



2026:AHC-LKO:39233

AFR

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

WRIT - A No. - 12445 of 2024

Priyanka Yadav

.....Petitioner(s)

Versus

State Of U.P. Thru. Addl. Chief Secy./Prin. Secy.
Deptt. Of Technical Education Lko. And 2 Others

.....Respondent(s)

Counsel for Petitioner(s) : Gaurav Mehrotra, Alina Masoodi,
Chinmay Mishra
Counsel for Respondent(s) : C.S.C.

*Reserved on 12.05.2026
Delivered on 29.05.2026*

Court No. - 18

HON'BLE KARUNESH SINGH PAWAR, J.

1. Heard Shri Gaurav Mehrotra, learned Senior Advocate assisted by Shri Chinmay Mishra, learned counsel for the petitioner as well as Shri Ashwani Kumar Singh Rathore, learned Standing counsel for the respondents.

RELIEF SOUGHT

2. By this petition, the petitioner has prayed for a writ of mandamus directing respondent no. 2 to consider the case of the petitioner from the post of Lecturer (Chemical Engineering) to the post of Head of the Department (Chemical Engineering).

Relevant Statutory Provisions and Regulations

3. The adjudication of the present controversy involves consideration of the following statutory provisions and regulations:

- ***U.P. Technical Education Gazetted Officers Service Rules, 1990.***

Rule, 17 read with Category VIII and X of Appendix-1

- ***AICTE (Pay Scales, Service conditions and Qualifications for the Teachers and other Academic Staff in Technical Institutions (Diploma)) Regulations, 2010***

As per Faculty Norms For promotion to Head of Department - PHD and minimum 5 years' experience

- ***AICTE Regulations on Pay Scales, Service Conditions and Minimum Qualifications for Appointment of Teachers and Other Academic Staff Such as Library and Physical Education Personnel in Technical Education (Diploma) Regulation, 2019***

Regulation 2.1 Head of Department through direct recruitment

- ***Clarifications on certain issues/anomalies in 7th Central Pay Commission pertaining to Qualifications, Pay Scales, Service Conditions, Career Advancement Schemes (CAS)/promotions etc. for Teachers and Other Academic Staff of Technical Institutions (Degree/Diploma), 2020***

Regulation 13 Option to be exercised by eligible Lecturers as a one-time benefit for being considered for promotion as per existing rules, to be exercised within 03 years.

- ***U.P. Technical Education (Teaching) Service Rules, 2021***

Rule 5 Category II(a) Head of Department in Polytechnic (Engineering) to be recruited 100% by means of direct recruitment by Commission.

Appendix-II Note-11 all other conditions will be applicable as per AICTE (Diploma) Regulations, 2019 and amended from time to time.

FACTUAL MATRIX OF THE CASE

4. Brief facts of the case are that the Uttar Pradesh Technical Education Gazetted Officers' Service Rules, 1990 (hereinafter referred to as the "Rules, 1990") were promulgated on 02.04.1990 for regulating the conditions of service and promotional avenues of teaching personnel serving in

Government Polytechnics within the State of Uttar Pradesh. Pursuant thereto, the petitioner came to be appointed on the post of Lecturer (Chemical Engineering), a Group 'B' gazetted post, carrying the pay scale of Rs. 15,600–39,100, on temporary basis vide appointment order dated 23.01.2015. In furtherance of the said appointment, the petitioner joined her duties at Government Polytechnic, Badaun on 31.01.2015 and has since been continuously discharging her duties with utmost diligence and sincerity. Upon successful completion of the prescribed probation period, the services of the petitioner were confirmed with effect from 31.01.2017 vide order dated 16.07.2024 in accordance with the provisions contained under the Rules, 1990. Thereafter, on completion of the requisite qualifying service, the petitioner became eligible for promotion to the post of Head of Department (Chemical Engineering) on 30.06.2020 under the prevailing Rules, 1990. Subsequently, in the final seniority list of Government Polytechnic Lecturers published on 24.09.2021, the petitioner was placed at Serial No. 23 in the cadre of Chemical Engineering lecturers.

5. The AICTE (Pay Scales, Service conditions and Qualifications for the Teachers and other Academic Staff in Technical Institutions (Diploma)) Regulations, 2010 (hereinafter referred to as AICTE Regulations, 2010) dated 05.03.2010 whereby the essential qualification for appointment/promotion to the post of Head of Department was modified and the requirement of possessing a Ph.D. degree along with five years' teaching experience was prescribed. Thereafter, vide order dated 03.05.2018 issued by the Secretary, Department of Technical Education, Government of Uttar Pradesh, the aforesaid AICTE Regulations, 2010 were adopted and made applicable to Government Polytechnics throughout the State of Uttar Pradesh. Subsequently, AICTE framed and notified the "AICTE Regulations on Pay Scales, Service Conditions and Minimum Qualifications for Appointment of Teachers and other Academic Staff such as Library and Physical Education Personnel in Technical Education (Diploma) Regulations, 2019" (hereinafter referred to as AICTE Regulations, 2019) on 01.03.2019. Regulation 2.1 thereof provided that the post of Head of Department in Government Polytechnics shall be filled through direct recruitment.

6. Thereafter, vide Government Order dated 16.03.2020, the AICTE

Regulations, 2019 were formally adopted and enforced in Government Polytechnics across the State of Uttar Pradesh. By virtue of the aforesaid Regulations, the earlier mode of appointment to the post of Head of Department, which under the erstwhile Rules, 1990 was by way of promotion, stood altered to direct recruitment. The said change adversely affected the promotional prospects of lecturers serving in Government Polytechnics, thereby giving rise to widespread grievances amongst similarly situated teaching personnel throughout the country.

7. In view of the difficulties and anomalies arising from the implementation of the aforesaid Regulations, AICTE issued certain Clarifications on 20.05.2020 concerning Qualifications, Pay Scales, Service Conditions, Career Advancement Schemes (CAS), Promotions and other related matters pertaining to teachers and academic staff of technical institutions imparting degree and diploma education. Regulation 13 of the said Clarifications specifically provided that the criteria relating to promotions under the new Regulations would operate prospectively from the date of notification of the Regulations. It was further clarified that, in order to prevent hardship to existing faculty members who had either already become eligible or were likely to become eligible shortly under the earlier Regulations, such teachers could be afforded an option to be considered for promotion under the existing Regulations. However, such option was required to be exercised within a period of three years from the date of notification of the Regulations by the concerned degree and diploma teachers. Regulation 13 of the Clarifications dated 20.05.2020 is reproduced hereinbelow:-

"Regulation 13 - The criteria for promotions laid down under these Regulations shall be effective from the date of notification of these Regulations. However, to avoid hardship to those faculty members who have already qualified or are likely to qualify shortly under the existing regulations, a choice may be given to them for being considered for promotions under the existing Regulations. This option can be exercised by Degree and Diploma teachers, both but only within three years from the date of notification of these Regulations."

8. Thereafter, the State Government promulgated the U.P. Technical Education (Teaching) Service Rules, 2021 (hereinafter referred to Rules, 2021) on 09.06.2021. During the subsistence of the aforesaid three-year

period contemplated under Regulation 13 of the Clarifications dated 20.05.2020, one post of Head of Department (Chemical Engineering) at Government Polytechnic, Chandausi, Sambhal fell vacant on 30.06.2022 owing to the retirement of Shri Anjani Kumar Sharma. Subsequently, another post of Head of Department (Chemical Engineering) was created at Government Polytechnic, Bachhrawan, Raebareli vide Government Order dated 26.12.2023. Both the aforesaid vacancies arose well within the three-year period provided under Regulation 13 of the Clarifications issued by AICTE on 20.05.2020.

9. In the aforesaid backdrop, the petitioner submitted an application dated 21.05.2024 exercising her option to be considered for promotion in terms of Note 11 appended to the Rules, 2021 read with Regulation 13 of the AICTE Clarifications, 2020. Thereafter, a Departmental Promotion Committee meeting was convened on 30.05.2024 for considering promotions from the post of Lecturer to the post of Head of Department in Government Polytechnics. In the meantime, the petitioner also sought information under the Right to Information Act on 24.05.2024 regarding the number of vacancies existing on the post of Head of Department (Chemical Engineering). In response thereto, the Directorate of Technical Education informed the petitioner that as on 23.05.2024, ten vacancies of Head of Department (Chemical Engineering) were available.

10. Since no action was taken on the claim of the petitioner, she submitted a reminder dated 03.08.2024 requesting reconsideration of her candidature for promotion in accordance with Note 11 of the Rules, 2021 read with Regulation 13 of the Clarifications, 2020. Thereafter, promotion orders dated 09.12.2024 came to be issued in favour of eight lecturers of Chemical Engineering who were promoted to the post of Head of Department (Chemical Engineering). The said promotions were granted to lecturers placed at Serial Nos. 14, 15, 16, 17, 18, 19, 20 and 21 in the seniority list dated 24.09.2021.

11. Despite the issuance of the aforesaid promotion orders, two vacancies on the post of Head of Department (Chemical Engineering) still continue to remain vacant. However, the petitioner, despite being placed at Serial No. 23 in the seniority list dated 24.09.2021 and despite falling within the zone of

consideration, has not been considered for promotion by the respondents. Aggrieved by the arbitrary and discriminatory action of the respondents in denying consideration to the petitioner for promotion, the present writ petition has been instituted before this Hon'ble Court.

SUBMISSIONS OF BEHALF OF THE PETITIONER

12. Learned counsel for the petitioner submits that the petitioner has been subjected to hostile discrimination at the hands of the respondent authorities inasmuch as her candidature has not been considered for promotion to the post of Head of Department (Chemical Engineering), despite her being fully eligible and falling within the zone of consideration violating the guarantees enshrined under Articles 14 and 16 of the Constitution of India. Reliance in this regard has been placed upon the judgment of the Hon'ble Supreme Court in *Kamal Prasad Dubey Vs. State of Madhya Pradesh and Others*, 2026 SCC OnLine SC 578.

13. It is submitted that the petitioner was initially appointed on the Group 'B' post of Lecturer (Chemical Engineering) vide appointment order dated 23.01.2015 and, upon successful completion of probation, her services were confirmed vide order dated 16.07.2024 with retrospective effect from 31.01.2017. Thereafter, upon completion of the requisite qualifying service, the petitioner became eligible for promotion to the post of Head of Department (Chemical Engineering) on 30.06.2020 in accordance with the provisions of the applicable Rules. It is further submitted that in the final department-wise seniority list of Group 'B' lecturers of Government Polytechnics, Uttar Pradesh issued on 24.09.2021, the petitioner was placed at Serial No. 23 in the cadre of Chemical Engineering lecturers.

14. It has further been submitted that under the AICTE Regulations, 2010, the essential qualification prescribed for appointment to the post of Head of Department (Engineering) included possession of a Doctorate degree in the concerned discipline along with five years' relevant experience in teaching/research/industry. In order to fulfil the said eligibility criteria, the petitioner, after obtaining due permission from the competent departmental authorities, pursued and successfully obtained a Ph.D. degree in Chemical Engineering in the year 2023.

15. Learned counsel for the petitioner has next submitted that Regulation 13 of the Clarifications, 2020 issued by AICTE specifically provided that the criteria relating to promotion under the said clarifications would operate prospectively from the date of notification thereof i.e. 20.05.2020. The said provision was introduced with the object of avoiding hardship to existing faculty members who had already acquired eligibility or were likely to acquire eligibility shortly under the earlier regulatory regime. Under the said Regulation, an option was granted to such teachers to be considered for promotion under the existing Regulations/Rules, provided such option was exercised within a period of three years from the date of issuance of the Clarifications, 2020. It is thus submitted that the intention underlying Regulation 13 was to protect the one-time promotional interest of existing faculty members who had either already become eligible or were likely to become eligible for promotion around the time of promulgation of the AICTE Regulations, 2019.

16. It has further been submitted that thereafter the Rules, 2021 were promulgated by His Excellency the Governor of Uttar Pradesh on 09.06.2021 in exercise of powers conferred under Article 309 of the Constitution of India and in supersession of the earlier Rules. By virtue of the said Rules, 2021, the provisions of the AICTE Regulations, 2019 were formally adopted and made applicable to Group 'A' and Group 'B' posts in the Directorate of Technical Education, Institute of Research, Development and Training, Board of Technical Education, Government Polytechnics for Boys and Girls, Government Leather Institutes, Northern Regional Institute of Printing Technology and Government Secondary Technical Schools.

17. It is further submitted that although the Rules, 2021 do not expressly specify whether faculty members who had already qualified or were likely to qualify shortly for promotion could exercise an option to continue to be governed by the earlier Rules, however, in light of Note 11 appended to Appendix-II of the Rules, 2021, it can safely be inferred that the option contemplated under Regulation 13 of the Clarifications, 2020 remained available to the petitioner and other similarly situated faculty members working in Government Polytechnics across the State. Consequently, such faculty members, including the petitioner, were entitled to exercise their option for consideration for promotion under the old Rules within a period of

three years from the promulgation of the Rules, 2021, i.e., till 09.06.2024.

18. Learned counsel further submits that sometime in the month of May, 2024, the petitioner came to know that a meeting of the Departmental Promotion Committee was proposed to be convened for considering promotions of eligible Lecturers (Engineering) working in Government Polytechnics throughout the State of Uttar Pradesh to the post of Head of Department in their respective branches. Consequently, the petitioner submitted an application dated 20.05.2024 and 21.05.2024 exercising the option contemplated under Regulation 13 of the Clarifications, 2020 read with the Rules, 2021 for being considered for promotion to the post of Head of Department (Chemical Engineering). The petitioner also preferred an RTI application dated 24.05.2024 seeking information regarding existing vacancies. In response thereto, information was furnished on 03.07.2024 disclosing that as on 23.05.2024, ten posts of Head of Department (Chemical Engineering) were lying vacant. Thereafter, pursuant to the recommendations made by the Departmental Promotion Committee in May, 2024, promotion orders dated 09.12.2024 were issued by the Special Secretary, Department of Technical Education, Government of Uttar Pradesh whereby eight out of the ten vacant posts of Head of Department (Chemical Engineering) were filled by promotion from amongst lecturers placed up to Serial No. 21 in the seniority list.

19. It has been vehemently argued that denial of equal opportunity to persons who are identically situated in matters relating to public employment amounts to a clear violation of Articles 14 and 16 of the Constitution of India. Reliance in this regard has been placed upon the judgment of the Hon'ble Supreme Court in *Kamal Prasad Dubey Vs. State of Madhya Pradesh and Others, 2026 SCC OnLine SC 578*.

20. It has further been submitted that despite the petitioner being fully eligible and duly qualified, her candidature was not considered by the respondents in a wholly arbitrary, illegal and whimsical manner. It is also submitted that the petitioner was the only Lecturer in Chemical Engineering who had exercised the option contemplated under Regulation 13 of the Clarifications, 2020 and yet was excluded from consideration, thereby subjecting her to prima facie hostile discrimination. Learned counsel submits

that out of the eight persons promoted to the post of Head of Department (Chemical Engineering), five were recruited along with the petitioner and were similarly situated in all respects.

21. It is next submitted that in the short counter affidavit dated 04.02.2025 as well as the supplementary counter affidavit dated 23.03.2026, the sole ground taken by the respondents for denying promotion to the petitioner is that the respondents have artificially bifurcated the ten available vacancies on the post of Head of Department (Chemical Engineering) on the basis of the promulgation of the Rules, 2021 and have arbitrarily treated only those eight vacancies which existed prior to 08.06.2021 as vacancies liable to be filled by promotion under the old Rules. According to learned counsel, no such distinction with regard to vacancies arising before or after a particular cut-off date finds mention either in the AICTE Regulations or in the Rules, 2021. Thus, the respondents have carved out an artificial classification without any statutory backing or legal authority.

22. In support of the aforesaid contention, learned counsel for the petitioner has placed reliance upon the judgment of the Hon'ble Supreme Court in State of *Himachal Pradesh and Others Vs. Raj Kumar and Others*, (2023) 3 SCC 773, wherein, while overruling the earlier view taken in *Y.V. Rangaiah Vs. J. Sreenivasa Rao*, (1983) 3 SCC 284, it has been held that there exists no universal rule that vacancies are necessarily required to be filled in accordance with the law prevailing on the date on which such vacancies arose. Rather, the right of an employee is merely a right to be considered for promotion in accordance with the rules in force on the date when the consideration takes place. Learned counsel has particularly emphasized paragraphs 82 to 85 of the aforesaid judgment and submits that the stand taken by the respondents that only vacancies existing prior to the promulgation of the Rules, 2021 could be filled under the old Rules is wholly misconceived and unsupported either by statutory provisions or settled principles of law.

23. It is further submitted that the promotions of eight lecturers to the post of Head of Department in the year 2024 were themselves granted only by extending the benefit flowing from the Clarifications, 2020 issued by AICTE. Once the respondent authorities had chosen to undertake the

promotional exercise in the year 2024, at a point of time when the Rules, 2021 prescribing 100% direct recruitment to the post of Head of Department were already in force, it became incumbent upon the authorities to extend the same benefit uniformly to all similarly situated and eligible persons, including the petitioner, who admittedly fell within the zone of consideration against the existing vacancies.

24. It has also been argued that although eight posts of Head of Department were filled and several persons recruited along with the petitioner were promoted, the petitioner herself was not even considered for promotion, which clearly demonstrates arbitrariness, non-application of mind and discriminatory treatment on the part of the respondents. Learned counsel submits that once the petitioner had duly exercised her option for being considered for promotion, there existed no rational or lawful justification for excluding her from the promotional exercise undertaken by the respondents.

25. It is further submitted that in their counter affidavits, the respondents have completely failed to address the specific plea of the petitioner that Regulation 13 of the Clarifications, 2020 expressly provided an option to faculty members who had already qualified or were likely to qualify shortly for promotion under the earlier regime, and that the petitioner had validly exercised such option through her application dated 20.05.2024 sent by email as well as through registered post on 21.05.2024.

26. Lastly, learned counsel for the petitioner submits that the benefit contemplated under Regulation 13 of the Clarifications, 2020 issued by AICTE ought to have been extended by the respondents as a one-time measure while conducting the promotional exercise for the recruitment year 2024–25, particularly when vacancies had admittedly arisen within three years from the issuance of the Clarifications, 2020 and the petitioner had duly exercised her option within the prescribed period. Therefore, the action of the respondents in excluding the petitioner from consideration for promotion is wholly arbitrary, discriminatory and unsustainable in law.

SUBMISSIONS ON BEHALF OF THE RESPONDENTS

27. Learned Standing Counsel, while opposing the writ petition, has submitted that the petitioner has merely sought issuance of a writ of

mandamus commanding the respondents to consider her case for promotion to the post of Head of Department (Chemical Engineering). It is contended that if at all the petitioner is aggrieved, such grievance essentially arises out of the promotion orders whereby eight lecturers were promoted to the post of Head of Department (Chemical Engineering). However, the said promotion orders have not been challenged by the petitioner in the present writ petition and, therefore, the relief sought by the petitioner is itself misconceived and not maintainable in the present form.

28. It has further been submitted that the option allegedly exercised by the petitioner under Regulation 13 of the Clarifications, 2020 issued by AICTE is wholly misconceived and non est in the eyes of law. Learned Standing Counsel submits that Regulation 13 of the Clarifications, 2020 specifically provided that the concerned incumbents could exercise a one-time option within a period of three years from the date of issuance of the said notification. Since the Clarifications, 2020 were issued on 20.05.2020, the period of three years admittedly expired on 20.05.2023. It is submitted that the petitioner exercised her alleged option only on 21.05.2024, i.e., after expiry of the prescribed period by almost one year. Therefore, according to the respondents, the petitioner had no subsisting right whatsoever to claim consideration for promotion under the old Rules and, consequently, the controversy sought to be raised regarding vacancies existing prior to or subsequent to the promulgation of the Rules, 2021 or the existence of two remaining vacancies is wholly irrelevant. It is thus contended that the petitioner has failed to demonstrate the existence of any constitutional, statutory or legal right entitling her to be considered for promotion.

29. Learned Standing Counsel has further submitted that prior to the enforcement of the Rules, 2021 with effect from 09.06.2021, the field governing service conditions and promotions was occupied by the Rules, 1990 as amended in the year 1998. However, vide Notification No. 899/16-2-2021 dated 09.06.2021, the Rules, 2021 were promulgated, under which the post of Head of Department was specifically earmarked to be filled through direct recruitment.

30. It is accordingly submitted that the two vacancies of Head of Department (Chemical Engineering) which arose subsequent to 09.06.2021, i.e. the

vacancy caused on account of the retirement of Shri Anjani Kumar Sharma on 30.06.2022 at Government Polytechnic, Chandausi, Sambhal and the vacancy created vide Government Order dated 26.12.2023 at Government Polytechnic, Bachhrawan, Raebareli, are necessarily required to be filled strictly through direct recruitment in accordance with the provisions contained under the Rules, 2021. Therefore, the petitioner cannot claim any right for promotion against the said vacancies under the repealed Rules, 1990.

31. It has further been stated that as on 08.06.2021, i.e., immediately prior to the enforcement of the Rules, 2021, eight vacancies on the post of Head of Department (Chemical Engineering) were available. In accordance with the provisions of the Rules, 1990 as amended in 1998, the Departmental Promotion Committee considered eligible lecturers and recommended the names of eight Lecturers in Chemical Engineering whose names were placed at Serial Nos. 14 to 21 in the seniority list. Pursuant to such recommendations, Government Appointment/Notification No. 2923/16-2-2024 dated 09.12.2024 was issued, whereby the said officers were promoted to the post of Head of Department (Chemical Engineering).

32. It has also been clarified on behalf of the respondents that one Shri Vinod Kumar Yadav, who was admittedly senior to the petitioner and was placed at Serial No. 22 in the seniority list, could not be promoted owing to the fact that only eight vacancies were available for being filled through promotion under the old Rules. Since the petitioner was admittedly placed at Serial No. 23 in the seniority list, no enforceable right accrued in her favour for promotion when even her immediate senior had not been granted promotion.

33. Thus, only eight vacancies existed prior to the promulgation of the Rules, 2021 and the said vacancies have already been duly filled in accordance with the provisions of the Rules, 1990 as amended in 1998. The two vacancies which arose after 09.06.2021 are governed entirely by the provisions of the Rules, 2021 and are liable to be filled solely through direct recruitment. It is therefore contended that the petitioner's reliance upon the AICTE Regulations, 2019 and the Clarifications, 2020 for claiming promotion against vacancies arising after 09.06.2021 under the old Rules is

wholly misconceived, contrary to the statutory framework and legally untenable.

34. Lastly, learned Standing Counsel has submitted that the petitioner has completely misconstrued the scope and applicability of the AICTE Regulations, 2019 as well as the Clarifications, 2020 while seeking promotion from the post of Lecturer (Chemical Engineering) to the post of Head of Department (Chemical Engineering) under the repealed provisions of the Rules, 1990 and the First Amendment Rules, 1998. According to the respondents, the claim raised by the petitioner is contrary to the applicable statutory provisions governing the field and, therefore, the writ petition being devoid of merit is liable to be dismissed with costs.

CONSIDERATION BY THE COURT

35. Perused the record.

36. This Court has considered the submissions advanced by learned counsel for the parties and perused the material brought on record.

37. Admittedly, while filing the present writ petition, the petitioner has not challenged the promotion orders whereby eight persons have been promoted to the post of Head of Department (Chemical Engineering). It is also not disputed that all the said promoted persons are senior to the petitioner in the seniority list. It is further admitted that as on date, two posts of Head of Department (Chemical Engineering) are still lying vacant.

38. Prior to the promulgation of the Rules, 2021, the field governing the service conditions of lecturers working in Government Polytechnics, including promotion to the post of Head of Department, was regulated by the Rules, 1990. Under the Rules, 1990, 100 percent posts of Head of Department were liable to be filled by way of promotion. Subsequently, AICTE framed the Regulations, 2010 wherein the eligibility criteria for appointment/promotion to the post of Head of Department were prescribed and possession of a Ph.D. degree along with minimum five years' teaching/research/industry experience was made a condition precedent.

39. Thereafter, AICTE notified the Regulations, 2019 and Regulation 2.1 thereof specifically provided that the post of Head of Department shall be

filled by way of 100 percent direct recruitment. In order to protect the rights and interests of existing faculty members who had already qualified or were likely to qualify shortly for being considered for promotion by the time of promulgation of the AICTE Regulations, 2019, AICTE issued Clarifications, 2020. Regulation 13 thereof provided that such faculty members could exercise a one-time option for being considered for promotion under the existing Regulations/Rules, provided the said option was exercised within three years from the date of notification of the Clarifications dated 20.05.2020.

40. Regulation 13 clearly contemplated that the option was required to be exercised within a period of three years from the date of notification of the Clarifications, 2020, meaning thereby that such option could have been exercised on or before 20.05.2023 and not thereafter. The Clarifications, 2020 were issued in exercise of powers conferred under Section 23(1) read with Sections 10(g), 10(h) and 10(i) of the All India Council for Technical Education Act, 1987 and were intended to be read in continuation of the norms/guidelines prescribed under the AICTE Regulations, 2019 dated 01.03.2019 issued by AICTE. The said Regulations have been framed under Entry 66 of List I (Union List) of the Seventh Schedule to the Constitution of India and, therefore, any State Regulations or Rules operating in the same field are required to give way to the aforesaid Regulations, the same having binding effect.

41. Admittedly, the petitioner did not exercise the option within three years from the date of issuance of the Clarifications, 2020. The cut-off date for exercising such option expired on 20.05.2023, whereas the petitioner admittedly exercised her option only on 21.05.2024, i.e., after expiry of the prescribed period. Thus, in terms of Regulation 13 of the Clarifications, 2020, the petitioner cannot assert any enforceable right to be considered for promotion to the post of Head of Department.

42. This Court finds that the petitioner has not challenged the promotion orders of the eight persons who have been promoted to the post of Head of Department, although all such persons are senior to the petitioner. The said promoted officers have also not been impleaded as parties in the present proceedings. Therefore, the issues as to whether the promotions granted to

the said persons were legally justified, whether the bifurcation of vacancies made by the respondents was valid, or whether vacancies arising prior to or after the promulgation of the Rules, 2021 were required to be filled under the old Rules or the new Rules, cannot be adjudicated upon in the present writ petition unless the petitioner first establishes her own right to be considered for promotion.

43. The primary contention advanced on behalf of the petitioner is that since the Rules, 2021 were promulgated on 09.06.2021 formally adopting the AICTE Regulations, 2019, the period of three years contemplated under Regulation 13 of the Clarifications, 2020 ought to be reckoned from the date of promulgation of the Rules, 2021 and, therefore, the petitioner was entitled to exercise her option up to 09.06.2024. According to the petitioner, Note 11 appended to Appendix-II of the Rules, 2021 makes the option available to all faculty members working in Government Polytechnics across the State. The aforesaid submission, in the opinion of this Court, is wholly fallacious and misconceived.

44. A perusal of Note 11 appended to Appendix-II of the Rules, 2021 clearly shows that it merely provides that all other conditions shall be applicable in accordance with AICTE Regulations, 2019 as amended from time to time. The relevant provision reads as under:-

“II. All other conditions will be applicable as per AICTE (Diploma) Regulations, 2019 and amended from time to time.”

45. Under Rule 5 of the Rules, 2021, recruitment to the post of Head of Department in Polytechnic (Engineering) has specifically been provided to be made through 100 percent direct recruitment by the Commission. By virtue of the Rules, 2021, the AICTE Regulations, 2019 along with amendments/clarifications issued from time to time stood adopted by the State Government. However, by incorporation of Note 11 of Appendix-II, no fresh right or extended period has been created in favour of the petitioner. The said provision merely adopts the AICTE Regulations, 2019 and amendments thereto, including the Clarifications, 2020.

46. By no stretch of imagination can it be interpreted that the three-year period prescribed under Regulation 13 of the Clarifications, 2020, which

commenced from 20.05.2020, would recommence afresh from the date of promulgation of the Rules, 2021, i.e., 09.06.2021. Therefore, the argument advanced on behalf of the petitioner that the exercise of option on 21.05.2024 was within time as it fell within three years from the date of promulgation of the Rules, 2021 cannot be accepted.

47. The petitioner admittedly failed to exercise the option on or before 20.05.2023 as required under Regulation 13 of the Clarifications, 2020. No other statutory or legal right has been demonstrated by the petitioner entitling her to claim promotion to the post of Head of Department.

48. So far as the plea regarding hostile discrimination and violation of Articles 14 and 16 of the Constitution of India is concerned, it is not disputed that all those persons who have been promoted to the higher post are senior to the petitioner. No person junior to the petitioner or similarly situated in the seniority list has been promoted to the post of Head of Department. Thus, the petitioner has failed to establish any hostile discrimination or unequal treatment in the matter of promotion.

49. The petitioner has also failed to establish any enforceable right under any Rule, Regulation or Notification entitling her to claim consideration for promotion. Moreover, the promotion orders of the eight promoted officers are not under challenge and the concerned persons have also not been impleaded as parties to the present proceedings. In absence thereof, the petitioner's claim for consideration against the remaining two vacant posts cannot be entertained unless she first establishes a legal right to be considered for promotion, which she has clearly failed to do.

50. So far as the argument regarding bifurcation of vacancies and drawing of an alleged artificial distinction between ten available vacancies on the post of Head of Department (Chemical Engineering) is concerned, admittedly no person junior to the petitioner has been promoted against the said vacancies. Since the petitioner herself failed to exercise the option contemplated under Regulation 13 within the prescribed period, the question as to whether the respondents could have extended the benefit of Regulation 13 of the Clarifications, 2020 as a one-time measure while conducting the promotional exercise for the recruitment year 2024–25, particularly in respect of vacancies arising within three years from issuance of the Clarifications,

2020, need not be examined in the present proceedings.

CONCLUSION

51. This Court is of the considered opinion that the petitioner has failed to establish any enforceable statutory or legal right entitling her to claim consideration for promotion to the post of Head of Department (Chemical Engineering), particularly in view of the admitted position that the option contemplated under Regulation 13 of the Clarifications, 2020 was not exercised within the prescribed period. It is also not disputed that no person junior to the petitioner has been granted promotion and that all the promoted incumbents are admittedly senior to her in the seniority list.

52. This Court further finds that the promotion orders granted in favour of the eight promoted officers have neither been challenged in the present proceedings nor have the said persons been impleaded as parties. Consequently, the issues relating to the legality of the promotional exercise undertaken by the respondents, including the alleged bifurcation of vacancies and applicability of the old or new Rules to the vacancies in question, do not arise for adjudication in the present writ petition.

53. In the absence of any demonstrated legal right in favour of the petitioner and there being no material to establish hostile discrimination or arbitrariness in the matter of promotion, no interference is warranted by this Court in exercise of jurisdiction under Article 226 of the Constitution of India.

54. Accordingly, the writ petition lacks merit and is, therefore, *dismissed*.

(Karunesh Singh Pawar,J.)

May 29, 2026

R.C.