.10.2018, by which his request was declined.
2. I have heard Mr. Raj Singh Phogat, learned counsel for the petitioner, and Mr. Jasbir Bidhuri, learned counsel for GGSIPU.
3. The genesis of the controversy lies in the enactment of the Indira Gandhi Delhi Technical University for Women Act, 2012 ["the Act"], by the Legislative Assembly of the National Capital Territory of Delhi. Until this enactment, one of the constituent colleges of GGSIPU was the Indira Gandhi Institute of Technology ["IGIT"]. The Act, however, provided for establishment of IGIT, as a separate university. It is the petitioner's contention that, having been originally employed by GGSIPU, he is liable to be transferred back to the services of GGSIPU.



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4. The petitioner was first employed as Lecturer [Mechanical and Automation Engineering] in GGSIPU on contractual basis, vide order dated 29.03.2006. The order records that he was “*posted in the Indira Gandhi Institute of Technology*”. His appointment was thereafter extended from time to time.

5. On 05.03.2007, a proposal was made for filling up of vacant faculty positions in the University School of Studies/IGIT. The proposal, which has been placed on record by GGSIPU, records that several sanctioned faculty posts were vacant, including 51 out of 149 sanctioned posts of Lecturers. In consultation with the Deans and the Principal of IGIT, it was proposed to advertise various faculty positions, including four posts of Lecturer in Mechanical and Automation Engineer, of which three were in the unreserved category and one was reserved for Scheduled Tribes.

6. The draft advertisement was published after the approval of the Vice-Chancellor of GGSIPU, and a Selection Committee was constituted. The Selection Committee was in terms of Statute 16 of the GGSIPU Statute, which provides that the Dean of the concerned School of Studies would be a member of the Committee. The Principal, IGIT, was therefore included as a member thereof. The minutes of the Selection Committee meeting dated 15.06.2007 have also been placed on record, in which the petitioner was one of the selected candidates. He was appointed to the post by a memorandum issued by GGSIPU dated 04.07.2007. This was followed by an order dated 31.08.2007, noting that the petitioner was taken on the strength of the University as a Lecturer in Mechanical and Automation Engineering and posted in



IGIT. He was confirmed in the post after completion of probation by order dated 03.01.2011.

7. Soon thereafter, the aforesaid Act was enacted by the Legislature of National Capital Territory of Delhi, and IGDTUW was established as a separate university. The Preamble to the Act reads as follows:

“An Act to provide for the reconstitution of the Indira Gandhi Institute of Technology as Indira Gandhi Delhi Technical University for Women and to incorporate it as a non-affiliating teaching and research University at Delhi to facilitate and promote studies, research, technology, innovation, incubation and extension work in emerging areas of professional education with focus on engineering, technology, applied sciences, management and its allied areas and also to achieve excellence in these and related fields and other matters connected therewith or incidental thereto.

Whereas, the Indira Gandhi Institute of Technology is a constituent college of Guru Gobind Singh Indraprastha University of the Government of National Capital Territory of Delhi;

*And whereas, **it is expedient to confer on the said institution the status of a University** to enable it to function more efficiently as a teaching and research centre in various branches of learning and courses of study promoting advancement and dissemination of knowledge and learning, and to meet the requirement of higher education and research in the field of engineering and technology, applied sciences and management sciences etc., foster industry relevant research and innovations and to avail better scopes and opportunities to serve the society and the nation.”*

[Emphasis supplied.]

8. The effect of incorporation of IGDTUW, so far as the employees of IGIT are concerned, is provided in Section 4(d) of the Act, which reads as under:

“4. Effect of incorporation of University – On and from the commencement of this Act-

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*(d) **every person employed by the Indira Gandhi Institute of Technology immediately before such commencement shall hold his office or service in the University** by the same tenure, at the same remuneration and upon the same terms and conditions and with the same rights and privileges as to pension, leave, gratuity, provident*



fund and other matters including all service related matters with regard to promotion and disciplinary actions as he would have held the same if this Act had not been passed, and shall continue to do so unless and until his employment is terminated or he has opted for the University's terms and conditions of employment which would be uniform for the same class of employees;"

[Emphasis supplied.]

9. Section 50 of the Act provides for the overriding effect of the Act over any other law or instrument having the force of law for the time being in force. It reads as follows:

"50. Overriding effect – The provisions of this Act, the Statutes, the Ordinance and the regulations made under there shall have effect notwithstanding anything inconsistent contained therewith in any other law or instrument having the force of law for the time being in force."

10. It is undisputed that, throughout the petitioner's service, he has been engaged in teaching in IGIT and, after the enactment of the Act, in IGDTUW.

11. In contemplation of the bifurcation, GGSIPU issued an order dated 19.06.2012, allocating teaching staff between GGSIPU and IGIT. The order *inter alia* provides that 21 faculty members, who were recruited by GGSIPU against sanctioned vacant posts of IGIT and subsequently posted in IGIT, and who were still working in IGIT, would remain in IGIT "*to meet the course curriculum required at IGIT*". A list of the 21 faculty members, who fell within the said clause was annexed to the order. The petitioner's name was included therein.

12. On 09.08.2018, however, the petitioner made a representation to GGSIPU asserting that he was an employee of GGSIPU and entitled to be transferred back to GGSIPU from IGDTUW. IGDTUW, by its communication dated 26.09.2018, referred to the petitioner's request



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and requested GGSIPU to review the matter. It expressed its intention to relieve the petitioner, in the event it was decided that his services were required to be transferred to GGSIPU. GGSIPU, however, by its communication dated 11.10.2018 and the impugned communication dated 29.10.2018, noted that the petitioner's services had already been handed over to the IGDTUW administration in terms of the order dated 19.06.2012. Therefore, it was stated that the petitioner remained an employee of IGDTUW, and personnel issues would have to be dealt with by IGDTUW.

13. Having heard learned counsel for the parties, I am of the view that the respondent's actions do not warrant interference under Article 226 of the Constitution. As noted above, the petitioner's appointment was against sanctioned posts in IGIT. At that stage, IGIT was a constituent college of GGSIPU, and the appointment was therefore made by GGSIPU. The petitioner, however, remained posted in IGIT and has, throughout his period of employment, discharged his functions at IGIT/ IGDTUW. This is also reflected in the fact that the Selection Committee, constituted in terms of Statute 16 of GGSIPU Statute, included the Principal of IGIT as one of its members. At the time of bifurcation between GGSIPU and IGIT also, the petitioner's services remained with IGIT.

14. Mr. Phogat's argument was that Section 4(d) of the Act applies only to persons who were "employed by" IGIT. He further submitted that in Section 4(d), a condition has been incorporated that the person concerned had "*opted for the University's terms and conditions of employment*". Neither of these arguments commend to me, in the



interpretation of the statutory provision. The Preamble of the Act incorporates IGIT as IGDTUW, by conferring a status of a university upon IGIT. As IGIT was not a university prior to the said Act, the faculty employed by it would naturally have been appointed by GGSIPU and posted to IGIT. This was the exact status of the petitioner. I am of the view that such employees are covered by Section 4(d) of the Act. A contrary interpretation would render all faculty of IGIT outside the scope of the provision, and would make the constitution of IGDTUW meaningless, as a centre of teaching and research. To the extent that such a provision may be deemed inconsistent with his original appointment, the overriding effect given to the Act by Section 50, overcomes this difficulty.

15. Mr. Phogat's argument, with regard to the reference to an option in Section 4(d), is also misconceived. The reference to "*the University*" in Section 14 is a reference to IGDTUW, as defined in Section 2(v) of the Act. The option only provides that an employee can opt out of the terms and conditions under which he/she was employed by GGSIPU, by opting for the terms and conditions of employment prescribed by IGDTUW. It has no effect on the principal provision that the employees would thereafter hold office or serve in IGDTUW.

16. Mr. Phogat also emphasises that the bifurcation order dated 19.06.2012 refers to the posting of these 21 faculty members, including the petitioner, in IGIT "*to meet the course curriculum required at IGIT*". He drew my attention to Section 4(e) of the Act, which provides that existing students of IGIT will continue to pursue their courses under the enrolment of GGSIPU, and that degrees would be awarded to



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them upon successful completion of their courses. According to the petitioner, the 21 faculty members would, thus, continue only until the students who had been admitted to IGIT prior to the enactment of the Act remained enrolled. As the course is of four years' duration, Mr. Phogat submits that those students would have completed their studies in the year 2016, after which the petitioner was entitled to be transferred back to his original employer.

17. It may be noted at the outset, that the petitioner did not make any such representation in 2016 or 2017, but addressed the first representation for transfer only two years later, on 09.08.2018. Be that as it may, I am of the view that the aforesaid indication in the order dated 19.06.2012 cannot, in any event, control the operation of the Act itself. The statutory provision is paramount; it provides for the employees in IGIT to continue as employees of IGDTUW with protection of their service conditions.

18. In view of the above, I am of the view that the petitioner is not entitled to the relief sought in this writ petition. The writ petition is, therefore, dismissed. However, this is without prejudice to any claim that the petitioner might assert against IGDTUW in terms of Section 4(d) of the Act. This writ petition does not concern any such claim, and GNCTD is not even a party to this writ petition. It is, therefore, made clear that this Court has not made any observation on the merits of such a claim.

19. There will be no orders as to costs.

PRATEEK JALAN, J

OCTOBER 25, 2025/UK/KA/