

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

Date of decision: 16th May, 2011.

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W.P.(C) 7778/2002

% **DR. S.K. JAIN**

..... Petitioner

Through: Ms. Geeta Luthara, Sr. Adv. with
Mr. Abhishek Agarwal, Adv.

Versus

IIT, DELHI & ANR.

..... Respondents

Through: Mr. Gaurav Sharma, Adv. for R-1
IIT.
Mr. Amitesh Kumar, Advocate for
R-2 UGC.

CORAM :-

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

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| 1. | Whether reporters of Local papers may be allowed to see the judgment? | No |
| 2. | To be referred to the reporter or not? | No |
| 3. | Whether the judgment should be reported in the Digest? | No |

RAJIV SAHAI ENDLAW, J.

1. The petitioner has filed this writ petition impleading Indian Institute of Technology (IIT), Delhi and Universities Grant Commission (UGC) as

respondents and claiming the following reliefs:

- “(1) To admit and extend normal medical facilities to the petitioner.
- (2) To release the salary and grant of the petitioner forthwith and not to delay and withhold payment of salaries and provide timely necessary infrastructure support and other facilities to the petitioner.
- (3) Not to ban the entry of the petitioner to his office, work place (laboratory) and residence as implied by the notice Annex. D or stipulate any further similar action till the petitioner achieves superannuation.”

- 2. The counsels have been heard.
- 3. The counsel for the respondent no.2 UGC has invited attention to the order dated 23rd January, 2002 disposing of C.W. No.5090/2000 titled ***UGC Research Scientists Association Vs. UGC***. It is stated that the petitioner herein was also a member of the UGC Research Scientists Association and is thus covered by the order therein. The said fact has not been controverted by the senior counsel for the petitioner.
- 4. The order dated 23rd January, 2002 disposing of C.W. No.5090/2000 is a consent order. The said order is as under:

“After some hearing a suggestion was made to work out to an amicable settlement to end the controversy in question. With the fair stand of both the counsel it has been possible to arrive at such a settlement which is recorded in the following terms.

The counsel for the respondent states the petitioners who were initially appointed as Research Scientist under the scheme of UGC will be continued on the same terms and conditions as the department and centres in the Universities. Thus there will be no issue of any review after every five years as stated in para ‘1’ of the scheme since these petitioners have been working with the UGC over a long period of time. It is also agreed that this will not in any way preclude the respondents from taking disciplinary action, if a situation so arises, in terms of the rules and regulations relating to department and centres in Universities. It is further agreed that if a particular candidate does not fulfil the requirement of carrying on research in terms of this scheme, the same can be ground for taking disciplinary action in terms of the rules and regulations of the department and centres of the Universities as applicable to the petitioners.

Learned counsel for respondents also fairly states that even in the case of some petitioners whose services were dispensed with during the pendency of this petition, the petitioners shall be restored with all consequential benefits. In case the respondents want to take any disciplinary action for not carrying on research by such petitioners, the same shall be done only in terms of the aforesaid procedure.

The arrears which shall be payable to the petitioners arising from this order shall be paid within a period of six weeks.

Learned counsel for the petitioner has some apprehension on the issue of pay, parity and leave allowance. I do not see any reason for this apprehension since respondents have agreed to give same grades as the

department and centres of the Universities in terms of the scheme and naturally in respect of these two issues the same position would apply.

The writ petition is disposed in the aforesaid terms leaving the parties to bear their own costs.”

5. The counsel for the respondent no.2 UGC states that in accordance with the said order, Circulars were issued by the respondent no.2 UGC from time to time and the petitioner is entitled to the benefits/emoluments in terms of the said Circulars and has been enjoying the same. It is rather the contention of the counsel for the respondent no.2 UGC that in view of the order aforesaid in C.W. No.5090/2000, the present writ petition is not maintainable.

6. The counsel for the petitioner also admits that the petitioner has been receiving the medical facilities and salary but states that the same are being received under interim orders in this writ petition and the writ petition in so far as reliefs (1) & (2) supra are concerned, be disposed of confirming the said interim orders. As far as the third relief aforesaid is concerned, it is admitted that the ban earlier imposed on the entry of the petitioner to respondent no.1 IIT, Delhi has since been revoked and the

petitioner also continued in his residence in the IIT campus; the only grievance stated to be surviving is of the work place given to the petitioner which is stated to be under the staircase.

7. The counsel for the respondent no.1 IIT has contended that the research of the petitioner has no relevance today to respondent no.1 IIT and as such respondent no.1 IIT has requested to respondent no.2 UGC to place the petitioner at another appropriate place. It is further contended that delays occur in releasing the dues of the petitioner in accordance with the Circulars aforesaid of respondent no.2 UGC because respondent no.2 UGC wants the respondent no.1 IIT to compute the amounts payable to the petitioner; it is contended that the amounts ought to be computed by respondent no.2 UGC itself and released to respondent no.1 IIT for onward release to the petitioner. It is further stated that the work place as per exigency has been provided. The counsel for the respondent no.1 IIT further clarifies that the petitioner is not an employee of IIT, Delhi.

8. The senior counsel for the petitioner contends that the petitioner has been placed in respondent no.1 IIT, as per the tripartite agreement between

the petitioner, respondent no.1 IIT and the respondent no.2 UGC and the petitioner is entitled to continue in the respondent no.1 IIT as long as he desires.

9. The said aspects are left to be agitated before the respondent no.2 UGC in the event of any representation being made by the respondent no.1 IIT.

10. The senior counsel for the petitioner also seeks relief of restoration of pension cum CPF account of the petitioner and in this regard invites attention to para 13 of the reply of the respondent no.1 IIT to one of the applications filed in this writ petition. The counsel for the respondent no.2 UGC has contended that the same is not subject matter of this writ petition and is rather the subject matter of a contempt petition arising out of C.W. No.5090/2000 and which contempt petition is still pending and listed next on 1st June, 2011. The senior counsel for the petitioner has been unable to show any reference thereto in the writ petition and contends that the same is inherent in the reliefs claimed in the writ petition. However, in the absence of any pleadings, no relief in that regard can be granted.

11. In the circumstances the writ petition is disposed of with the following directions:

(i) Respondent no.1 IIT shall be entitled to represent to respondent no.2 UGC to place the petitioner in an appropriate Institute/Department and respondent no.2 UGC after hearing the petitioner as well as the respondent no.1 IIT shall be entitled to take a decision in this regard.

(ii) The petitioner shall be granted all the benefits as per the Circulars of respondent no.2 UGC in pursuance to the order dated 23rd January, 2002 in C.W. No.5090/2000 aforesaid.

(iii) To obviate any delays in release of the dues of the petitioner, it is directed that the Registrar (Establishment) of the respondent no.1 IIT shall latest by 15th day of May of each year, forward to the Bureau Head Selection and Award Bureau of respondent no.2 UGC, the anticipatory expenditure qua the petitioner for the following year along with Utilization Certificate of the previous year, to enable the

respondent no.2 UGC to release the funds to the respondent no.1 IIT for onward release/disbursement by the respondent no.1 IIT to the petitioner by 15th July of each year.

12. The writ petition is disposed of with the aforesaid directions. No order as to costs.

**RAJIV SAHAI ENDLAW
(JUDGE)**

MAY 16, 2011
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