

Item No.1

26.07.2021
Ct-24

In The High Court At Calcutta
Constitutional Writ Jurisdiction
(via video conference)

WPA 11784 of 2021
Laishram Pradeepkumar Singh
v.
The State of West Bengal & Ors.

Mr. Kallol Basu
Mr. Suman Banerjee
Mr. Swapnamoy Sarkar
... for the petitioner.

Mr. Bhaskar Prasad Vaisya
Mr. Ranjan Saha
... for the State.

Mr. Amitabha Chaudhuri
Mr. Nirmalya Roy
... for the University.

In response to an advertisement published by the University of Kalyani, the petitioner applied for appointment in the post of Assistant Professor in Zoology.

Being successful in the recruitment process the petitioner joined the University on November 6, 2015. The petitioner is in service till date.

The University approved four advance increment to the petitioner for acquiring Ph.D degree with effect from his date of joining and the material benefit was to be granted from the month of February 2016. The same

was communicated to the petitioner by a communication dated 12th February 2016.

The petitioner made series of representations praying for confirmation of his service. Though his service has not been formally confirmed but it appears that the Registrar of the University of Kalyani as employer of the petitioner has endorsed in the application form filed by the petitioner before the Manipur University certified that the petitioner has been in employment in a teaching post in a permanent capacity with effect from November 16, 2015.

It has further been endorsed by the Registrar that no vigilance/ disciplinary proceeding has ever been held or contemplated or is pending against him. The Registrar mentioned that the University does not have any objection for his application being considered by the Manipur University in the event of his selection and he will be relieved to join the Manipur University as per rules.

Since the application for confirmation of his service is pending consideration at the end of the University for a considerable period of time he appeared before the officials of the University and the petitioner has averred in paragraph 10 of the writ petition that he was shocked to know that the University/respondents are contemplating terminating his service on the pretext

that the petitioner is a scheduled caste candidate in respect of the State of Manipur. Though no formal order of termination has been issued against the petitioner till date, the petitioner filed this writ petition on the apprehension that his service may be terminated.

The petitioner relies upon Section 29(4) of the Kalyani University Act, 1981. The section mentions that on satisfactory completion of the period of probation, a teacher or an officer or an employee, as the case may be, shall be confirmed with effect from the date of his appointment on probation by an order in writing made by the University in this behalf and the fact of such confirmation shall be communicated to the person concerned.

The proviso to the Section 29(4) mentions that if on completion of the period of probation, no such order of confirmation is made and communicated to the person concerned within a period of two months of the completion of the period of probation, the person concerned shall be deemed to have been confirmed with effect from the date of his appointment on probation.

Section 29(2) mentions that a teacher or an officer or an employee appointed against a permanent vacancy shall be on probation ordinarily for a period of one year from the date of such appointment and such period of probation may, at the discretion of the appropriate

authority of the University, be extended for a further period not exceeding one year.

Section 29(3) mentions that if, at any time during the period of probation, the probationer's work is not considered satisfactory, the probationer shall be discharged by the authority concerned.

The learned advocate representing the University submits that the application of the petitioner for confirmation of his service is pending consideration and necessary direction may be passed for consideration of his application for confirmation.

It has further been submitted that the petitioner is a scheduled caste candidate from Manipur University.

Upon hearing the submissions made on behalf of the parties and upon perusal of the provision for confirmation of service in the Kalyani University, it appears that Section 29(2) mentions about a year's probationary service for being confirmed.

A probationer may remain in probation for a further period of one year but if the probationer's service is not considered satisfactory the probationer is to be discharged by the authority concerned.

The petitioner is in service on and from November 6, 2015. The University has endorsed that there is no disciplinary proceeding pending or contemplated against the petitioner. No vigilance proceeding is also pending

against him. There is no report that the service of the petitioner is not satisfactory. In such an event the University is required to take a decision in accordance with Section 29 of the Kalyani University Act, 1981.

The application of the petitioner praying for confirmation is pending since 2017.

In view of the above, the instant writ petition is disposed of by directing the Kalyani University to take a decision with regard to the prayer of the petitioner for confirmation of his service strictly in accordance with the provision of the Kalyani University Act, 1981 and other relevant acts/rules/circulars as applicable, at the earliest, but positively within a period of four weeks from the date of communication of a copy of this order.

The University shall intimate the decision to the petitioner immediately thereafter.

In the event the University is of the opinion that the service of the petitioner cannot be confirmed, then the said order of the University shall not be given effect to for a fortnight from the date of communication of such order upon the petitioner.

The writ petition stands disposed of.

As the writ petition is being disposed of without calling for any affidavits, the allegations made in the writ petition shall be deemed not to be admitted by the respondents.

Urgent photostat certified copy of this order, if applied for, be given to the parties after completion of all legal formalities.

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(Amrita Sinha, J.)