

2.08.2016.

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**W.P. No. 5685(W) of 2016**  
**Prof. Debasis Mahapatra & Ors.**  
**Versus**  
**The State of West Bengal & Ors.**

Mr. N.C.Bihani  
Mrs. Papiya Banerjee Bihani  
Mrs. Anuradha Sengupta           ... for the petitioner

Mr. Tapan Kumar Mukherjee  
Mr. R.N.Dutta                       ... For the State

Mr. Anil Kumar Gupta           ... For the UGC

The petitioners complain that incentives given to them by the University Grant Commission (UGC) has not been extended by the State.

Learned advocate for the petitioners submits that the petitioners are working as Assistant Professors. They are entitled to incentives granted by the UGC Regulation, 2000. The UGC has introduced a new Regulation in 2010 by which the incentives were enhanced. The State Government had sought clarification from the UGC with regard to the enhanced incentives. The UGC has clarified that the Assistant Professors as that of the petitioners are entitled to the incentives as given in the UGC Regulations. Learned advocate for the petitioner has referred to the various memoranda and the Government Orders issued by the State Government from time to time in this regard and the UGC Regulation, 2000 as well as the UGC Regulation, 2010.

Learned advocate for the State submits that the State requires sometime to look into the issue. The State will consider the request of the petitioner in accordance with law provided some more time is granted.

Learned advocate for the UGC submits that, the UGC are binding on the State. The petitioners are entitled to the incentives as provided for in the UGC Regulation, 2000 as well as UGC Regulation, 2010.

I have considered the rival contentions of the appearing parties and the materials made available on record.

The petitioners before me are Assistant Professors.

The UGC had introduced a Regulation, 2010 which provides for the following incentives so far as the petitioners and persons similarly situated as that of the petitioners are concerned.

**“6.0.0 incentives for Ph.D./M.Phil**

**6.1.0 Four and two advance increments will be admissible to those who hold Ph.D and M.Phil degrees, respectively, at the time of recruitment as Lecturers. Candidates with D.Litt/D.Sc. should be given benefit on par with Ph.D and M.Litt on par with M.Phil.**

**6.2.0 One increment will be admissible to those teachers with M.Phil who require Ph.D within two years of recruitment. ”**

The State Government by a Government Order dated February 04, 1999 has provided as follows :-

**“3. In order to attract and retain better talent in teaching professions**

**(a) four and two advance increments will be admissible to those who hold Ph.D and M.Phil degree respectively at the time of recruitment as Lecturer. Candidates with D.Litt/D.Sc should be given benefit on par with Ph.D and M.Litt on par with M.Phil.”**

As rightly pointed out by the learned advocate for the petitioner, the State Government has accepted the UGC Regulation 2010 so far as the incentives are concerned.

The State Government by an order dated January 01, 2010 and referring to the clarification sought by the State from the UGC has stated that UGC has clarified that an incumbent who was appointed after January 01, 1996 and possess Ph.D or M.Phil at the time of recruitment would be eligible to draw 4 or 2 advance increment respectively.

By an Government Order dated November 26, 2001 the State has recognised that the UGC scale of pay, 2000 was required to be paid. It had provided that teachers who acquired Ph.D during service prior to January 1, 1996 and who were not given the benefit of any advance increments as per the earlier Career Advancement Scheme should be given the benefit of two advance increments with effect from July 27, 1998.

The UGC has introduced the 2010 Regulation by a gazette notification dated September 18, 2010. The UGC Regulation, 2010 has enhanced the incentives. It has provided as follows:-

**“9.1 Five non-compounded advance increments shall be admissible at the entry level of recruitment as Assistant Professor to persons possessing the degree of Ph.D awarded in a relevant discipline by the University following the process of admission, registration, course work and external evaluation as prescribed by the UGC.**

.....

**9.4 (i) Teachers who complete their Ph.D. Degree while in service shall be entitled to 3 non-compounded increments if such Ph.D. is in a relevant discipline of the discipline of employment and has been awarded by a University complying with the process prescribed by the UGC for enrolment, course work, evaluation, etc.”**

.....  
.....”

By a Government Order dated February 25, 2011 the State has stated that from June 30, 2010 onwards the UGC Regulation, 2010 shall be effective.

The Government had issued an order dated June 08, 2010 which is as follows :-

**“.....The matter was referred to the UGC. Following response received from them, further clarifications, as below, are issued, in partial modification of Above mentioned Memorandum of this Department :-**

- (i) All promotions/ CAS related matters will be processed following extant UGC regulations and the redesignation of teachers and equivalent grades**

subsequent to revision of their pay will be as per stipulations of MHRD'S order no. 1-32/2006-U.II/U.I(i) dated 31<sup>st</sup> December, 2008.

- (ii) **Direct recruitment at Associate Professor level with AGP of Rs. 9,000/- cannot be done till new guidelines/ regulations are issued by the UGC in this regard.**
- (iii) **As and when UGC modifies existing Regulation, 2000 or issues new relevant regulations dealing with this matter, the same would apply and cut-off for any purpose will apply accordingly."**

The UGC has clarified its position by a writing dated August 17, 2015. According to UGC, the incentives as recognised under the UGC Regulation 2000 and UGC Regulation 2010 are payable to the petitioners and persons similarly situated and circumstanced as that of the petitioner.

In the affidavit filed on behalf of the Higher Education Department in this proceedings, it has been contended that, the Higher Education Department are of the view that, the petitioners are entitled to be incentives in terms of the UGC Regulation 2000 and UGC Regulation 2010 and that proposal in respect thereof has been submitted with the Finance Department.

Learned advocate for the State has prayed for time for the Finance Department to consider the issue.

The regulations of UGC of which implementation is sought in the present proceedings are of 2010. Admittedly long period of time has elapsed for the State to react. In such circumstances any prayer for adjournment or grant of time to the State to consider the issue would not be the interest of justice. The Higher Education Department is of the view the petitioners are entitled to reliefs sought for.

In such circumstances W.P.No. 5685(W) of 2016 is allowed.

The authorities will grant the incentives to the petitioners as extended to them under UGC Regulation 2000 and UGC Regulation 2010.

It is expected that the benefits extended by the two regulations are made available to the petitioners within a period of six weeks from date.

There will be, however, no order as to costs.

Urgent certified website copies of this order, if applied for, be made available to the parties upon compliance of the requisite formalities.

**(Debangsu Basak, J.)**