



2025:DHC:6811-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI****Judgment reserved on: 04.08.2025****Judgment pronounced on: 13.08.2025**

+ W.P.(C) 5830/2024

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.....Petitioner

Through: Mr. J Sai Deepak, Sr. Adv. with
Mr. Abhinav Garg, Mr. Abhishek Kumar,
Mr. Luv Kumar and Mr. Manwendra
Gautam, Advs.

versus

HIGH COURT OF DELHI THROUGH REGISTRAR

GENERAL

.....Respondents

Through: Mr. Siddharth Thakur and Mr.
Apurv Gaur, Advs.

CORAM:**HON'BLE MR. JUSTICE C. HARI SHANKAR****HON'BLE MR. JUSTICE OM PRAKASH SHUKLA****JUDGMENT**

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13.08.2025**OM PRAKASH SHUKLA, J.**

1. The petitioner has sought to invoke the extraordinary jurisdiction of this court to seek her appointment on the seat, which has fallen vacant after resignation of an appointee of the Delhi Judicial Services Examination, 2022, in accordance with Rule 18 (vii) of Delhi Judicial Services Rules, 1970.

2. The facts of the case would lie in a narrow compass, in as much as it is noted from the petition that the respondent had invited



applications for filling up 123 vacancies in Delhi Judicial Services, vide Notification dated 24.02.2022 by conducting the Delhi Judicial Services Examination, 2022.

3. The petitioner applied for the aforesaid DJS Examination, 2022 and after successfully qualifying the preliminary and mains examination, appeared for the interview. Upon declaration of the final results on 24.03.2023, the petitioner secured the 93rd rank. The selection committee prepared a list of 301 candidates in order of merit, which included the names of the recommended and waitlisted candidates. Out of the said total list, 110 candidates were selected and recommended for appointment and the break-up of the seats reveal that about 85 seats were recommended under the unreserved category, 03 seats for Persons with Disabilities in the General category, 06 seats for Schedule Caste category and 16 seats were recommended under the Schedule Tribe category.

4. As aforesaid, a total of 88 candidates from the general category were offered appointment and as such the petitioner was placed at serial no.5 in the waitlist of the unreserved category. It is available from records that out of the total 88 candidates, who were offered appointment, 4 candidates did not join, thereby leaving 4 vacant seats. Thus, 4 candidates from the waiting list were offered appointment in respect of those vacant posts and after the initial formalities concluded, the candidates joined on 20.03.2024.

5. Subsequently, out of those 4 candidates, one Ms. Riya Goyal (a General category candidate, who was placed at serial no.3 of the wait-



list) and having been appointed as a member of Delhi Judicial Services *vide* Notification of the Govt. of NCT of Delhi *F.6/6/2022-Judl./Suptlaw/519-525* dated 23.02.2024, tendered her resignation from Delhi Judicial Services on 26.03.2024 on account of her selection and subsequent appointment in the Punjab Judicial Services. The resignation of Ms. Riya Goyal was accepted by the Govt. of NCT of Delhi *vide* Notification *F.6/6/2022-Judl./P.F1/Suptlaw/ 1015-1021* dated 10.05.2024, and she was relieved from her duties on 17.05.2024 by the Principal District and Sessions Judge, Delhi.

6. As the petitioner became aware of the resignation of Ms. Riya Goyal (one of the waiting list candidates), the petitioner sent a representation to the Registrar *via* e-mail dated 28th of March, 2024, seeking appointment against the vacancy arising due to the resignation of Ms. Riya Goyal. Upon not receiving a reply to the said representation the petitioner has approached this Court.

7. Mr. Sai Deepak, learned Senior Counsel for the petitioner, would submit that the petitioner, being next in the waitlist, is entitled to be appointed against the vacancy arising out of Ms. Riya Goyal's resignation and that the entire purpose of publishing a waiting list is that if in case any vacancy arises, either by non-joining of any candidate or by resignation of any candidate during the training period, it shall be filled up by the next candidate in the order of merit in the wait list.

8. According to the Learned Sr. Counsel, as per the Delhi Judicial Services Rules, 1970, the select list prepared for all the categories of



candidates continued to be valid till next select list is prepared and since the select list is still valid, the petitioner is entitled to be appointed against the vacant post. It has been submitted that there is no express bar in the Delhi Judicial Services Rules, 1970, for appointment of candidates from the waitlist, nor any express provision specifying the circumstances where such appointment can and cannot be made, and therefore, petitioner should be given the benefit of such ambiguity.

9. Learned Sr. Advocate J. Sai Deepak, has strenuously tried to reasons out that Ms. Riya Goyal had wrongly joined the Delhi Judicial services on 23.02.2024 by concealing material facts of her appointment as a member of Punjab Judicial Services vide notification dated 14.02.2024. .

10. According to the learned Sr. Counsel, since the respondent failed to verify the appointment of Ms. Riya Goyal as a member of Punjab Judicial Services before she was allowed to join the Delhi Judicial Services, her appointment on 20.03.2023 to Delhi Judicial Service should be held as *void ab initio* and consequently the petitioner should be offered appointment in the said vacant seat.

11. Furthermore, the counsel for the petitioner contends that an analogy may be drawn from the Office Memorandum (OM) dated 13.06.2000 issued by the Department of Personnel and Training (DoPT), which allows for next-in-line candidates to join the service in case the recommended candidate does not join, resigns or dies within one year of appointment from the reserve panel/waitlist without



treating the same as a fresh vacancy. Also, in the same vein, the case of ***Sujal Gautam & Ors. v. Union of India & Ors.***¹, has been referred to by the learned Counsel, wherein it was held:

“Vacancies resulting from resignation or death within one year of appointment should be filled from the reserve panel... Such a vacancy should not be treated as a fresh vacancy.”

Thus, the learned Sr. Counsel, has submitted that the judgement mandates that where a valid reserve/wait list exists, it must be operated to fill such vacancies and since the petitioner, being general wait list – 05 is next in the order of merit, she is entitled to be considered for the said vacancy, which has arisen within one year, on a harmonious construction of the OM dated 13.06.2000, read along with the DoPT guidelines and Rule 18 (vi) of the Delhi Judicial Services Rules, 1970.

12. Per contra, Mr. Siddharth Thakur, learned counsel for the Respondent submits, that as per the applicable rules and relevant case laws the petitioner has no right to be appointed against the vacancy of the seat, which has arisen due to resignation of a selected candidate who had duly joined the service. According to him, Rule 18 (vi) of the Delhi Judicial Services, Rules, 1970 contemplates the appointment of next-in-line candidate as per the merit list where vacancy is created on account of failure of the selected candidate to join service within the stipulated or extended period of time. There is no provision in Delhi Judicial Services, 1970, which entitles the next in-line candidate, according to the select list, to get appointed where the vacancy is

¹ 2022 SCC OnLine Del 1850



created on account of subsequent resignation of a selected candidate where vacancy is created on account of subsequent resignation of a selected candidate who had duly joined the services. The learned Counsel relies on the judgement of ***Rakhi Ray v. High Court of Delhi***², as well as the judgment of ***Sudesh Kumar Goyal v. The State of Haryana & Ors.***³, wherein the Supreme Court clarified that any vacancies arising out of resignation of one of the selected candidates does not gives rise to a fresh vacancy.

13. According to the learned Counsel for the respondents, the provisions of the Delhi Judicial Services Rules, 1970 is clear that once the selected candidates join against all the available vacancies, the process of recruitment will deem to be concluded and any ensuing vacancy arising due to subsequent resignation of a candidate who had duly joined the service cannot be filled from the waiting list but through a fresh recruitment process. Illustratively, he contends that one candidate namely Ms. Juhi Anand (SC category) selected on the basis of Delhi Judicial Examination, 2022, had initially joined, but subsequently she tendered her resignation during the course of her training and the vacancy so created on account of her resignation was not offered to any next waitlisted candidate of SC category as the vacancy was to be filled up through fresh recruitment process only as per the mandate of law and as such prays for dismissal of this petition

14. Having heard the learned counsel for the parties, this court

² (2010) 2 SCC 637

³ (2023) 10 SCC 54



finds that rule 18 of the Delhi Judicial Rules, 1970 is relating to the process of recommendation of candidates after the competitive examination is over. The rule inter-alia states:

“18. (i) The Selection Committee shall prepare a list of candidates in order of merit on the basis of competitive examination held in accordance with the Rules. Such list will be forwarded to the Administrator.

(ii) The Administrator may in consultation with the High Court, make appointment in substantive, officiating or temporary vacancies from amongst those who stand highest in order of merit.

(iii) All selected candidates shall join the service within a period of one month from the date of issuance of notification of appointment by the competent authority.

(iv) Upon sufficient justification, the competent authority i.e. the High Court may extend the abovementioned period of one month for joining service on a written application made by the candidate concerned. Such extension, if granted, shall be for a period of two months only. Extension of period of joining beyond this period may be granted by the High Court in rare and exceptional circumstances but in no case shall such further extension be granted for a period of more than six months from the date of issuance of notification of appointment.

(v) Upon failure of the selected candidate to join service either within one month of the date of notification of appointment or upon expiry of such extended period as may be granted by the High Court, the appointment of the selected candidate shall lapse.

(vi) The vacancy so created by virtue of clause (v) above may be offered to the next candidate, as per order of merit in the select list unless for reasons to be recorded in writing, it is not so deemed apposite.

(vii) The Select List prepared for all categories of officials shall be valid till the next Select List is published.

(viii) The Clauses (iii) to (v) of this Rule shall form part of the notification of appointment of the selected candidates.”

A bare perusal of the aforesaid provisions brings one to forth that no



doubt, rule 18(vii) says that the select list prepared for all categories of officials shall be valid till the next select list is published, which technically means that the select list would be valid till a select list is not prepared in the next recruitment examination, however rule 18(vi) mandates that the select list would be utilized only for the purpose of appointment in case a vacancy is created by virtue of clause (v) of rule 18. Unfortunately, rule 18 (v) only talks of *failure to join service by a candidate* and does not envisages any eventuality, in case the seats may fall vacant after joining due to any reasons of resignation, death, candidature declared illegal etc. Once a candidate joins against a vacancy, no scope remains to work Rule 18(v) for that vacancy.

15. This court finds that a homogenous reading of rule 18 and its sub-clauses would lead one to understand that these rules predominately relates to joining of a candidate and prescribing different time period during which they may be allowed to join and does not take into account the various facets, which may arise after joining. Thus these rules, according to this court only recognises one type of vacancy, which is by virtue of a failure to join as enshrined under rule 18(v) and does not recognize any other kind of vacancies. Having said that, this court finds that when rule 18(vii) mandates for *the Select List prepared for all categories of officials to be valid till the next Select List is published, which normally is for more than a year or so, then why the rules merely recognises vacancy arising only due to failure to join and not an eventuality of the vacancy arising if a candidate resigns after joining is unclear. According to this court, there appears to be a dichotomy in the rules, which can only be cured by the rule makers or the competent committee of this court on the*



administrative side.

16. However, the said aspect should not baulk this court any further, as the fact of the matter remains that, given the existing rules, since all the 88 seats candidates recommended under the unreserved category came to join, there was no vacant seat available to accommodate the petitioner in terms of rule 18(vi) of the Delhi Judicial Services Rules. The submission of the petitioner, that there is absolutely no bar as per the Delhi Judicial Services Rules, 1970 to appoint or offer the seat to next candidate where the vacancy is created on account of the subsequent resignation of a selected candidate who had joined the service by concealing material facts, is not acceptable. According to the established principle in the case of ***Sudesh Kumar Goyal v. The State of Haryana & Ors. (supra)***, if all the vacancies initially stood filled and, subsequently, one or more of the selected candidates tender their resignation after duly joining the service, then such vacancies will be treated as fresh vacancies which could not be filled up without issuing a proper advertisement and following the due process for the upcoming selection. The Supreme Court in the said Judgment of ***Sudesh Kumar Goyal (supra)***, held at paragraph 19, as herein inter-alia:

“....19. This takes us to the second argument that the appellant could have been easily adjusted against the vacancy caused due to resignation of one of the selected candidates. The argument per se is bereft of merit inasmuch as all the vacancies notified stood filled up initially. However, if one of the selected candidates joins and then resigns, it gives to a fresh vacancy which could not have been filled up without issuing a proper advertisement and following a fresh selection process. The division bench has rightly dealt with the above contention in the light of the precedent of various decisions of this court and we do not feel that any error has been committed in this context.,”



17. Further, the submission of the petitioner that there should be harmonious construction between Rule 18(vi) of the Delhi Judicial Services Rules, 1970, and the Office Memorandum dated 13.06.2000 issued by the Department of Personnel and Training, which allows next-in-line candidates to join the service in case the selected candidate does not join, resigns or dies within one year of joining are far-fetched as firstly, the judicial administrative and service conditions in India are governed by state specific judicial service rules rather than by the Department of Personnel and Training (DoPT) circulars or the Central Civil Services (CCS) Rules, which are applicable on other government servants. Secondly, the DoPT and CCS rules are designed to apply to individuals who are formally appointed to the Central Civil Services or posts that fall under the purview of the Central government, and these rules are not applicable to the members of the judiciary, which is an important aspect for the independence of judiciary. Thirdly, the point of view is further substantiated by the ‘Subject’ of the Office Memorandum dated 13.06.2000 submitted by the petitioner themselves, as it clearly and explicitly states:

“Operation of reserve panels prepared on the basis of selections made by UPSC, Staff selection commission, other recruiting agencies and where selections are made by Ministries/Departments etc.”

Whereas, the administration, examination and selection in the judiciary is done by neither by the UPSC nor by any other recruiting agencies, rather it is conducted under the judiciary’s own specific judicial service rules.

18. Further, the petitioner has not relied on the judgement of **Sujal**



Gautam (Supra) in right perspective, which relates to directions to the respondent to prepare, maintain and operate reserve panel/wait list conducted by way of sub-inspector, Central Armed Police Forces (CAPFs) and Assistant sub-inspector in CISF Examination-2017, which is conducted by the UPSC. And as discussed hereinabove, the DoPT and CCS Rules do not apply to the judiciary, as it is governed by state-specific rules.

19. This court cannot be oblivious to the fact that the present issue relating to vacancy created by resignation of a candidate after joining the Delhi Judicial Service had been a subject matter of the recruitment process of the year 2018, wherein the examination-cum-Judicial education and Training programme committee of this court in its meeting held on 03.02.2020 resolved that the vacancy arising on account of resignation of a candidates, who had already been appointed to the service cannot be offered to other persons in the list of selected candidate by relying on the celebrated judgment of the Hon'ble Supreme Court in the case of **Rakhi Ray v. High Court of Delhi, (supra)** wherein the Supreme Court held that:

“....12. In view of above, the law can be summarised to the effect that any appointment made beyond the number of vacancies advertised is without jurisdiction, being violative of Articles 14 and 16(1) of the Constitution of India, thus, a nullity, inexecutable and unenforceable in law. In case the vacancies stand filled up, the process of selection comes to an end. Waiting list, etc. cannot be used as a reservoir, to fill up the vacancy which comes into existence after the issuance of notification/advertisement. The unexhausted select list/waiting list becomes meaningless and cannot be pressed in service any more.

15. In the instant case, as 13 vacancies of the general category had been advertised and filled up, the selection process so far as the general category candidates is concerned, stood exhausted and the unexhausted select list is meant only to be consigned to record room



24. A person whose name appears in the select list does not acquire any indefeasible right of appointment. Empanelment at the best is a condition of eligibility for the purpose of appointment and by itself does not amount to selection or create a vested right to be appointed. The vacancies have to be filled up as per the statutory rules and in conformity with the constitutional mandate. In the instant case, once 13 notified vacancies were filled up, the selection process came to an end, thus there could be no scope of any further appointment....”

20. Although, no challenge has been laid by the petitioner to the aforesaid correctness of the decision taken in the Examination-cum-Judicial education and Training programme committee of this court in its meeting held on 03.02.2020, however this court finds that even when this decision was sought to be challenged in this court on a previous occasion, a Division bench of this court vide an order dated 01.10.2020 in the case of **Akansha Singh v. High Court of Delhi through its Registrar general & Anr.**⁴ has observed as follows:

“2... Mr. Sandeep Sharma, learned counsel for the petitioner has sought to raise a challenge to the correctness of the decision taken by Examination-cum-Judicial Examination and Training Committee of this Court in its meeting held on 3.2.2020 wherein the request of the petitioner for appointment against a post which had fallen vacant on account of resignation of one of the selected candidate who had joined, was rejected by placing reliance on the decision of the Supreme Court in the case of Rakhi Ray and Ors. Vs. High Court of Delhi (2010) 2 SCC 637. The said decision of the Supreme Court was read, and after reading the same Mr. Sandeep Sharma, on instructions, fairly states that the petitioner gives up the challenge to the said decision of the aforesaid Committee in the light of the decision of the Supreme Court in Rakhi Ray and Ors. (supra).”

21. Further, this court in the case of **Dr. Shashi Bhushan v. University of Delhi**⁵, wherein one of us (C. Hari Shankar J) invariably faced with a similar issue, wherein appointment was sought against

⁴ 2020 SCC OnLine Del 802

⁵ 2025 SCC OnLine Del 1319



resignation of Asst. professor in University of Delhi, this court after discussing and noting the various precedent holding the field, while upholding the judgment of the learned single judge has concluded in the said judgment; to quote:

“ 24. In view of the aforesaid, it is clear that the appellant had no indefeasible right to appointment merely because he was the first candidate in the waitlist. At the cost of repetition, had either Usha Rani or Jitendra Rishideo not joined, perhaps the situation may have been different. Once they were formally appointed and joined duty, however, no right would survive in the appellant to the post against which they have been appointed. If, therefore, either of them left the job after joining, it gave rise to a fresh vacancy which, applying the law as it stands, was required to be re-advertised.”

22. Applying the said provisions and legal precedents to the facts of the present case, this court finds that the present petition is devoid of any merit and the petitioner is not entitled to be appointed against the vacancy arising out of resignation of a selected candidate who had duly joined the service as that vacancy is to be treated as a fresh vacancy, and cannot be filled up without issuing a fresh advertisement and conducting a fresh selection process.

23. As a sequel to the above, the present petition deserves to be dismissed as the petitioner is not legally entitled to be appointed against the vacancy arising out of the resignation of Ms. Riya Goyal as per the existing Delhi Judicial Services rules, 1970

24. This court has purposefully not entered into the arena of the misconduct alleged against Ms. Riya Goyal in concealing the material fact relating to her appointment in the Punjab Judicial Services as the same is not under challenge in this writ petition.



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25. Let this judgement be placed before the Rules Committee for reconsideration of appointment rules.

26. There are shall be no orders as to cost.

OM PRAKASH SHUKLA, J.

C. HARI SHANKAR, J.

AUGUST 13, 2025/AT/ng