

HIGH COURT OF TRIPURA
AGARTALA

WP(C) No.246 of 2024

Anindya Sarkar, son of Late Asit Kumar Sarkar,
resident of Joynagar, Lane No.5, PO- Agartala,
PS- West Agartala, District- West Tripura, Pin- 799001.

...Petitioner(s)

VERSUS

- 1. Tripura University**, represented by Registrar, having his office at Suryamaninagar, PO-Suryamaninagar, PS-Amtali, Agartala, District-West Tripura, Pin- 799022.
- 2. The Registrar, Tripura University**, having his office at Suryamaninagar, PO-Suryamaninagar, PS-Amtali, Agartala, District-West Tripura, Pin- 799022.
- 3. The Vice-Chancellor, Tripura University**, having his office at Suryamaninagar, PO-Suryamaninagar, PS-Amtali, Agartala, District-Tripura, Pin-799022.

...Respondents

For the Petitioner(s)	:	Mr. P. Roy Barman, Sr. Advocate Mr. S. Bhattacharjee, Advocate
For the Respondent(s)	:	Mr. D. Bhattacharya, Sr. Advocate Mrs. S. Kar Purkayastha, Advocate
Date of hearing & delivery of judgment & order	:	07.05.2024
Whether fit for reporting	:	Yes

HON'BLE MR. JUSTICE ARINDAM LODH
Judgment and Order (Oral)

Heard Mr. P. Roy Barman, learned senior counsel assisted by Mr. S. Bhattacharjee, learned counsel appearing for the petitioner. Also heard Mr. D. Bhattacharya, learned senior counsel assisted by Mrs. S. Kar Purkayastha, learned counsel appearing for the respondents-Tripura University.

2. By means of filing the instant writ petition, the petitioner has challenged the action of respondents-Tripura University refusing his resumption of duties as Assistant Professor in the Tripura University. The impugned letter of refusal dated 29.02.2024 is annexed as Annexure-10 to the writ petition.

3. Briefly stated, while the petitioner was discharging his duties and responsibilities as Assistant Professor under the respondents, the petitioner had submitted an application to grant study leave for pursuing Ph.D. Degree. The said request for persuasion of Ph.D. Degree was rejected by the respondents without assigning any reasons. Thereafter, the petitioner was compelled to file a writ petition before this Court, when this Court had observed that the petitioner was entitled to “No Objection Certificate/Permission” to pursue his Ph.D. Degree(Annexure-2 to the writ petition). Later on, the University granted him “No Objection Certificate/Permission” under office order dated 18.08.2022(Annexure-3 to the writ petition) permitting him study leave w.e.f. 11.08.2022 to 08.02.2024. During this period, the petitioner completed 3(three) semesters i.e. Course work. However, after expiry of the period of study leave as stated above, the petitioner had submitted his joining report expressing his willingness to resume his duties on 09.02.2024. Initially, the respondents-Tripura University, by an even semester routine, allotted and entrusted the petitioner to take classes. Vide communication dated 13.02.2024(Annexure-9 to the writ petition) the petitioner was also entrusted with the duty of answer script evaluation of the 2023-24 IPS Semester Papers of MA & IMD. So, acceptance of his prayer to resume duties becomes apparent from the

letter dated 13.02.2024. The said letter is reproduced hereunder, for convenience, in extenso:

“TRIPURA UNIVERSITY
(A Central University)
SURYAMANINAGAR-799022

F.No.TU/COE/02/PS/10

Date: 13.02.2024

To	From
<u>Mr. Anindya Sarkar</u>	O/o The Controller of Examinations
<u>Dept. of Political Science</u>	Tripura University(A Central University)
<u>T.U.</u>	Suryamaninagar-799022
	West Tripura, India

Sub: Confidential Appointment for Paper Setting/Moderation/Answer script Evaluation/Practical Examination/Dissertation Evaluation for the Examination 2023.

Dear Madam/Sir,
This is to inform you that the Hon'ble Vice-Chancellor, T.U. has been pleased to appoint you for the following assignment:-

Exam: MA & IMD Year: 2023(held in 2024) Part/Sem: Odd
Subject: Political Science Paper: IPS-501 & 701C Half/Unit: (HCC)
Practical(Internal□/External□):From to FullMarks: Special/Group:

PAPER SETTER
Are requested to send the manuscript under sealed cover marked CONFIDENTIAL by Messenger/Speed Post/Registered Post/Courier Service to the above-mentioned address on or before._____positively.

MODERATOR
Date:.....Time..... Venue:.....

HEAD EXAMINER□/EXAMINER□
Answer scripts/dissertations of the said examination dispatched/allotted for evaluation:_____number(s). You are requested to kindly return the same along with award/marks slip and other details(if any) on or before_____/within____days by the hand or by registered post to the undersigned. Kindly inform the undersigned if any discrepancy is found in the number of scripts/dissertations.

It is not desirable that a person who has a near relation, or who has privately undertaken coaching of students to appear in a subject, should be associated with paper setting/moderation/evaluation in that subject. In such case, you are requested to return this packet without delay.

You are also requested to send the duly filled in Remuneration Bill, TA Form(if any), Taxi Receipts(if any), Postal Receipts(if any) any other misc. charges(if any) along with the original Appointment Letter for necessary payment.
Soliciting your kind cooperation.”

4. All on a sudden, the petitioner has received a letter dated 29.02.2024(Annexure-10 to the writ petition) issued by the Registrar, Tripura University(A Central University) whereby he was informed that his request could not be accepted as he failed to submit the proof of conclusion of the work leading to the award of Ph.D. Degree and from that date, the petitioner was not allowed to continue his normal duties and functions. The petitioner submitted a representation on 04.03.2024 (Annexure-13 to the writ petition) stating the circumstances and the reasons for which he had to resume his duties, but, the representation was not responded to by the respondents, compelling him to file the instant writ petition for redress i.e. to declare the order refusing his resumption to duties or, to say it otherwise, to accept his joining and to allow him to continue his service as Assistant Professor.

5. Mr. Roy Barman, learned senior counsel for the petitioner has submitted that the letter dated 29.02.2024 refusing his request to rejoin his duties after availing study leave w.e.f. 11.08.2022 to 08.02.2024 is illegal and arbitrary and contrary to the provisions contained in the UGC Regulations, 2018 as well as Regulations, 2022. Learned senior counsel for the petitioner has brought on record to justify that during this period of 18 months of study leave, the petitioner completed 3(three) semesters of his course work and since his study leave had been expired, the petitioner had no other alternative, but to resume his duties. In that circumstance, non-acceptance of the prayer of the petitioner to resume his duties after completion of study leave amounts to abuse of power by the respondents. Learned senior counsel has urged to set aside and quash the impugned communication dated 29.02.2024 issued by the Registrar, Tripura

University(A Central University) and to allow him to resume and continue his duties and responsibilities as Assistant Professor under the respondents.

6. Defending the action of the respondents, Mr. Bhattacharya, learned senior counsel for the respondents-Tripura University submits that the petitioner has not completed the Ph.D. course for which he was granted study leave for 18 months. To substantiate his submission, Mr. Bhattacharya, learned senior counsel has drawn my attention to Clause (viii) of Regulation 8.2 of the UGC notification dated 18th July, 2018 on the subject “UGC Regulations on minimum qualifications for appointment of teachers and other academic staff in Universities and Colleges and measures for the maintenance of standards in Higher Education, 2018(for short, UGC Regulations, 2018).

7. The entire submission of learned senior counsel for the respondents-Tripura University is centered around the said Clause (viii) of the Regulation 8.2 of UGC Regulations, 2018. For this, it is necessary to reproduce Clause (viii) of Regulation 8.2 here-in-below, in extenso:

“viii. No teacher who has been granted study leave shall be permitted to alter substantially the course of study or the programme of research without the permission of the Executive Council/Syndicate, in the event the course of study falls short of study leave sanctioned, the teacher shall resume duty on the conclusion of the course of study unless the previous approval of the Executive Council/Syndicate to treat the period of short-fall as Extra-Ordinary leave has been obtained.”

8. On plain reading of above Clause (viii), it crystallizes that the first part of the said clause lays down that the Ph.D. Scholar cannot be permitted to substantially alter the course of study or the programme of research without prior permission of the Executive Council. The second part of the Clause (viii) speaks about, in case the course of study falls short of study leave sanctioned, then, such Ph.D. Scholar must resume his duty on

the conclusion of course of study. The third part of the said clause stipulates that such Ph.D. Scholar may not resume his duty if prior approval/permission is not obtained from the Executive Council/Syndicate to treat the period of short-fall as Extra-Ordinary Leave.

9. Mr. Bhattacharya, learned senior counsel has tried to persuade this Court in defending the action of the respondents-Tripura University that it is the pattern of the UGC Regulation to grant 2(two) years study leave initially, despite the fact that the scheduled period for completion of Ph.D. course is 3(three) years which can be extended up to 6(six) years under the UGC Regulations.

10. I have considered the submissions advanced by learned counsel appearing for the parties and have meticulously perused the relevant clauses embodied in the UGC Regulations. On careful consideration of the submissions of learned counsel appearing for the parties and on perusal of the materials, particularly, the relevant provisions of UGC Regulations, 2018 and Regulations, 2022, in my considered view, when the course of study fixed for 3(three) years initially which is extendable upto 6(six) years, in that event, to ask the petitioner to produce Ph.D. course completion certificates is unwarranted being inconsistent and contrary to the provisions regulating the entire scheme of Ph.D. course study and therefore, suffers from the vice of arbitrariness.

11. Now, taking into account the submissions of Mr. Bhattacharya, learned senior counsel for the respondents-Tripura University, the application of Clause (viii) of Regulation 8.2 in respect of completion of course study and furnishing of certificates, in the opinion of this Court is misnomer and irrelevant.

12. At the cost of repetition, in my opinion, Clause (viii) deals with such a situation creating an embargo from making any substantial alteration in the course of study or the programme of research without the permission of the Executive Council/Syndicate, and in the event, the course of study is not completed within the period of study leave sanctioned for that purpose by the appropriate authority, the teacher concerned i.e. the Ph.D. Scholar shall resume his duty on the conclusion of the course of study unless prior approval of the Executive Council/Syndicate to treat the period of shortfall as Extra-Ordinary Leave is obtained, which has been observed in para 8 of this judgment.

13. Now, on perusal of Regulation 2(h) of Regulations, 2022 it comes to fore that the expression “course of study” is a synonym of the expression “course work”, which means the courses of study prescribed by the School/Department/Centre to be undertaken by a student registered for the Ph.D. Degree. Regulation 2(i) defines “Degree” which means a degree awarded by a Higher Educational Institution in accordance with the provisions of Section 22(3) of the UGC Act, 1956. Regulation 2(s) of Regulations, 2022 defines “Programme”, which means a higher education programme pursued for a degree specified by the Commission under sub-section (3) of Section 22 of the UGC Act, 1956.

14. Furthermore, from the record, it reveals that the petitioner had submitted his 3rd Progress Report to the Registrar, Tripura University issued by one Dr. Upal Chakrabarti, Assistant Professor, Department of Sociology, Presidency University. So, it is clear that the petitioner was pursuing his Ph.D. course within the period for which his study leave was sanctioned. On minute perusal of the UGC Regulations, it comes to fore that it does not

make any provision that once an Assistant Professor decides to pursue Ph.D. course he must complete the course otherwise penal actions will be taken against him.

15. In my opinion, one may not come out successfully with Ph.D. course. There are different phases and to pursue the second phase or subsequent phases, a candidate i.e. a Ph.D. Scholar has to come out successfully in each and every phase. The entire schematic pattern for pursuing Ph.D. course is mentioned in Regulations 9, 10 and 11. Regulation 9 deals with “Course Work”, which reads as under:

“9. Course Work.- Credit requirements, number, duration, syllabus, minimum standards for completion, etc.

(1) The Credit requirement for the Ph.D. coursework is a minimum of 12 credits, including a "Research and Publication Ethics" course as notified by UGC vide D.O. No. F.1-1/2018(Journal/CARE) in 2019 and a research methodology course. The Research Advisory Committee can also recommend UGC recognized online courses as part of the credit requirements for the Ph.D. programme.

(2) All Ph.D. scholars, irrespective of discipline, shall be required to train in teaching/education/pedagogy/writing related to their chosen Ph.D. subject during their doctoral period. Ph.D. scholars may also be assigned 4-6 hours per week of teaching/research assistantship for conducting tutorial or laboratory work and evaluations.

(3) A Ph.D. scholar must obtain a minimum of 55% marks or its equivalent grade in the UGC 10-point scale in the course work to be eligible to continue in the programme and submit his or her thesis.”

In the case in hand, it can well be said that the petitioner completed first part of his course work within 18(eighteen) months of sanctioned study leave as per Regulation 9. Again, Regulation 9(3) crystallizes that a Ph.D. Scholar must obtain a minimum of 55% marks or its equivalent grade in the UGC 10-point scale in the course work to make himself eligible to continue in the programme and submit his/her thesis. The necessary implication is that if one fails to obtain minimum 55% marks or its equivalent grade as aforesaid in the course work, he/she will not be eligible

to continue in the programme and submit his/her thesis. Thereafter, upon satisfactory completion of course work and obtaining the marks/grade prescribed in Clause (3) of Regulation 9 as quoted here-in-above, the Ph.D. Scholar would be required to undertake research work and produce a draft dissertation/thesis.

16. Regulation 10 stipulates that the Research Advisory Committee is empowered to review the research proposal and finalize the topic of research and to guide the Ph.D. Scholar in developing the study design and methodology of research and identify the course(s) that he/she may have to do. It is further stipulated at Clause 10 that upon completion of each semester a Ph.D. Scholar shall appear before the Research Advisory Committee and submit a brief report on the progress of his/her work for evaluation and further guidance. The Research Advisory Committee shall submit its recommendation along with a copy of Ph.D. scholar's progress report to the Higher Education Institution concerned. A copy of such recommendations shall also be provided to the Ph.D. Scholar. Clause 3 of Regulation 10 stipulates that in case the progress of the Ph.D. scholar is unsatisfactory, the Research Advisory Committee shall record the reasons for the same and suggest corrective measures. If the Ph.D. Scholar fails to implement these corrective measures, the Research Advisory Committee may recommend, with specific reasons, the cancellation of the registration of the Ph.D. Scholar from the Ph.D. programme. In my opinion, the question of completion of course work under Regulations 10 and 11 would come after the completion of course of work stipulated under Regulation 9.

17. Added to it, on perusal of Regulation 11 it is crystallized that a competent authority may or may not accept the thesis and even may reject

the thesis submitted by the Ph.D. scholar and in that case, the Ph.D. scholar shall be declared ineligible for the award of a Ph.D. Degree.

18. On consideration of the above provisions, in my opinion, it is not mandatory for a Ph.D. Scholar to successfully come out in the Ph.D. course. One may fail or one may succeed. In case of successful completion, the competent authority being satisfied with the work of the Ph.D. Scholar may award Ph.D. in favour of him.

19. In the instant case, I have noticed that the petitioner in his representation dated 04.03.2024 stated that his Ph.D. course still was going on. He further stated that as per Regulation 8.2(xiii)(b) of the UGC Regulations, 2018 he was under solemn obligation to rejoin his duties after expiry of study leave, or else, the same would have attracted liability of penalty. Admittedly, the respondents had granted study leave in favour of the petitioner for a period of 18 months w.e.f. 11.08.2022 to 08.02.2024 despite the fact that UGC Regulations clearly provides 3(three) years for completion of Ph.D. which is stretchable upto 6(six) years.

20. I am at a loss to understand as to why the respondents had granted him study leave for a period of 18 months only. Needless to say, it is an absurdity to complete the entire Ph.D. course within the period of 18 months. Moreso, I do not find any provision either in UGC Regulations, 2018 or Regulations, 2022 to sanction 18(eighteen) months study leave to pursue Ph.D. Course. Regulation 4 deals with the “Duration of the Programme”, which reads as under, for convenience, in extenso:

“4. Duration of the Programme.- (1) Ph.D. Programme shall be for a minimum duration of three (3) years, including course work, and a maximum duration of six (6) years from the date of admission to the Ph.D. programme.

(2) A maximum of an additional two (2) years can be given through a process of re-registration as per the Statute/Ordinance of the Higher Educational Institution concerned; provided, however, that the total period for completion of a Ph.D. programme should not exceed eight (8) years from the date of admission in the Ph.D. programme.

(3) ****

****”

21. I do not find any logic or reasonableness in fixing the period of completion of Ph.D. course within 18 months as has been granted by the respondents. Also, I do not find any statutory support in the statement made by the respondents that if a Ph.D. Scholar fails to rejoin or resume his duties after 18(eighteen) months of study leave he has to face any penal action.

22. In the instant case, the respondents initially allowed his prayer to rejoin and resume his duties which is explicit in the order dated 13.02.2024 when he was entrusted with responsibilities in the discharge of his official duties as Assistant Professor, but, suddenly the competent authority of the respondents informed the petitioner that his request to rejoin in his duty after availing study leave from 11.08.2022 to 08.02.2024 could not be accepted as he failed to submit the proof of conclusion of the work leading to the award of Ph.D. degree.

23. On careful reading of the UGC Regulations, I find there are various stages of pursuing Ph.D. At the initial stage, the petitioner has completed 3(three) semesters and his guide has also issued necessary certificates in support of the completion of 3(three) semesters successfully.

24. As I said earlier, the petitioner has to be given opportunity up to 3(three) years in accordance with the UGC Regulations initially which may be extended upto 6(six) years on the prayer of the petitioner for that purpose and for further years as stipulated in Regulation 4 of the UGC Regulations,

2022 subject to approval of the Executive Council/Syndicate. On the face of the letter dated 29.02.2024, in my opinion, the ground taken by the respondents for not accepting his joining report or continuation of his duties and responsibilities is totally arbitrary and is not in accordance with law. Having held so, the impugned letter dated 29.02.2024 issued by the Registrar, Tripura University(A Central University) is set aside and quashed accordingly.

25. The respondents are directed to accept the joining report of the petitioner henceforth and allow him to resume his normal duties and functions as Assistant Professor of the University.

In view of the above, the instant writ petition stands allowed and disposed.

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

JUDGE

Snigdha

**SAIKAT
KAR** Digitally signed
by SAIKAT KAR
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