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

Judgment reserved on: 17.07.2026

% **Judgment delivered on:13.08.2026**

\# **CNR No : DLHC010108972026**

\+ **LPA 146/2026 & CM APPL. 17561/2026**

RAHUL MANI .....Appellant

Through: Mr. Sudhir Singh Chauhan, Adv.

versus

UNION OF INDIA AND ORS .....Respondents

Through: Mr. Bipul Kumar, GP for R-1/UOI.
Mr. Tushar Sannu and Ms. Pulak Gupta Joshi, Advs. for GNCTD.
Ms. Ritika Singhal, Adv. for R-3 to 5.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE TEJAS KARIA

JUDGMENT

DEVENDRA KUMAR UPADHYAYA, C.J.

1. A Deputy Manager working at Indraprastha Gas Limited (*hereinafter referred* to as '**respondent-IGL')**, Mr.Rahul Mani, is in appeal before us, taking exception to the order dated 06.02.2026 passed by learned Single Judge whereby *W.P.(C) 4160/2019* instituted by him has been dismissed and his prayer for promotion to the post of Additional Manager, Manager and Chief Manager has not been acceded to.

2. The appellant filed the underlying writ petition with a prayer to quash the communication dated 26.05.2017 whereby his representation to promote

him to the aforesaid posts was rejected by respondent-IGL. The appellant had also prayed that an appropriate direction be issued to respondent-IGL for promoting him to the posts mentioned above.

3. The appellant was appointed as Graduate Engineer Trainee in the year 2008 with the respondent-IGL whereafter, he was promoted to the post of Deputy Manager in the year 2009. The grievance raised by the appellant before the learned Single Judge in the writ petition was that after his promotion to the post of Deputy Manager in the year 2009, though he fulfilled the eligibility period as per the Promotion Policy of the respondent-IGL (*hereinafter referred to as* '**Promotion Policy**') for promotion to the aforesaid three higher posts, however, he was not promoted.

4. Accordingly, it was claimed by the appellant that respondent-IGL be directed to promote him to the post of Additional Manager with effect from 26.02.2012, Manager with effect from 26.02.2015 and Chief Manager with effect from 26.02.2018. In respect of his claim, the appellant preferred a representation to the Managing Director, respondent-IGL and Chief General Manager, respondent-IGL on 26.04.2017 but the same did not find favour with the respondent-IGL and was accordingly rejected *vide* communication dated 26.05.2017. The said communication did not find any merit in the claim of the appellant by stating that the allegation that he was not promoted on account of any *mala fide* intention was not found correct, as the allegation was not supported by any facts or proof and therefore, mere allegation of *mala fide* could not be entertained.

5. It was also stated in the communication dated 26.05.2017 that as per the Promotion Policy, promotion to next higher position is based on (i) fulfillment of completion of minimum time period prescribed in the grade

subject to functional effectiveness of the employee and (ii) subject to suitability of the candidate. It was also stated that the appellant was not promoted on account of serious lapses/shortcomings at work, his casual approach to assignments and unacceptable behavior which he allegedly displayed in the course of employment which included but not limited to regular absenteeism and misconduct at work place. Further, it was also stated while rejecting the appellant's claim for promotion that he was issued warning/advisory from time to time apart from having been counseled by his seniors in respect of his approach to assigned work and behavioral issues but no improvement was observed.

6. The communication dated 26.05.2017 rejecting the claim of the appellant for promotion also stated that promotion to next higher post is not an automatic phenomenon and cannot be claimed as a matter of right and therefore, citing these reasons the claim was rejected by the said communication dated 26.05.2017.

7. The claim of the appellant was contested by respondent-IGL before the learned Single Judge by filing a counter affidavit wherein, a preliminary objection regarding maintainability of the writ petition against respondent-IGL was taken, stating that respondent-IGL is not 'State' within the meaning of Article 12 of the Constitution of India and as such a petition under Article 226 of the Constitution of India, in respect of service-related issues of the appellant, is not maintainable. In this regard it was submitted on behalf of the respondent-IGL that shareholding pattern of the respondent-IGL shows that 50% shareholding is public, while 22.5% is held by Gas Authority of India Limited, 22.5% by Bharat Petroleum Corporation Limited and 5% by the Government of NCT of Delhi.

8. It was also asserted on behalf of the respondent-IGL that respondent-IGL is a professionally run and financially independent company which does not receive any grants or aid from the Consolidated Fund of India and is not under any administrative, functional or financial control of the Government.

9. The learned Single Judge considered the issue of maintainability of the writ petition in view of the aforesaid objections raised on behalf of the respondent-IGL and concluded that respondent-IGL is not a 'State' within the meaning of Article 12 of the Constitution of India. Learned Single Judge has also, however, held that in exceptional circumstances, this Court can exercise its writ jurisdiction under Article 226 of the Constitution of India even against a non-State entity, provided such an entity discharges public functions of public character. The learned Single Judge, however, held the writ petition not to be maintainable on the ground that even if the respondent-IGL may be amenable to writ jurisdiction of this Court under Article 226 of the Constitution of India, such amenability is restricted in respect of *lis* relating to a function which is a public function having public character and since the dispute raised in the writ petition was in relation to a service-related matter of the appellant and concerned his grievance relating to his promotion to higher posts, such a dispute does not involve any public law element and therefore, the writ petition could not be maintained.

10. In this regard, the submissions made on behalf of the appellant before learned Single Judge have been reiterated before us as well. It has been argued that respondent-IGL is a Government controlled joint venture company which discharges public function of supply of Compressed Natural Gas (CNG) and Piped Natural Gas (PNG) and therefore, it falls within the ambit of 'State' within the meaning of Article 12 of the Constitution of

India. However, there is no pleading on behalf of the appellant available on record which establishes any kind of Government control over the functioning of the respondent-IGL. The Hon'ble Supreme Court in the case of ***Indian Council of Social Science Research (ICSSR) v. Neetu Gaur, 2025 SCC OnLine SC 593*** has explained that for an entity to be considered as 'State' within the meaning of Article 12 of the Constitution of India, it should have "deep and pervasive" control of the Government.

11. Hon'ble Supreme Court has further held in ***Neetu Gaur (Supra)*** that deep and pervasive control would require much more than just financing an institution or a body and further that even guiding, controlling or regulating affairs of an entity will not be called a "deep and pervasive" control. ***Neetu Gaur (Supra)*** further observes that deep and pervasive control requires administrative, financial and functional control of such a body to a much higher degree, including interference in its day to day working and mere regulatory control cannot be "deep and pervasive" control.

12. The respondent-IGL, however, does not receive any grants, financial assistance or budgetary allocation from the Government; it rather operates through its own resources and is financially independent of any Government entity. It is also to be noticed that profits generated by respondent-IGL are shared amongst its shareholders in accordance with law. We may also note that respondent-IGL is managed by its Board of Directors comprising of nominee and independent Directors and functions in accordance with norms applicable to a listed company.

13. As already observed above, the appellant has utterly failed to bring on record any material on the basis of which it can even remotely be concluded that the Government or any other public sector undertaking exercises "deep

and pervasive" control over the affairs of respondent-IGL. For these reasons, we find ourselves in complete agreement with the conclusions drawn by the learned Single Judge to the effect that respondent-IGL cannot be treated to be a 'State' within the meaning of Article 12 of the Constitution of India.

14. As per the settled law, even if an entity is not 'State' within the meaning of Article 12 of the Constitution of India, it may otherwise be amenable to writ jurisdiction of this Court under Article 226 of the Constitution of India in the matters where such an entity discharges public functions. For determining the amenability of any entity to writ jurisdiction, what needs to be considered is the nature of *lis* being brought for adjudication before this Court while invoking Article 226 of the Constitution of India. Any entity discharging public functions will be amenable to writ jurisdiction of this Court only in respect of certain issues which concern discharge of public functions of public character. If the *lis* being brought before this Court in a proceeding under Article 226 of the Constitution of India does not have any public law element, the writ petition would not be maintainable.

15. So far as the instant appeal is concerned, the nature of dispute brought by the appellant by instituting the writ petition before the learned Single Judge related to his grievance concerning promotion to the higher posts of Additional Manager, Manager and Chief Manager and therefore, such issue, in our considered opinion, does not lie in the realm of public law. This view is supported by what has been held by the Hon'ble Supreme Court in the case of ***St. Mary's Education Society v. Rajendra Prasad Bhargava, (2023) 4 SCC 498.*** The relevant observations in the report in ***St. Mary's Education Society (Supra)*** are extracted herein below:

"[...]

66. Merely because a writ petition can be maintained against the private individuals discharging the public duties and/or public functions, the same should not be entertained if the enforcement is sought to be secured under the realm of a private law. It would not be safe to say that the moment the private institution is amenable to writ jurisdiction then every dispute concerning the said private institution is amenable to writ jurisdiction. It largely depends upon the nature of the dispute and the enforcement of the right by an individual against such institution. The right which purely originates from a private law cannot be enforced taking aid of the writ jurisdiction irrespective of the fact that such institution is discharging the public duties and/or public functions. The scope of the mandamus is basically limited to an enforcement of the public duty and, therefore, it is an ardent duty of the court to find out whether the nature of the duty comes within the peripheral of the public duty. There must be a public law element in any action.

[...]

75.1. An application under Article 226 of the Constitution is maintainable against a person or a body discharging public duties or public functions. The public duty cast may be either statutory or otherwise and where it is otherwise, the body or the person must be shown to owe that duty or obligation to the public involving the public law element. Similarly, for ascertaining the discharge of public function, it must be established that the body or the person was seeking to achieve the same for the collective benefit of the public or a section of it and the authority to do so must be accepted by the public.
75.2. Even if it be assumed that an educational institution is imparting public duty, the act complained of must have a direct nexus with the discharge of public duty. It is indisputably a public law action which confers a right upon the aggrieved to invoke the extraordinary writ jurisdiction under Article 226 for a prerogative writ. Individual wrongs or breach of mutual contracts without having any public element as its integral part cannot be rectified through a writ petition under Article 226. Wherever Courts have intervened in their exercise of jurisdiction under Article 226, either the service conditions were regulated by the statutory provisions or the employer had the status of "State" within the expansive definition under Article 12 or it was found that the action complained of has public law element.
75.3. It must be consequently held that while a body may be discharging a public function or performing a public duty and thus its actions becoming amenable to judicial review by a constitutional court, its employees would not have the right to invoke the powers of the High

Court conferred by Article 226 in respect of matter relating to service where they are not governed or controlled by the statutory provisions. An educational institution may perform myriad functions touching various facets of public life and in the societal sphere. While such of those functions as would fall within the domain of a "public function" or "public duty" be undisputedly open to challenge and scrutiny under Article 226 of the Constitution, the actions or decisions taken solely within the confines of an ordinary contract of service, having no statutory force or backing, cannot be recognised as being amenable to challenge under Article 226 of the Constitution. In the absence of the service conditions being controlled or governed by statutory provisions, the matter would remain in the realm of an ordinary contract of service.

[...]"

16. Learned Single Judge in the impugned order has, thus, held that writ jurisdiction cannot be invoked to enforce purely private service rights in the guise of public duty. We express our agreement to the said finding.

17. Another issue which has weighed in the mind of the learned Single Judge while dismissing the writ petition filed by the appellant is the issue related to delay and latches. The assertion made by the appellant was that he was not promoted to the posts of Additional Manager, Manager and Chief Manager which fell due on 26.02.2012, 26.02.2015 and 26.02.2018 respectively, however, the first representation made by the appellant claiming his promotion was on 26.04.2017 which was rejected on 26.05.2017. The underlying writ petition was instituted in the year 2019 and the learned Single Judge has held in the impugned judgment that even if the challenge is confined to the communication dated 26.05.2017 by which the representation made by the appellant claiming his promotion was rejected, the delay of about two years was not satisfactorily explained.

18. It has also been held in the impugned order that if the claim is traced to the first denial of promotion in the year 2012, the delay is much longer,

which remains unexplained. In this respect, a submission has been made on behalf of the appellant that after rejection of the representation *vide* communication dated 26.05.2017, the appellant had first filed *W.P. (C) 8442/2017* which was dismissed as withdrawn *vide* order dated 10.01.2019 with liberty to the appellant to file a fresh petition and therefore, delay, if any, ought to have been condoned/ignored for the reason that substantive right of promotion of the appellant was denied by the respondent-IGL arbitrarily. Such contention, in our opinion, merits rejection for the reason that the claim, as put forth by the appellant, was in respect of promotion to the post of Additional Manager which according to the appellant fell due on 26.02.2012. The claim of promotion on the post of Manager according to the appellant had accrued on 26.02.2015 and thereafter for the post of Chief Manager on 26.02.2018. Unless and until the appellant was promoted to the post of Additional Manager and thereafter Manager, his claim for the post of Chief Manager could not be considered. So far as the claim of the appellant for promotion to the post of Additional Manager and Manager are concerned, the same according to the appellant was denied to him on 26.02.2012 and 26.02.2015 respectively and therefore, the underlying writ petition was filed after a lapse of a period of seven and four years, respectively. Even the earlier writ petition was filed by the appellant in the year 2017 without explaining the delay. Accordingly, on this count as well, the appellant has rightly been non-suited *vide* impugned order passed by learned Single Judge.

19. The learned Single Judge though, has held that the writ petition filed by the appellant is not maintainable and also that he is non-suited on account

of unexplained delay and latches, however, he has even travelled to consider the claim of the appellant on merits as well and has rejected the same.

20. We may also note certain provisions of the Promotion Policy of the respondent-IGL. Clause 4(C) of the Promotion Policy provides for eligibility period for promotion to executives and specifically states that employees in the executive cadre will be eligible for consideration for promotion to the next higher designation only on completion of a minimum length of service which is termed as eligibility period. For promotion to the post of Additional Manager, Manager and Chief Manager as per Clause 4(C), the eligibility period is three years each. However, merely because an employee fulfils the eligibility period, it will not entitle him to claim promotion as a matter of right. Clause 6 of the Promotion Policy lays down the criteria for promotion, according to which promotion exercise will be conducted once a year and promotion will not be an automatic event and will depend on various factors such as vacancies, performance and other business requirements.

21. The said Clause of the Promotion Policy also specifies the relative marks for consideration for promotion which are given against various factors. It is also to be noted that Clause 12 of the Promotion Policy, in unambiguous terms, specifically provides that promotion will not be time bound. It further prescribes that by virtue of completing the minimum eligibility period in a grade an employee need not be automatically considered for promotion and further that promotions will be considered at the discretion of the management. Thus, a simple reading of the structure of the Promotion Policy would reveal that merely because an employee fulfils the eligibility period for promotion, he does not acquire any indefeasible right to be promoted on the next higher post. It is also to be noted that

promotion is not automatic and it depends on various factors such as availability of vacancies, performance of the incumbent concerned and other business requirements of the company. It is also clear that promotions are not time bound as per the Promotion Policy and on account of completion of minimum eligibility period in a grade, the employee need not be automatically considered for promotion, which is at the discretion of the management and depends on number of vacancies, performance and other business requirements.

22. The case set up by respondent-IGL is that the Promotion Policy emphasises on an employee's performance record and further that to ensure an objective and transparent assessment of performance of the employee, respondent-IGL has implemented a detailed Performance Management System (PMS) which provides for annual and mid-year performance reviews. It also provides for setting up Key Result Areas (KRA) and further that KRAs are to be set by the employee in consultation with his superior which should be approved by the concerned departmental head. It has also been pleaded and argued on behalf of the respondent that the appellant was consistently assessed in the categories such as: "Needs Improvement" and "Does Not Meet Expectation" during several appraisal cycles between 2010-11 and 2018-19. It is also the submission on behalf of the respondent-IGL that the performance ratings of the appellant clearly demonstrate that he did not satisfy the performance benchmark required for promotion and therefore, in view of such performance ratings his claim of entitlement to promotion, merely upon completion of eligibility period, was wholly misconceived.

23. Learned Single Judge has considered all the aforesaid aspects of the matter and, in our opinion, has rightly held in the impugned order that even on merits, the claim of the appellant could not succeed.

24. For the reasons aforesaid, we do not find any good ground to interfere with the impugned order dated 06.02.2026 passed by the learned Single Judge.

25. Resultantly, the appeal fails which is hereby dismissed along with pending application(s), if any.

26. No order as to costs.

(DEVENDRA KUMAR UPADHYAYA)
CHIEF JUSTICE

(TEJAS KARIA)
JUDGE

AUGUST 13, 2026/MJ