

13.01.2021  
SL No.25  
Court No.12  
(gc)

**MAT 834 of 2020**  
**With**  
**CAN 1 of 2020**  
**With**  
**CAN 2 of 2020**

**Dr. Mohammad Faique**  
**Vs.**  
**Union of India & Ors.**

**(Via Video Conference)**

Mr. Piyush Chaturbedi,  
Mr. Chittapriya Ghosh,  
Mr. Somesh Kumar Ghosh,  
...for the Appellant.  
Mr. Soumya Majumder,  
Mr. Victor Chatterjee,  
...for the Viswa Bharati.  
Mr. A.K. Gupta,  
...for the UGC.

The appeal and the applications are treated as on the day's list and disposed of by this common order.

The appeal is arising out of an order passed by the learned Single Judge on 25<sup>th</sup> November, 2020 dismissing the writ application on the ground that the satisfaction arrived at by a duly constituted Selection Committee consisting of experts should not be lightly interfered and also took note of the fact that the petitioner has failed to prove any mala fides on the part of the respondents in awarding scores with which the petitioner/appellant has expressed unhappiness.

At the outset, Mr. Piyush Chaturbedi, learned Counsel appearing on behalf of the petitioner/appellant has very candidly submitted that the petitioner/appellant is not

questioning the composition of the Selection Committee and all aspersions made against the Selection Committee both in the petition and specifically in the grounds are not pressed. However, he submits that the communication dated 7<sup>th</sup> July, 2019 by which it was communicated to the writ petitioner/appellant that his prayer for promotion from Associate Professor (Stage-4) to Professor (Stage-5) under Career Advancement Scheme could not be considered as per rule, carry more clarity as it does not disclose the relevant rules which would be a bar for such promotion. Promotion is an expectation that a candidate carries with him at the time of his joining and normally the promotion avenues should be there in all discipline and such promotions should be considered in accordance with rules framed by the authorities in relation to any category or a particular category of its employees. That the petitioner/appellant participated in the promotion process under the Career Advancement Scheme for being promoted to the post of Associate Professor (Stage-4) to Professor (Stage-5) is not in question but as it appears from the necessary document forming the part of court's record that his candidature was not considered "as per rule".

We feel that the petitioner/appellant is entitled to know the reasons for not being considered for promotion from Associate Professor (Stage-4) to Professor (Stage-5) under the Career Advancement Scheme and, accordingly, we dispose of the appeal and applications by directing the

concerned Authority of the Viswa Bharati University to communicate its reasons by referring to the relevant rules which were in their mind and/or taken into consideration at the time of issuing the impugned letter dated 7<sup>th</sup> July, 2019. The entire exercise shall be completed within a period of two weeks from date.

The impugned order under challenge stands modified to the aforesaid extent.

The appeal being MAT 834 of 2020 and the connected applications being CAN 1 of 2020 and CAN 2 of 2020 are disposed of.

In view of the aforesaid order, the application under Order XLI Rule 27 is not considered as we feel that such evidence may not be required to be looked into at this stage. However, the petitioner/appellant shall not be precluded to rely upon the said document in any future proceeding between the parties.

Urgent Photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

**(Saugata Bhattacharyya, J.)**

**(Soumen Sen, J.)**