



2025:DHC:7549



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

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Decided on: 29.08.2025

+ W.P.(C) 9673/2025

TUSHAR GUPTA

.....Petitioner

Through: Counsel (Appearance not given).

versus

GOVT. OF NCT OF DELHI AND ANR

.....Respondents

Through: Ms. Latika Choudhury, Advocate
with Mr. B.S. Rawat, CI DTTE for
R-1.Mr. Akash Srivastava, Advocate
for R-2.**CORAM:****HON'BLE MR. JUSTICE PRATEEK JALAN****PRATEEK JALAN, J. (ORAL)**

1. The petitioner applied for the post of Technical Assistant in respondent No. 2 – Delhi Pharmaceutical Sciences and Research University [“the University”], pursuant to an advertisement issued on 29.10.2022. He is aggrieved by a notification dated 02.06.2025, by which the entire recruitment process has been cancelled “*due to administrative reasons*”.

2. The advertisement in question included a total of 45 vacancies across 11 non-teaching posts under the University, including 5 posts at the level of Technical Assistant. The detailed recruitment advertisement provided the essential qualifications for each post, including the post of Technical Assistant. The vacancies for the post of Technical Assistant comprised four posts in the School of Allied Health Sciences [“SAHS”]



and one post in the School of Physiotherapy [“SoP”]. The qualifications provided for the post were as follows:

“Educational Qualification:

Essential:

B.Sc. in Science (PCM/PCB)/Bachelor degree in Pharmacy/Allied Health Sciences from a recognized University/Board or equivalent with 04 years Industrial/Lab Experience in desired trade.

or

Two years State Board Diploma or equivalent in the relevant Pharmacy/Allied Health Sciences subject/field with 05 years of Industrial/Laboratory Experience in the relevant trade.”

3. In the advertisement, the University provided *inter alia* the following general instructions:

“2. The vacancies advertised are provisional and liable to vary (increase or decrease). In case the vacancy position is reduced to any number or even zero due to any circumstances, University will not be liable to compensate the applicant for any consequential damage/loss.

*3. **The University reserves the right to cancel or modify the advertisement or part of it at any stage.** The number of vacancies is provisional and subject to change.*

*4. **The University reserves the right to cancel a part or entire process of examination or a part of it due to administrative reasons** and in case of unfair means, cheating or other irregularities/ malpractice noticed by the University. The University also reserves the right to cancel or set up a new examination Centre and divert the candidates to appear at that examination Centre if required.”¹*

4. The petitioner applied for the post of Technical Assistant, and appeared in an online test on 04.02.2023. The selection was to be made through a computer-based examination followed by a skill test/laboratory test. He was thereafter called for the skill test and was asked to submit documents.

5. By the impugned communication dated 02.06.2025, the recruitment process, for all the posts in question, has been cancelled. The



notification does not contain any detailed reason, but only refers to “*administrative reasons*”.

6. In order to examine the reasons for which the recruitment was cancelled, the Court called for a counter affidavit to be filed by the University.

7. The counter affidavit dated 14.08.2025, filed by the University, discloses the following reasons for cancellation:

*“7. That it is submitted that there have been **infirmities in the recruitment process in the university during the tenure of the Ex-Vice Chancellor** and in view of that Department of technical education and vigilance department, GNCTD has raised doubt about the recruitment of faculties in the university by the then Vice Chancellor and the advertisement for the various post of non-teaching staff i.e. group B and C was made during the tenure of the Ex- Vice Chancellor.*

8. That it is submitted that the Deputy Director (Vigilance), Directorate of Training and Technical Education (DTTE), GNCT of Delhi, vide letter No.F.3(1272)/DTTE/Vig./2020/Shadow file/213-220 dated 17.02.2024, addressed to the then Vice Chancellor of DPSRU (who was also holding additional charge of DPSRU in addition to his substantive post as Vice Chancellor of Guru Gobind Singh Indraprastha University, GNCTD), directed that action be taken regarding certain irregularities in the recruitment process of 17 teaching posts (Professor, Associate Professor, and Assistant Professor). In the said letter, the Deputy Director (Vigilance) requested the initiation of appropriate disciplinary action for removal/dismissal in respect of the alleged illegal appointments, in accordance with Chapter V of the inquiry report dated 13.10.2023, after following due procedure as per Clause 21 of the First Statute. The said matter is presently under examination by the Competent Authorities. Copy of the letter dated 17.02.2024 is annexed herewith and marked as ANNEXURE-4.

9. That it is further submitted that in the aforesaid letter dated 17.02.2024, the Deputy Director (Vigilance), DTTE, GNCT of Delhi, also recorded that the charge of Registrar had been removed in connection with the aforesaid matter.

*10. **That in view of the infirmities in the recruitment process, on the finding of Vigilance Department, GNCTD Ex-Vice Chancellor was terminated from his post of Vice Chancellor, DPSRU by the Hon’ble***

¹ Emphasis supplied.



Lt. Governor of Delhi who is the Chancellor of the University in its power under the DPSRU Act and applicable service rules vide order dated 17.02.2024. Copy of the order of Hon'ble Lt. Governor dated 17.02.2024 is annexed herewith and marked as ANNEXURE-5.

11. That it is submitted that in Advertisement No. DPSRU/NTS/2022/01, at Serial No. 05 for the post of Technical Assistant, a total of 04 posts were advertised for the School of Allied Health Sciences (SAHS) and 01 post for the School of Physiotherapy. While the educational qualifications for the posts under SAHS were prescribed in the advertisement, the qualifications for the post under the School of Physiotherapy were not published, despite the fact that the qualifications for the two categories of posts are different.

12. That it is submitted that in respect of the post of Senior Lab Assistant (Serial No. 08 of Advertisement No. DPSRU/NTS/2022/01), the said post was sanctioned for the Pharmacy discipline at Level 4. As per the relevant recruitment rules, the educational qualifications are prescribed separately for the School of Pharmacy and the School of Allied Health Sciences. The University administration had no authority to divert a post sanctioned for the Pharmacy discipline to the Allied Health Sciences discipline. Moreover, the distribution of posts between the Pharmacy discipline and the Allied Health Sciences discipline was not specified in the recruitment rules, thereby rendering the advertisement factually and procedurally incorrect. Since the posts were sanctioned for the Pharmacy discipline, the prescribed qualifications ought to have been for the Pharmacy discipline only.

13. That the issue of the advertisement of the non-teaching staff was put up before the Board of Governors (BoG) of the University in its 42nd BoG meeting held on 08.04.2025 for the approval of the cancellation of the Recruitment Advertisement No. DPSRU/NTS/2022/01 due to administrative reasons i.e. suspicion regarding 3 times extension even though sufficient applications were received and the cancellation was notified on 02.06.2025. Further, even though the process started on 29.10.2022, for more than 2 years the recruitment process has not been completed and normally the process completes in a maximum period of 1 year. It is noteworthy that all applicants, including the petitioner, were permitted to claim a refund of the application fees paid by them. Copy of the agenda and the minutes of 42nd BoG meeting is annexed herewith and marked as ANNEXURE-6.”²

8. Along with the counter affidavit, the University has also placed

² Emphasis supplied.



supporting material on record, including a communication dated 17.02.2024 received from the Vigilance Branch, Directorate of Training and Technical Education, Government of National Capital Territory of Delhi [“GNCTD”], with regard to irregularities in the recruitment process in the University during the period from 2017 to 2019, and an order dated 17.02.2024 by which the then Vice Chancellor was removed from Office on the ground of irregularities in recruitment of teaching faculty during this period.

9. The legal position, with regard to cancellation of a selection process, has recently been explained by the Supreme Court in *State of West Bengal v. Baishakhi Bhattacharyya (Chatterjee) & Ors*³. After examining the judgments in question from the standpoint of manipulation, malpractices, and use of unfair methods by candidates, the Court came to the following conclusion:

“19. The following principles emerge from the aforesaid discussion:

• When an in-depth factual inquiry reveals systemic irregularities, such as malaise or fraud, that undermine the integrity of the entire selection process, the result should be cancelled in its entirety. However, if and when possible, segregation of tainted and untainted candidates should be done in consonance with fairness and equity.

• The decision to cancel the selection en masse must be based on the satisfaction derived from sufficient material collected through a fair and thorough investigation. It is not necessary for the material collected to conclusively prove malpractice beyond a reasonable doubt. The standard of evidence should be reasonable certainty of systemic malaise. The probability test is applicable.

• Despite the inconvenience caused to untainted candidates, when broad and deep manipulation in the selection process is proven, due

³ 2025 SCC OnLine SC 719 [hereinafter, “*Baishakhi Bhattacharyya*”].



weightage has to be given to maintaining the purity of the selection process.

• *Individual notice and hearing may not be necessary in all cases for practical reasons when the facts establish that the entire selection process is vitiated with illegalities at a large scale.”*

10. The position of a candidate, who has not yet been offered employment, is dealt with in *Union of India v. Tarun K. Singh*⁴ and *Employees State Insurance Corporation & Anr. v. Dr. Vinay Kumar & Ors.*⁵, the latter of which was cited by Mr. Akash Srivastava, learned counsel for the University. In *Tarun K. Singh*, the Supreme Court observed as follows:

*“4. The question for consideration is whether the learned Single Judge of the Allahabad High Court was justified in interfering with an order of cancellation passed by the competent authority and directing that the process of selection should be completed. Needless to mention that subsequent to the order of cancellation, in view of the allegation of malpractice, the departmental authorities had held an enquiry into the matter and the result of that enquiry revealed gross irregularities and illegalities as referred to in the judgment of the Division Bench of the Allahabad High Court. **Consequently the process of selection to a public office, which stands vitiated by adoption of large-scale malpractice, cannot be permitted to be sustained by a court of law. That apart, an individual applicant for any particular post does not get a right to be enforced by a mandamus unless and until he is selected in the process of selection and gets the letter of appointment.** In the case in hand, much before the so-called list of selection was approved by the Railway Board, the order of cancellation had emanated on the basis of complaints received from so many quarters. In view of the subsequent findings of the Enquiry Committee which has gone into the matter, we have no hesitation in coming to the conclusion that the learned Single Judge of the Allahabad High Court was wholly in error in issuing the direction in question and therefore the Division Bench of the Allahabad High Court was fully justified in interfering with the said order of learned Single Judge of the Allahabad High Court. The Division Bench of the Calcutta High Court committed error in following the judgment of learned Single Judge of the Allahabad*

⁴ (2003) 11 SCC 768 [hereinafter, “*Tarun K. Singh*”].

⁵ (2022) 18 SCC 358 [hereinafter, “*Dr. Vinay Kumar*”].



High Court. The judgment of the Division Bench of the Calcutta High Court is set aside and the judgment of the Division Bench of the Allahabad High Court is upheld. In the circumstances, we allow the Union's appeals and dismiss the appeals filed on behalf of the individual candidates. The appeals are disposed of accordingly. Any other question of law remains open.”⁶

11. In *Dr. Vinay Kumar* also, the Supreme Court emphasized that an applicant does not have a legal right to insist that the recruitment process, once set in motion, be carried to its logical conclusion, and such a right may not enure even upon the inclusion of a candidate in the select list. The Court, however, made it clear that the exercise of such a power would be subject to the general principles against arbitrariness in administrative action.

12. The question which arises from the above narration is whether the University's action in cancelling the recruitment in the present case can be interdicted by the writ Court. It may be noted, at the outset, that the advertisement itself provided for the University's power to cancel the advertisement and/or the recruitment process, in whole or in part. Candidates were therefore on notice that the University reserved such a power. The grounds and documents placed on record with the counter affidavit, show that various recruitment processes by the University had been called into question by Vigilance officials, and that the services of the then Vice Chancellor were terminated due to irregularities in recruitment, albeit not for the advertisement in question. As far as the post in question [Technical Assistant] is concerned, the University has specifically stated that no qualifications were provided at all in the advertisement for the post of Technical Assistant in the SoP. While

⁶ Emphasis supplied.



advertising five posts in a single advertisement, the University had specified that four posts were reserved for SAHS, and one post for SoP, but no qualifications appropriate to the post of Technical Assistant in the SoP had been specified at all.

13. While the judgment of the Supreme Court in *Baishakhi Bhattarcharya* deals with the situation in the context of malpractices in an examination, it is clear therefrom that a foundational defect in the advertisement would also require cancellation of the selection process as a whole. The Court referred *inter alia* to its earlier judgments in *Sachin Kumar v. Delhi Subordinate Service Selection Board*⁷ and *Anamica Mishra v. U.P. Public Service Commission, Allahabad*⁸, wherein systemic irregularities, affecting the credibility, legitimacy or sanctity of the recruitment process were held to justify a wholesale cancellation.

14. The University has also stated in the counter affidavit that 1,359 applications had been received by the original last day for submission of applications [21.11.2022], but three corrigenda were thereafter issued extending the date. According to the University, there was no justification provided for the repeated extensions, when a large number of applications had already been received, which cast a doubt upon the intentions of the then administrators. The process was also thus unduly prolonged.

15. As against these contentions of the University, the petitioner's position thus far is only of an applicant, without any vested right to selection/appointment. In such a context, I am of the view that the reasons and materials placed by the University are adequate to defend its decision

⁷ (2021) 4 SCC 631.

⁸ 1990 Supp SCC 692.



from a finding of arbitrariness. In the face of large-scale irregularities in recruitment, flagged by the Vigilance Branch, the governing body of the University was within its powers to re-examine contemporaneous recruitment processes, so as to ensure that they have been carried out in a fair and impartial manner. I am guided in this regard by the objectives of public recruitment, as explained by the Constitution Bench of the Supreme Court in *Tej Prakash Pathak & Ors. v. Rajasthan High Court & Ors.*⁹ as follows:

*“25. **Candidates participating in a recruitment process have legitimate expectation that the process of selection will be fair and non-arbitrary.** The basis of doctrine of legitimate expectation in public law is founded on the principles of fairness and non-arbitrariness in government dealings with individuals. It recognises that a public authority's promise or past conduct will give rise to a legitimate expectation. This doctrine is premised on the notion that public authorities, while performing their public duties, ought to honour their promises or past practices. The legitimacy of an expectation can be inferred if it is rooted in law, custom, or established procedure.*

*26. However, the doctrine of legitimate expectation does not impede or hinder the power of the public authorities to lay down a policy or withdraw it. **The public authority has the discretion to exercise the full range of choices available within its executive power. The public authority often has to take into consideration diverse factors, concerns, and interests before arriving at a particular policy decision. The courts are generally cautious in interfering with a bona fide decision of public authorities which denies legitimate expectation provided such a decision is taken in the larger public interest.** Thus, public interest serves as a limitation on the application of the doctrine of legitimate expectation.*

27. Courts have to determine whether the public interest is compelling and sufficient to outweigh the legitimate expectation of the claimant. While performing a balancing exercise, courts have to often grapple with the issues of burden and standard of proof required to dislodge the claim of legitimate expectation.”¹⁰

⁹ (2025) 2 SCC 1.

¹⁰ Emphasis supplied.



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16. Once the University itself had come to a conclusion that the recruitment, which had commenced almost three years ago but had not been concluded, was vitiated, including by the lack of specified qualifications for the advertised vacancies, I am of the view that the University was justified in cancelling the recruitment as a whole.

17. For the aforesaid reasons, I am unable to come to the aid of the petitioner in this writ petition. The petition is, therefore, dismissed.

PRATEEK JALAN, J

AUGUST 29, 2025

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