



§~3 & 4

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

Date of Decision: 12th May, 2026.

+ W.P.(C) 2780/2013

KAUSTUV DATTA & ORS

.....Petitioners

Through: Mrs. Ankur Gulyani Panda,
Advocate.

versus

UNIVERSITY OF DELHI & ORS

.....Respondents

Through: Mr. Mohinder Rupal, Mr. Hardik
Rupal, Ms. Aishwarya Malhotra and
Ms. Tripta Sharma, Advocates for
University.

Mr. Arjun Harkauli and Mr. Harsh
Tyagi, Advocates for UGC.

+ W.P.(C) 792/2018, CM APPL. 3435/2018

DR KAUSTUV DATTA & ORS

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CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

JUDGMENT

SANJEEV NARULA, J. (Oral):

1. These petitions arise out of a common dispute concerning fixation of Academic Grade Pay [“AGP”] of the Petitioners, who were appointed as Assistant Professors in the University of Delhi [“DU”]. W.P.(C) 2780/2013



challenges the office orders issued by DU in March and April 2013, whereby the AGP of the Petitioners was retrospectively refixed at AGP 6000 in place of AGP 7000/8000. W.P.(C) 792/2018 challenges the consequential recovery proceedings, including orders dated 28th December, 2017 and deductions made from the salaries of the Petitioners. Since the issues arising in both petitions are interconnected, they are being disposed of by this common order.

Factual Background

2. In May 2009, DU issued an advertisement inviting applications for faculty positions in various departments, including posts of Assistant Professor, Associate Professor and Professor in science departments, interdisciplinary sciences and emerging areas of research. The Petitioners applied pursuant to the said advertisement, were considered by Selection Committees, and recommendations were thereafter placed before the Executive Council of DU, which approved the Petitioners in its meetings held on 6th October, 2009, 11th December, 2009 and 9th February, 2010. Pursuant thereto, offer letters were issued to the Petitioners placing some of them in PB-III with AGP 7000 and others in PB-III with AGP 8000. The Petitioners accepted the offers and joined DU. Office orders were thereafter issued fixing their pay in the corresponding AGP. The Petitioners also entered into agreements of service with DU and were subsequently confirmed in service. The Executive Council thereafter ratified the confirmations on 21st March, 2012.

3. On 8th November, 2012, UGC addressed a communication to the Registrar of DU recording that, during discussions on budget estimates, it had noticed that DU had granted AGP 7000/8000 to certain Assistant



Professors on the basis of recommendations made by the Selection Committees instead of placing them at AGP 6000. UGC took the position that grant of higher AGP to Assistant Professors was contrary to the UGC Regulations, 2010 and called upon DU to take corrective measures, failing which proportionate maintenance grant would be deducted while finalising the revised estimates for 2012-2013.

4. Thereafter, DU issued office orders dated 30th March, 2013, 1st April, 2013, 2nd April, 2013, 3rd April, 2013 and 8th April, 2013, whereby the AGP of the Petitioners was refixed at AGP 6000 retrospectively from their respective dates of joining. The earlier office orders fixing AGP at 7000/8000 were stated to be “*deemed amended accordingly*”.

5. The Petitioners submitted representations against the said action. According to the Petitioners, the impugned orders affected not only their pay, but also their seniority and future career progression. W.P.(C) 2780/2013 was thereafter instituted challenging the aforesaid refixation orders. By order dated 22nd November, 2013, this Court declined interim relief at that stage, while observing that, in the event the Petitioners ultimately succeeded, appropriate monetary relief could be granted at the stage of final disposal.

6. In November 2017, DU initiated recovery proceedings in respect of the amounts alleged to have been paid in excess pursuant to the earlier fixation of AGP. The Petitioners submitted representations requesting that recovery be stopped or kept in abeyance during the pendency of W.P.(C) 2780/2013. This led to filing of W.P.(C) 11411/2017. In that proceedings, by order dated 20th December, 2017, DU was directed to consider the representations submitted by the Petitioners.



7. DU thereafter passed the orders dated 28th December, 2017 rejecting the request for waiver of recovery or for keeping the same in abeyance, and decided to proceed with recovery. The orders dated 28th December, 2017, along with the consequential deductions made from the salaries of the Petitioners, form the subject matter of challenge in W.P.(C) 792/2018. By order dated 29th January, 2018, the recovery proceedings were stayed.

Petitioners' Contentions

8. In support of the petitions, Mrs. Ankur Gulyani Panda, counsel for the Petitioners, makes the following submissions:

8.1. The office orders issued by DU in March and April 2013 are without jurisdiction, contrary to the Delhi University Act, 1922 [*"DU Act"*], Statutes and Ordinances, and violative of principles of natural justice. The Petitioners were not heard before a decision was taken to retrospectively alter their AGP from their respective dates of joining. The aforesaid action is not a mere correction of a clerical error, but one affecting pay, seniority, promotional avenues, career advancement and pensionary consequences.

8.2. The Petitioners were appointed at AGP 7000/8000 after completion of a full statutory process. The Selection Committees considered their academic qualifications, post-doctoral experience, publications and suitability. The Executive Council accepted those recommendations. Offer letters were thereafter issued, the Petitioners joined service, office orders fixing pay were issued, service agreements were executed, probation was completed and confirmation followed. The Executive Council thereafter ratified the confirmations. Thus, DU cannot, years later, characterise the grant of AGP 7000/8000 as an inadvertent error.

8.3. AGP 7000/8000 was not merely a pay entry. It denoted the level at



which the Petitioners were placed as Assistant Professors, corresponding to their qualifications and experience. It had a direct bearing on seniority and progression under the Career Advancement Scheme. Reduction of AGP from 8000/7000 to 6000 amounts to a retrospective downgrading of placement. The impugned orders, therefore, cannot be characterised as pay refixation simpliciter.

8.4. Reliance is placed on Ordinance XI of DU, under which teachers appointed by DU are to be paid salaries on such scales as the Executive Council may decide from time to time. Under the statutory scheme governing selection, if the Executive Council was unable to accept the recommendation of the Selection Committee, it was required to record reasons and follow the prescribed statutory course. Having accepted the recommendations and acted upon them, the result could not later be reversed by administrative orders.

8.5. The office orders issued in March and April 2013 amount, in substance, to a review of an earlier decision of the Executive Council. Under the statutory framework governing DU, such review could not have been undertaken through administrative office orders. As per Section 18 of the DU Act, the power to review decisions of the Executive Council vests in the University Court. Further, even the Executive Council meeting dated 25th March, 2013 merely recorded the UGC communication dated 8th November, 2012 and did not itself resolve to retrospectively downgrade the Petitioners.

8.6. Reliance is also placed upon the service agreements executed between the Petitioners and DU. Clause 3 of the standard agreement contemplates that “*wherever there is any change in the nature of appointment or the emoluments*”, particulars of such change are to be recorded, under the



signatures of the parties. The clause further protects increments from being withheld or postponed except by resolution of the Executive Council after affording opportunity to make a written representation. The impugned orders bypass these contractual and statutory safeguards.

8.7. Neither DU nor UGC has identified any provision in the UGC Regulations, 2010 which, in express terms, prohibits direct recruitment or initial placement of an Assistant Professor at AGP 7000/8000. Regulation 3.1.0 of the aforesaid Regulations recognises direct recruitment to the posts of Assistant Professors, Associate Professors and Professors through an all-India advertisement and selection by duly constituted Selection Committees. The Regulations, therefore, cannot be read to mean that every direct recruit Assistant Professor, irrespective of qualifications, experience, academic profile or the Selection Committee's assessment, must enter service only at AGP 6000.

8.8. The UGC Regulations, 2010 came into force on 30th June, 2010, by which time several Petitioners had already received their offers of appointment and joined DU. In any event, the Regulations were themselves framed on the foundation of the Ministry of Human Resource Development [“MHRD”] scheme dated 31st December, 2008, a scheme which DU had contemporaneously applied while fixing the Petitioners' pay. The same regulatory framework, therefore, could not subsequently be invoked to unsettle appointments already made, acted upon and followed by confirmation.

8.9. The action of re-fixation is also violative of the doctrines of legitimate expectation and promissory estoppel. The Petitioners, acting upon formal offers and confirmations issued by DU, altered their position by leaving



existing positions and research opportunities in India and abroad. DU, after having acted upon the appointments for years, could not retrospectively withdraw the very basis on which the Petitioners entered service.

8.10. UGC's authority to prescribe minimum qualifications and norms for maintaining standards in higher education is not in dispute. The grievance, however, is that such authority could not be exercised through a budget-related communication, coupled with a threat of deduction of grants, so as to compel a statutory University to retrospectively demote confirmed teachers appointed through its own statutory bodies.

8.11. Despite having earlier acted upon, implemented and confirmed the recommendations of the Selection Committee and the Executive Council, DU proceeded to retrospectively downgrade the Petitioners solely on account of the UGC communication dated 8th November, 2012 threatening deduction of grants. This indicates that DU did not consider its own statutory decision erroneous on merits, but merely yielded to the funding authority i.e., UGC.

8.12. The recovery proceedings are also unsustainable. The Petitioners made no misrepresentation and played no role in fixation of pay. The pay was fixed by the competent authorities of DU after formal selection, appointment and joining. Recovery was initiated several years later, while the legality of the re-fixation itself remained pending before this Court in W.P.(C) 2780/2013. The deductions have been steep and onerous. The orders dated 28th December, 2017 have been passed without any meaningful consideration of the Petitioners' representations and without appreciating that the alleged excess payment flowed entirely from DU's own formal



orders. Reliance is also placed on *State of Punjab v. Rafiq Masih*¹.

DU's Contentions

9. On the other hand, Mr. Mohinder J.S. Rupal, counsel for DU, makes the following submissions:

9.1. The advertisement issued by DU contemplated appointment of Assistant Professors in PB-III with AGP 6000. If higher AGP was inadvertently offered by the University, the Petitioners cannot invoke estoppel against law. The Petitioners accepted appointment as Assistant Professors and cannot claim a higher grade pay contrary to the governing norms and regulatory framework.

9.2. The impugned office orders were issued pursuant to the UGC letter dated 8th November, 2012. UGC is the funding body and has prescribed binding norms governing pay scales and AGP. DU was, therefore, bound to comply with the UGC Regulations and directions. Once UGC informed DU that grant of AGP 7000/8000 to Assistant Professors was contrary to the UGC Regulations, 2010, DU had no option but to refix the pay. Fixation of AGP is governed by the UGC regulatory framework, and DU has no objection to the grant of higher AGP to the Petitioners, provided such grant conforms to and is approved under the applicable UGC norms.

9.3. Pay scales must necessarily conform to law. If the original fixation was contrary to the applicable statutory and regulatory framework, correction of pay cannot be interdicted on grounds of legitimate expectation or estoppel. There can be no estoppel against statute. Reliance is placed on the decisions in *State of West Bengal & Ors. v. Gitashree Dutta (Dey)*²,

¹ (2015) 4 SCC 334.

² (2022) 19 SCC 388.



*Ankita Thakur & Ors. v. H.P. Staff Selection Commission & Ors*³, *K. Asokan v. Nuclear Science Centre & Ors.*⁴, *Sudhir Kumar Taneja v. University of Delhi & Ors.*⁵ and *Dr. Meera Sood v. University of Delhi*⁶.

9.4. The Petitioners' challenge is untenable as, at the initial stage, they did not assail the UGC letter dated 8th November, 2012. The impugned office orders were not an independent decision taken by DU, but merely consequential implementation of UGC's directions. Unless the UGC communication is itself set aside, the consequential office orders issued by DU cannot be quashed in isolation. The Petitioners themselves rely upon the UGC Regulations, 2010 and the AGP structure contemplated therein. Having founded their case on the said regulatory framework, the Petitioners cannot selectively disregard the UGC communication dated 8th November, 2012 issued under the same framework.

9.5. Once pay was wrongly fixed, excess payment made from public funds must ordinarily be recovered. Reliance on *Rafiq Masih* is misplaced, since the said decision does not create an absolute bar against recovery in every case. The Petitioners cannot claim blanket immunity from recovery.

UGC's Contentions

10. Mr. Arjun Harkauli, counsel for UGC, further submits as follows:

10.1. The UGC Regulations, 2010 are binding on DU, a Central University maintained and funded through the UGC framework, and apply to universities established or incorporated under a Central Act. Reliance is

³ (2024) 19 SCC 745.

⁴ LPA 395/2017.

⁵ LPA 491/2019.

⁶ LPA 142/2022.



placed on *University of Delhi v. Raj Singh*⁷ to contend that Regulations framed by UGC for maintaining standards in higher education have binding force and must be complied with by universities. Reference is also made to Sections 12 and 26 of the UGC Act concerning the powers of the Commission to maintain standards and frame binding Regulations.

10.2. The UGC Regulations, 2010 lay down not only minimum qualifications, but also the applicable pay structure and service conditions for teachers in universities and colleges. The Regulations have been framed pursuant to the MHRD scheme dated 31st December, 2008 governing revision of pay scales and service conditions of teachers in Central Universities. As per the Regulations, a person entering the teaching profession as an Assistant Professor is to be placed in PB-III with AGP 6000. Movement thereafter to AGP 7000 and 8000 is governed by prescribed service length, API criteria, PBAS conditions and the Career Advancement Scheme, and is not a matter of initial placement at the discretion of a Selection Committee.

10.3. The UGC letter dated 8th November, 2012 was issued after it was noticed, during discussions on the budget estimates for 2012-2013, that DU had granted AGP 7000/8000 to approximately 73 Assistant Professors on the basis of Selection Committee recommendations instead of placing them at AGP 6000. UGC treated this as a violation of the 2010 Regulations and called upon DU to withdraw the higher AGP. The letter further conveyed that, failing corrective action, proportionate maintenance grant would be deducted while finalising the revised estimates for 2012-2013. Implementation of the revised pay scheme itself was subject to acceptance

⁷ AIR 1995 SC 336.



of the conditions stipulated in the UGC framework and corresponding amendment of DU's statutes and ordinances.

10.4. DU itself undertook to implement the UGC Regulations, 2010 and was, therefore, bound to rectify any deviation therefrom. Once UGC took the view that grant of AGP 7000/8000 to direct recruit Assistant Professors was impermissible, DU could not continue to disburse public funds contrary to the governing Regulations. The fact that the Petitioners had been issued offer letters mentioning higher AGP, or had received salary on that basis for some time, cannot confer an enforceable right.

10.5. No principle of estoppel or legitimate expectation can be invoked against binding Regulations. If DU committed an error in initially granting higher AGP, such error could be corrected once noticed.

Issues for Determination

11. Having heard counsel for the parties and examined the record, the following issues arise for determination:

(i) Whether the impugned office orders dated 30th March, 2013, 1st April, 2013, 2nd April, 2013, 3rd April, 2013 and 8th April, 2013 merely involved refixation of pay, or whether they affected the Petitioners' placement and service conditions.

(ii) Whether the Petitioners' placement at AGP 7000/8000, following recommendation by the Selection Committees, approval by the Executive Council, issuance of appointment and pay-fixation orders, and subsequent confirmation in service, could be treated as an inadvertent error liable to retrospective correction.

(iii) Whether, on a proper construction of the UGC Regulations, 2010, DU was prohibited from directly recruiting or placing Assistant Professors at



AGP 7000/8000 on the basis of merit, qualifications, experience and assessment by the Selection Committees.

(iv) Whether DU could act upon the UGC letter dated 8th November, 2012 by issuing retrospective re-fixation orders without prior notice or opportunity of hearing to the Petitioners.

(v) Whether the re-fixation orders amounted, in substance, to a review of earlier decisions of the Executive Council and, if so, whether such action was permissible under the DU Act, the Statutes, the Ordinances, and the service agreements executed within that framework.

(vi) Whether the Petitioners are entitled to continuation/restoration of AGP 7000/8000 together with consequential service and monetary benefits.

(vii) Whether the recovery orders dated 28th December, 2017 and the consequential deductions challenged in W.P.(C) 792/2018 are sustainable.

Discussion & Analysis

Nature and Character of the Impugned Refixation Action

12. The first enquiry must be directed to the true character of the impugned re-fixation action. If the office orders issued in March and April 2013 merely corrected a computational or clerical error in pay fixation, they would stand on one footing. If, however, they altered the level at which the Petitioners had been selected, appointed, confirmed and permitted to serve, the action would have to satisfy a much stricter standard of statutory authority, procedural fairness and lawful justification.

13. The record does not permit the impugned re-fixation orders to be treated as mere arithmetical corrections. The higher AGP appears at every material stage of the employment relationship. It is reflected in the Selection Committee process as approved by the Executive Council. It is carried into



the offer letters. It is repeated in the office orders issued after joining. It informs the service agreements through the appointment and emoluments incorporated therein. It also finds place in the confirmation orders. The Petitioners thereafter served for years on that basis. The matter is, therefore, far removed from a stray/mistaken figure in a pay bill.

14. DU's own Counter Affidavit does not sit comfortably with the theory of an inadvertent pay error. DU pleads that, if it had inadvertently offered a higher AGP, the Petitioners could not invoke estoppel. It further states that UGC directed re-fixation and that DU merely implemented the UGC decision. At the same time, DU also states that it has no objection to grant of higher AGP and pay scale to the Petitioners, provided the same conforms to and is approved under the applicable UGC norms. These averments do not describe a simple clerical mistake discovered in DU's records. Rather, they indicate a decision formally taken, acted upon over a considerable period, and subsequently sought to be withdrawn after UGC objected to its continuance. The question that therefore arises is whether such retrospective withdrawal was legally permissible.

Statutory Character of the Petitioners' Appointments

15. DU is a statutory University. Its actions in matters concerning appointment of teachers are governed by the DU Act, the Statutes, the Ordinances and applicable UGC norms. The Selection Committees and the Executive Council perform substantive statutory functions in matters of appointment. Once the Executive Council accepted the recommendations of the Selection Committees and DU issued formal offer letters on that basis, the matter moved beyond the stage of internal deliberation and assumed the character of a statutory appointment.



16. The service agreements executed between the Petitioners and DU reinforce this position. The agreements record that the teachers were appointed as members of the teaching staff of DU and were governed by the DU Act, the Statutes and the Ordinances. They provide for probation and confirmation and also contain safeguards relating to alteration of service conditions. Clause 3 of the said agreement contemplates that any change in the nature of appointment or emoluments is to be recorded in Schedule I annexed thereto, under the signatures of the parties. It further provides that increments are not to be withheld or postponed except by resolution of the Executive Council after affording an opportunity of representation.

17. These clauses may not constitute an exhaustive code governing every dispute relating to pay fixation. They are, however, significant in understanding the nature of the service relationship between the parties. The Petitioners were not engaged under a purely administrative arrangement capable of unilateral alteration at will. Their appointments were made within a statutory framework, followed by formal service agreements and confirmation in service. In these circumstances, DU could not, through administrative office orders issued at the level of the Assistant Registrar, retrospectively alter an essential service incident flowing from selection, appointment, pay fixation and confirmation.

Whether the UGC Regulations, 2010 Prohibited Placement at AGP 7000/8000

18. The next enquiry is whether the Petitioners' original placement at AGP 7000/8000 was contrary to the UGC Regulations, 2010. If a clear statutory or regulatory prohibition is established, considerations of fairness, hardship or expectation would necessarily recede. If, however, the alleged



prohibition rests upon an interpretation not borne out by the text or scheme of the Regulations, the foundation for retrospective re-fixation becomes considerably weaker.

19. The binding force of the UGC Regulations is not in dispute. In **Raj Singh**, the Supreme Court recognised that the UGC Act was enacted under Entry 66 of List I for coordination and determination of standards in institutions of higher education, and that Regulations framed thereunder for maintaining standards have binding force upon the universities to which they apply. The Court further observed that the powers conferred upon the UGC under Sections 12 and 26 are wide-ranging and extend to the maintenance of standards of teaching and appointment. The real issue in the present case, however, is not whether the UGC Regulations bind DU, but whether the UGC Regulations, 2010, properly construed, prohibited the placement granted to the Petitioners.

20. UGC principally relies upon the Schedule to Clause 6.8.0 of the UGC Regulations, 2010. The Schedule provides that persons entering the teaching profession in universities and colleges shall be designated as Assistant Professors and placed in “Pay Band III of Rs. 15,600 - 39,100 with AGP of Rs. 6,000”. It further contemplates movement from AGP 6000 to AGP 7000 and thereafter to AGP 8000 upon completion of prescribed service requirements and fulfilment of API/PBAS conditions. According to UGC, the scheme of the Regulations does not permit direct placement of Assistant Professors at AGP 7000/8000 at the stage of initial appointment.

21. The Petitioners, on the other hand, rely upon Regulation 3.1.0, which contemplates direct recruitment to the posts of Assistant Professors, Associate Professors and Professors through all-India advertisement and



selection by duly constituted Selection Committees. It is also their case that the 2010 Regulations neither create separate eligibility structures for direct recruitment at AGP 6000, 7000 and 8000, nor expressly prohibit a Selection Committee from recommending placement at AGP 7000/8000 on the basis of qualifications, experience and academic merit.

22. The Court is unable to find any express prohibition in the Regulations against the placement granted to the Petitioners. The Schedule relied upon by UGC undoubtedly prescribes the ordinary entry placement and the scheme of progression under the Career Advancement Scheme for Assistant Professors. However, it does not expressly provide that every direct recruit Assistant Professor, irrespective of prior service, post-doctoral experience, qualifications or Selection Committee assessment, must invariably enter only at AGP 6000. Had such an absolute prohibition been intended, the Regulations could reasonably have stated so in express terms.

23. This is also not a case where the Petitioners were ineligible for appointment. No such case has been pleaded. The dispute is confined to the AGP at which the Petitioners were placed after being found eligible and selected. That distinction is material. A case involving appointment of an ineligible candidate stands on a different footing from a dispute concerning placement of an otherwise eligible and duly selected candidate within the Assistant Professor structure.

24. The UGC communication dated 8th November, 2012 itself records that AGP 7000/8000 had been granted by DU “*on the basis of the recommendations of the Selection Committee*”. UGC did not state that the Petitioners were ineligible, that the Selection Committees were improperly constituted, or that the Executive Council lacked authority to approve the



appointments. Its objection was confined to the grant of higher AGP on the interpretation that AGP 6000 alone was permissible under the Regulations.

25. It is also significant that DU's contemporaneous conduct does not support the idea of inadvertence. The offer letters were formally issued. The office orders reflected the same placement. The service agreements proceeded on that basis. The confirmations were not made subject to future clarification by UGC. Further, when the Petitioners were confirmed and the Executive Council ratified those confirmations, the UGC Regulations, 2010 were already in force. If the placement was plainly impermissible under the governing framework, it becomes difficult to explain why DU repeatedly affirmed the same position at successive statutory stages.

26. In service jurisprudence, a Court does not lightly presume illegality where competent statutory authorities have acted consistently over a considerable period, employees have altered their position accordingly, and the alleged illegality rests upon a later interpretative objection rather than an express statutory prohibition.

27. The submission founded on the principle that there can be no estoppel against statute is unexceptionable as a matter of law. Legitimate expectation cannot override a statutory prohibition. However, before that principle can be invoked, the statutory command alleged to have been violated must first be clearly identified. In the present case, the Respondents have not demonstrated any express provision rendering the Petitioners' placement at AGP 7000/8000 *void ab initio*.

28. This is where ***Gitashree Dutta*** requires careful application. The Supreme Court reiterated that the doctrine of legitimate expectation cannot prevail where the action of the public authority is in conformity with law, in



public interest, or undertaken to enforce the mandate of a statute. It was further observed that the question whether a legitimate expectation deserves protection must be assessed not from the claimant's perspective, but in the larger public interest. However, the applicability of that principle in the present case necessarily turns on whether the Respondents have first established that the Petitioners' original placement was contrary to a binding statutory or regulatory prohibition. For the reasons already discussed, the Court is unable to find any such clear prohibition in the 2010 Regulations.

29. The Petitioners' case also does not rest merely on a plea of legitimate expectation. It arises from completed statutory and administrative actions. The Selection Committees recommended the Petitioners, the Executive Council approved those recommendations, DU issued offer letters, the Petitioners joined service, service agreements were executed, and the Petitioners were thereafter confirmed in service. The present case is, therefore, materially different from *Gitashree Dutta*, where the Supreme Court was dealing with candidates participating in an unfinalised selection process. Here, the impugned action seeks to retrospectively alter an appointment and service placement already acted upon over several years. In the absence of any demonstrated statutory or regulatory prohibition rendering the original placement impermissible, *Gitashree Dutta* does not support such retrospective withdrawal.

30. The reliance placed on *K. Asokan* is misplaced. In that case, the advertisement invited applications for the post in the pay scale of INR 2200-4000. The Selection Committee recommended the appellant's appointment in that very scale, albeit with four increments, and the offer of appointment expressly reflected the same pay scale. The appellant accepted the offer with



full knowledge of the terms of appointment and thereafter sought placement in the higher Scientist-D scale of INR 3000-4500 on the basis of his qualifications and experience. The Division Bench held that, having consciously accepted appointment in the advertised scale, the appellant could not subsequently challenge the pay grade offered to him and accepted by him, particularly when the claim was not founded on any statutory basis. The present case stands on an entirely different footing. The Petitioners are not seeking enhancement of AGP after accepting appointment at AGP 6000. They seek to resist retrospective reduction from the AGP at which they were selected, appointed, paid and thereafter confirmed in service.

31. The reliance placed on *Ankita Thakur* is equally misplaced. That decision reiterates that eligibility conditions prescribed in the recruitment rules or advertisement must ordinarily be fulfilled by the last date for submission of applications, and that relaxation of essential eligibility requirements cannot be effected midstream unless such power is specifically reserved and duly publicised so as to preserve equality of opportunity under Articles 14 and 16 of the Constitution. The present case, however, does not concern relaxation of any essential eligibility condition or enlargement of the zone of eligibility after commencement of the recruitment process. The Respondents do not contend that any Petitioner lacked the prescribed qualifications for appointment as Assistant Professor. The controversy concerns only the placement granted to otherwise eligible candidates who were selected and appointed through the prescribed process. *Ankita Thakur*, therefore, does not govern the present controversy.

32. The reliance placed on *Sudhir Kumar Taneja* and *Dr. Meera Sood* also does not advance the Respondents' case. Those decisions concerned



Directors of Physical Education who claimed the benefit of superannuation at the age of 65 years on the basis of redesignation as Lecturers and subsequent placement as Readers/Associate Professors under the Merit Promotion Scheme. The claims were rejected because the governing UGC framework, Ordinances and statutory scheme continued to treat Directors of Physical Education as a distinct category with separate service conditions and a separate age of superannuation, notwithstanding such redesignation or financial upgradation. The present case is different. The Petitioners do not seek parity with another cadre or claim benefits attached to a post to which they were never appointed. They were directly recruited and appointed as Assistant Professors through the prescribed selection process itself. Their grievance is confined to the retrospective alteration of the AGP at which they were selected, appointed, paid and thereafter confirmed in service.

Violation of Principles of Natural Justice

33. The requirements of natural justice also could not have been dispensed with in the facts of the present case. The impugned re-fixation orders carried immediate and serious civil consequences. They retrospectively reduced the Petitioners' AGP, altered their pay structure, affected their seniority and subsequently formed the basis of recovery proceedings. An action of this nature could not have been taken without prior notice to the Petitioners. They ought to have been informed that DU proposed to revisit their AGP on the basis of the UGC communication dated 8th November, 2012 and afforded an opportunity to respond to both the factual premise and legal basis of the proposed action.

34. The Respondents contend that such an opportunity would have served no purpose since the UGC Regulations were binding and DU had no



discretion in the matter. The submission cannot be accepted. Principles of natural justice cannot be reduced to an empty formality merely because the authority considers the conclusion to be self-evident. The Petitioners had substantial grounds to urge, including the statutory character of their appointments, the recommendations of the Selection Committees, the approval granted by the Executive Council, the effect of confirmation, the absence, according to them, of any express prohibition in the Regulations, the retrospective impact of the proposed action, and the distinction between initial placement and movement under the Career Advancement Scheme. These objections went to the legality of the proposed action and required consideration before any adverse order was passed.

35. In *S.L. Kapoor v. Jagmohan & Ors.*⁸, the Supreme Court observed that where, on admitted or indisputable facts, only one conclusion is possible and under the law only one result is permissible, the Court may decline to issue a writ to compel observance of natural justice, since courts do not issue futile writs. However, the Court cautioned against applying that principle in situations where the conclusions are themselves controversial or open to debate. The present case does not fall within the limited exception recognised in *S.L. Kapoor*. The record, the rival submissions and the nature of the controversy itself demonstrate that the matter was open to serious debate. The Petitioners had a substantive response to the proposed action, which DU was required to consider before retrospectively altering their service conditions.

Validity of the Decision-Making Process



36. The impugned office orders suffer from a further infirmity. They rest substantially upon the UGC communication dated 8th November, 2012. The validity of an administrative order must ordinarily be tested on the reasons disclosed therein. As held in *Mohindhr Singh Gill & Anr. v. Chief Election Commissioner, New Delhi & Ors.*⁹, an order cannot subsequently be supplemented by reasons furnished through affidavits or submissions. DU's later reliance on inadvertence, estoppel, the advertisement terms and the alleged statutory prohibition cannot enlarge the foundation of the impugned orders. The orders themselves do not disclose any independent consideration of the Petitioners' appointment process, the approvals granted by the Executive Council, the subsequent confirmations, the service agreements, or the consequences of retrospective re-fixation.

37. The UGC communication dated 8th November, 2012 was also not in the nature of a reasoned adjudication of the Petitioners' service rights. It was issued in the context of budget estimates and conveyed that, failing corrective action, proportionate maintenance grant would be deducted. UGC may, where the governing framework so permits, insist upon compliance with binding Regulations. However, a budget-linked communication carrying the consequence of grant deduction could not relieve DU of its obligation to independently examine the matter through its competent statutory authorities, particularly where confirmed teachers were proposed to be retrospectively deprived of pay, seniority and service progression.

38. The Court is conscious that public funds are involved and that DU, as a University governed by the UGC framework, is required to comply with

⁸ (1980) 4 SCC 379.

⁹ (1978) 1 SCC 405.



binding UGC norms. Those considerations, however, do not dilute the requirements of lawful decision-making. If DU was of the view that its earlier decision was contrary to binding Regulations, it was required to identify the precise illegality, place the matter before the competent statutory authority, issue notice to the affected teachers, consider their response, and thereafter pass a reasoned decision. The record does not indicate that any such exercise was undertaken before issuance of the impugned office orders.

Non-Challenge to UGC Letter dated 8th November, 2012

39. The objection that the Petitioners did not initially challenge the UGC communication dated 8th November, 2012 does not defeat the present petitions. The operative action affecting the Petitioners' service conditions consisted of DU's re-fixation orders, since it was those orders which retrospectively altered the Petitioners' AGP and formed the basis for consequential recovery proceedings. The UGC communication, by itself, neither re-fixed the Petitioners' pay nor amended their service conditions. In any event, UGC is before the Court, has filed its Counter Affidavit and has been fully heard. The legality of the impugned action can therefore be examined in the presence of all necessary parties, and no prejudice is shown to arise on that account.

Scope and Limits of the Present Decision

40. The scope of the present decision must be clearly understood. This Court is not holding that every direct recruit Assistant Professor is necessarily entitled to AGP 7000/8000; nor is it holding that higher qualifications, by themselves, confer an automatic right to a higher AGP. The findings in the present case are confined to the particular fact of this case, namely that the Petitioners were placed at AGP 7000/8000 after



recommendation by the Selection Committees, approval by the Executive Council, issuance of formal offer letters, joining, pay fixation, execution of service agreements and subsequent confirmation in service. In the absence of any express statutory prohibition shown to render such placement void, DU could not retrospectively reduce the Petitioners to AGP 6000 through administrative office orders issued without notice and founded substantially upon UGC's subsequent objection. The impugned re-fixation orders challenged in W.P.(C) 2780/2013 therefore cannot be sustained.

Aspect of Recovery

41. Once the retrospective re-fixation orders are found unsustainable, the foundation for the recovery proceedings also ceases to survive. The recovery orders dated 28th December, 2017 proceeded on the assumption that the Petitioners had been wrongly placed at AGP 7000/8000 and had consequently received excess payment. If the underlying re-fixation itself cannot be sustained, the consequential recovery action cannot independently survive.

42. Even otherwise, the recovery proceedings suffer from serious legal and equitable infirmities. The Petitioners did not secure the higher AGP through fraud, concealment or misrepresentation. Their pay was fixed by DU after Selection Committee recommendations, approval by the Executive Council, issuance of offer letters and formal office orders. The Petitioners accepted the appointments on the terms offered by DU and served for several years on that basis.

43. In ***Rafiq Masih***, the Supreme Court held that recovery of excess payments may be interdicted where such recovery would be "*iniquitous or harsh or arbitrary*" so as to far outweigh the employer's right to recover.



The Court clarified that it was not possible to postulate all situations of hardship and, therefore, identified certain categories, “*as a ready reference*”, where recoveries would be impermissible in law. The present case bears several features which weighed with the Supreme Court in restraining recovery, including the absence of any misrepresentation or fraud on the part of the employees, the prolonged period over which the payments were made, and the fact that the payments were made pursuant to formal orders issued by the employer itself.

44. The orders dated 28th December, 2017 also do not indicate any substantive consideration of the Petitioners’ representations. The Petitioners had specifically invoked the pendency of W.P.(C) 2780/2013, the absence of misrepresentation on their part, the consequences of recovery and the principles recognised in *Rafiq Masih*. The impugned recovery orders substantially reiterate DU’s position that the higher AGP was contrary to the UGC Regulations and that recovery was therefore justified. Thus, the core objections raised by the Petitioners were not meaningfully addressed.

Conclusion & Relief

45. For the reasons aforesaid, W.P.(C) 2780/2013 is allowed. The office orders dated 30th March, 2013, 1st April, 2013, 2nd April, 2013, 3rd April, 2013 and 8th April, 2013, whereby the Petitioners’ AGP was retrospectively refixed at AGP 6000, are quashed.

46. The Petitioners shall be treated as having continued in the AGP at which they were originally appointed, namely AGP 7000 or AGP 8000, as reflected in their respective offer letters, office orders and confirmation records.

47. DU shall restore the Petitioners’ pay, seniority and all consequential



service benefits on that basis. Their eligibility and progression under the Career Advancement Scheme, including any subsequent promotions already granted or falling due, shall be recomputed by disregarding the impugned refixation orders.

48. W.P.(C) 792/2018 is also allowed. The orders dated 28th December, 2017 and all consequential recovery actions are quashed.

49. Any amount recovered from the respective Petitioners pursuant to the impugned refixation or recovery action shall be refunded within twelve weeks from today, together with simple interest at 6% per annum from the date of recovery until the date of refund. If the refund is not made within the said period, the amount shall carry simple interest at 9% per annum thereafter until payment.

50. DU shall also calculate and release arrears of salary and consequential monetary benefits payable to the Petitioners on account of restoration of AGP 7000/8000, including consequential revision of pay on promotions, if any. The exercise shall be completed within twelve weeks from today. The arrears shall carry simple interest at 6% per annum from the date they became due until payment.

51. The writ petitions are allowed and disposed of in the above terms. Pending applications, if any, also stand disposed of.

SANJEEV NARULA, J

MAY 12, 2026/hc