

**HIGH COURT OF TRIPURA
AGARTALA**

W.A. No.31/2023

1. The Union of India, represented by the Secretary, Department of Higher Education, Government of India, M/o HRD, New Delhi.
2. The NIT, through the Director, Barjala, Jirania, P.O. Jirania, Agartala-799005, West Tripura.
3. The Registrar, NIT, Barjala, Jirania, P.O. Jirania, Agartala, West Tripura.

..... Appellant(s).

V E R S U S

Dr. Ajit Kumar Ray, S/O. Late Manmohan Ray, resident of 818, Niti Khand-1, Indirapuram, Gaziabad (UP)-201014.

..... Respondent(s).

For Appellant(s) : Mr. Bidyut Majumder, Dy. S.G.I.

For Respondent(s) : Mr. C.S. Sinha, Advocate.

**HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH
HON'BLE MR. JUSTICE ARINDAM LODH**

Order

22/08/2023

Heard Mr. Bidyut Majumder, learned Deputy S.G.I. appearing for the appellants-Union of India and Mr. C.S. Sinha, learned counsel appearing for the respondent on notice.

2. The appellants-Union of India are aggrieved by the impugned order dated 13.02.2023 passed in WP(C) No.94 of 2023 as the learned Writ Court had disposed of the writ petition with a cost of Rs.10,000/- without giving even an opportunity to the respondents/ appellants herein to file a counter affidavit and defend itself. The order dated 13.02.2023 is extracted hereunder:

"Heard Mr. C.S. Sinha, learned counsel appearing for the petitioner as well as Mr. B. Majumder, learned DSGI appearing for the respondents. According to the order of this court dated 10.02.2023, Prof. Debasish Bhattacharya, Registrar in Charge, NIT, Barjala, Jirania is present in person along with his respective counsel.

By means of this writ petition, the petitioner has challenged the order dated 22.09.2022 for rejecting the claim of the petitioner for fixation of pay from the date of appointment in terms of the conditions of appointment order under re-employed pensioner rule 4(b)(i) and 4(c) as apted by him and for due promotion, that has been extended to the other similarly situated persons including the junior of the applicant namely Dr. A.K. Sarkar. The case of the petitioner is that neither pay fixation order nor order for his due promotion in the post of DEAN was issued, despite submitting the final relieving order dated 22.01.2013 from the IGFR. The petitioner is entitled to with all other consequential benefits in terms of the relevant reemployed pensioner rule 4(b)(i) and 4(c) as apted by him and instructions on the subject.

Having heard both sides and scrutinized the records this court has fairly submitted that every citizen has the right to take any legal support in order to support his or her claim. This court has particularly referred to the order dated 22.09.2022 where the said Prof. Debasish Bhattacharya, Registrar in Charge has given a illegal reply of the claim of the petitioner stating that *"If you further file meritless cases against the NIT Agartala, the authority of NIT Agartala shall be compelled to sue you for recovery of the money spent for defending your above noted meritless cases all of which you have lost till now."* According to this court, the respondent No.3 has rejected the claim of the petitioner in an arbitrary manner and without application of their mind by a non-speaking order.

Having observed thus, this court has imposed Rs.10,000/- as cost upon the said Prof. Debasish Bhattacharya, Registrar in Charge. The said cost will be deducted from the salary of the said Registrar. The government shall take necessary action in this regard.

In terms thereof, this writ petition is allowed and disposed of."

3. It appears that the competent authority under the respondents/appellants-Union of India had rejected a representation made by the writ petitioner pursuant to the directions passed by the Delhi High Court in WP(C) No.1828 of 2020 vide letter dated 27.09.2022 (Annexure-P/1). The writ petitioner being aggrieved had approached the learned Writ Court in WP(C) No.94 of 2023 which was disposed of in the aforesaid manner. It is not disputed by the learned counsel for the writ petitioner that the case was disposed of on the second date, i.e. 13.02.2023 without giving any opportunity to the

respondents to file any counter affidavit and defend itself. It further appears that the Registrar, NIT, Agartala was called to appear before the Court by the order dated 10.02.2023 and on the next date, the writ petition was disposed of with a cost of Rs.10,000/- recoverable from the salary of the said Registrar. From perusal of the records and the impugned judgment, it, therefore, appears that the writ petition was decided without any opportunity to the respondents to file their counter affidavit and explain their position. In such circumstances, it is, therefore, clear that no adjudication on the merits of the contention of the writ petitioner could be made.

4. We are, therefore, inclined to remit the matter to the learned Writ Court for a fresh decision in accordance with law, of course after giving opportunity to the respondents to place their case by filing counter affidavit. The impugned order dated 13.02.2023 passed in WP(C) No.94 of 2023 is accordingly set aside. The matter is remitted to the learned Writ Court to take a fresh decision in accordance with law. Let it be made clear that we have not gone into the merits of the case of the parties.

5. In view of above terms, the writ appeal is disposed of.

Pending application(s), if any, also stands disposed of.

(ARINDAM LODH), J

(APARESH KUMAR SINGH), CJ

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