

S/L. 66.
27.09.2021
pk/akd

Calcutta High Court
In The Circuit Bench At Jalpaiguri
Appellate Jurisdiction
(Via Video Conference)

WPA 978 of 2021

Dr. Subinay Saha Roy
-Vs.-
The State of West Benal and others

Mr. Jagriti Mishra,
Mr. Subham Gupta,
Mr. Debayan Goswami
... for the petitioner

Mr. Biswaroop Bhattacharya,
Ms. Reshmi Ghosh
... for the respondent nos. 3 and 4.

Mr. Bikramaditya Ghosh,
Ms. Bedashruti Bose
... for the State.

The writ petitioner was appointed as a lecturer in civil engineering on 1st October, 2007 pursuant to applications invited by the Uttar Banga Krishi Viswavidyalaya. The University was carved out of the Bidhan Chandra Krishi Viswavidyalaya to cater to the residents of North Bengal.

Clause 79 of the first statute of the University published in the gazette on 22nd August, 2000 indicate as follows :

“79. **Fixation of pay.**- (1) The pay of a fresh appointee shall

ordinarily be fixed at the initial stage of the pay scale, provided that the Executive Council may, on the recommendation of the Selection Committee, sanction advance increments not exceeding five, to an exceptionally qualified or experienced candidate.

(2) If a candidate is already in the service in this University or in any other University or in a Central or State Research Institute/Organization or in any recognized Institute having been placed in similar pay scale his initial pay shall, however, be fixed at a stage in the graded pay scale after giving protection to the basic pay and the special pay or personal pay, if any, drawn by him."

The Selection Committee in its recommendation as contained in the minutes of the meeting dated 27th June, 2007 allowed three extra increments to the existing scale of pay advertised to two persons including the writ petitioner. The order of appointment dated 1st October, 2007 does not mention the same.

The writ petitioner continued to work and raised the claim for the 3 extra increments from time to time and formally on 15.02.2016 i.e. a period of 9 years after appointment. It is also not in dispute that three or four other teachers in the University, who were similarly

promised increments have been given the same by the respondents.

The writ petitioner is aggrieved by the respondents declining the said increment vide communication dated 15.03.2016.

Mr. Bhattacharya, learned counsel appearing for the University would submit that the claim of the writ petitioner is defeated by reason of the inordinate delay and laches. By placing reliance, inter alia, on the decision of the Supreme Court of India in the case of *C. Jacob Versus Director of Geology and Mining* and another reported in (2008) 10 SCC 115, it is argued that delay defeats equity. A person must be vigilant to seek and enforce remedy under law as early as possible.

This Court sees that the facts of the aforesaid case relied upon by Mr. Bhattacharya are substantially different from the facts of the instant case and may not be applicable. Indeed it is an admitted fact that there is no third party that would be affected by allowing increment to the writ petitioner. Persons who have been promised such

increments similar to the writ petitioner have been allowed such increments. There are no allegations of any violation of any Rule or Law or misconduct against the writ petitioner.

In that view of the matter, this Court is of the unequivocal view that the claim for increment of a continuously serving employee, teacher and professor who has at least about 15 years of service left must and should be deemed as a continuous right.

In view of the otherwise undisputed facts indicated herein above, this Court is not inclined to call for affidavits.

A writ of mandamus is issued quashing rejection order dated 15.03.2016.

The claim of the petitioner shall be sent to the Executive Council of the University who shall revisit the matter and pass appropriate orders within a period of two months from the date of communication of a copy of this order.

With the aforesaid observations, the writ petition is disposed of.

There shall be no order as to costs.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)