

10th June,
2014
(SKB)

W.P. 4673 (W) of 2014

Dr. Ratnakar Pani & Ors.
Versus
The State of West Bengal & Ors.

Mr. Kesab Bhattacharjee,
Mr. Jagabandhu Roy,
Mrs. Manasi Roy

....for the petitioners.

This writ petition is taken for hearing today after giving several opportunities to the respondents to file their affidavit in opposition but, unfortunately, no affidavit in opposition was filed. Several adjournments were taken for arguments also. Today at the time of hearing learned Counsel engaged in the matter is not available.

This Court is not willing to grant any further adjournment. The concerned respondents are not serious about the Court's orders passed on different occasions. Matter was taken up very lightly by the respondents.

Writ petitioners have challenged the impugned memo dated 14th June, 2012 wherein a clarification was given contrary to memo dated 920-Edn.(CS)/5P-52/98 dated 31st December, 2012.

Mr. Bhattacharjee, learned Counsel appearing for the writ petitioners, submits that as per the Government Memo dated 31st December, 2012, the writ petitioners are entitled to get redesignation and Career Advancement Benefit since they completed three years service. He has referred Clause 3 and 6.3.1 of the aforementioned memo which is applicable in case of writ petitioners.

I have considered the submissions made by the learned Counsel appearing for the writ petitioners. It appears from the memo dated 31st December, 2012 that as per annexed scheme on completion of three years service the writ

petitioners would be entitled to get the benefit of redesignation and Career Advancement Benefit which was approved by Finance Department of State. But most illegally and unfairly on impugned memo bearing no. 558-Edn(CS)/5P-52/98(Pt III) dated 14th June, 2013 was issued curtailing the petitioners' right to get the benefit as per U.G.C. regulations as well as circulars issued by HRD Department of Higher Education. The relevant provisions governing the petitioners' services are specifically stated under Clause 3 and 6.3.1 of annexure 2 of the aforementioned Government Order. Clause 3 and 6.3.1 is quoted below:

"3. Redesignation of Reader/Lecturer (Section Grade) to Associate Professor

This redesignation will be automatic without undergoing any screening or selection process, if the incumbent concerned becomes a Reader/Lecturer (Section Grade) or Assistant Professor in the revised pay structure (2006) with AGP of Rs.8000/- as the case may be on or before 29.06.2010, and such redesignation will take effect after completion of three years of service in the post of Reader/Lecturer (Selection Grade). **Example:** *One, who has become a Reader/Lecturer (Selection Grade) on 29.06.2010, will be redesignated as an Associate Professor with effect from 29.06.2013 and the remuneration will be fixed in Pay Band 4 with the Academic Grade Pay (AGP) of Rs.9000/- from that date. If there still remains any ambiguous or non-obvious case, prayer for clarification and/or condonation may be placed through proper channel before the Higher Education Department, Government of West Bengal, on a case to case basis.*

6.3.1. Incumbents continuing pre-revised designations of Readers or Lecturers (Selection Grade) or redesignated Assistant Professors who have been placed in the Stage 3 (Pay band 15,600-39,100 with AGP of Rs.8,000) up to 29.06.2010, will be eligible for placement (without screening) in the next higher stage (Stage 4 with Pay band of Rs.37,400-67,000 and AGP Rs.9,000) with consequent re-designation as Associate Professor as and when they complete 3 years of continuous service in stage 3. **Example:** *Incumbent Reader/Lecturer (Selection Grade) who has reached Stage 3 (Pay band Rs.15,600-39,100 with AGP of Rs.8,000) on 29.06.2010, will be re-designated as an Associate Professor with effect from 29.06.2013 and the remuneration will be fixed in Stage 4 (Pay band Rs.37,400-67,000 with AGP of Rs.9,000) from that date."*

Since the right to get the benefit occurs only on completion of three years service, the respondents cannot deny such benefit fixing a different date at their desire. Therefore, the impugned clarification dated 14th June, 2012 is illegal, arbitrary and unreasonable and the same is bad in law and, as such, set aside.

In my view, the writ petitioners are entitled to get the benefit of the aforementioned government memo. Accordingly, the concerned respondents are directed to give the benefit to the writ petitioners as per clause 3 and 6.3.1 of the aforementioned memo within six weeks from date of communication of this order. The writ petition is disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the learned advocate for the writ petitioners.

(Ashoke Kumar Dasadhikari, J.)