

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:

**The Hon'ble Justice Subrata Talukdar
and
The Hon'ble Justice Ananda Kumar Mukherjee**

**MAT 653 of 2022
With
CAN 1 of 2022**

***Visva-Bharati
Vs.
Chandranath Banerjee & Ors.***

For the Appellant: Mr. Soumya Majumdar, Adv.
Mr. Victor Banerjee, Adv.

For the Respondent No. 1: Mr. Biswaroop Bhattacharyya, Adv.
Mr. Debabrata Das, Adv.
Mr. Pradyut Das, Adv.
Mr. Dyutimoy Paul, Adv.
Mr. Saptarshi Mukherjee, Adv.
Mr. Mayuri Ghosh, Adv

Heard on : 18.05.2022.

Judgment on: 22.07.2022.

Ananda Kumar Mukherjee, J. :-

1. This intra court appeal has been preferred by Visva-Bharati University against the judgment and order dated 4.2.2022 passed by Hon'ble Single Bench in WPA No. 17117 of 2021. Respondent no. 1 filed Writ Petition No. 17117 of 2021 praying for quashing and/or setting aside of the order

(communication) dated 24th August, 2021 passed by the Registrar (Acting) Visva-Bharati, whereby the engagement of writ petitioner at the University was discontinued.

2. The Writ Petitioner/Respondent No. 1 was appointed to the post of Press Liaison-cum-Media Placement Coordinator Centre for Journalism and Mass Communication on 24th July, 2000 by the In-charge of the Centre.

3. In letter dated 17.3.2021 the Petitioner/ Respondent No.1 was asked to respond to the charge contained therein that he is associated with both 'Aajkaal' and 'Ek Jhalak' local TV channel and he contributed a fabricated news item in a newspaper and Telecast a news in 'Ek Jhalak' which was critical of the University. According to the appellant, the Respondent No. 1 was engaged purely on temporary basis and cannot claim continuation in service. It is submitted that the writ petitioner was not a permanent employee of the University. He was engaged by the Centre for Journalism and Mass Communication and his remuneration was paid from the allotments made for various projects run by the Centre for Journalism and Mass Communication (hereinafter referred to as CJMC).

4. Assailing the order of the Hon'ble Single Bench, Visva-Bharati University filed this appeal along with an application for stay of operation of the Judgment and Order dated 4.2.2022. The Appellant has contended that the impugned Judgment and Order passed by the Hon'ble Single Bench dated 4th of February 2022, allowed Prayers (a) and (b) of the writ petition and directed the University and the Centre for Journalism and Mass Communication to restore the

position the petitioner was as on 16th March, 2021 and allowing him to perform his duty may be stayed and on hearing of the Appeal the impugned judgment may be set aside.

5. Mr. Majumdar, learned counsel appearing for the appellant, contended that a communication dated 24.8.2021 was issued by the Registrar (Acting) Visva-Bharati, pursuant to the decision taken by the Executive Council of the University on 14th August, 2021 which confirmed the order dated 24.3.2021 passed by the In-charge, Centre for Journalism and Mass Communication, Visva-Bharati University, discontinuing the engagement of the writ petitioner with immediate effect.

6. Learned Counsel further submitted that the respondent/ writ petitioner was never appointed against any sanctioned post of the University. He was initially engaged as a Press Liaison-cum-Media Placement Coordinator in the CJMC in the year 2000 and that the Centre was not a full-fledged Department of the University. The writ petitioner was not in a permanent and substantive post but he was engaged on temporary basis, which was extended from time to time and his honorarium was enhanced subject to availability of the fund for carrying out the project of the Centre. The allocation of fund for the Centre was from the planned budgetary allocation and come under the head of wages for contractual staff/Faculty of the University.

7. It is contended that the writ petitioner does not get any salary from the salary budget of the University and does not have the benefit of GPF, Gratuity, Pension, Leave Encashment and Medical Reimbursement.

8. The writ petitioner/ respondent being engaged temporarily, his service was dispensed with in March, 2021. The respondent made a representation before the Executive Council of the University. The petitioner thereafter filed a writ petition before this court bearing no. WPA 11283 of 2021 which was disposed of by order dated 19.7.2021 with direction to the Executive Council to dispose of the representation made by the petitioner against the order of discontinuation of the work.

9. The Executive Council held a meeting on 14.8.2021 where the petitioner was afforded a personal hearing through virtual mode and his representation dated 6.8.2021 against notice of discontinuation was considered. The Appellate authority of the University thereafter affirmed the decision of discontinuation of engagement of the petitioner and issued letter dated 24.8.2021.

10. It is argued that at present there is no role of the Field Officer in the Centre for Journalism and Mass Communication and there is no scope for reinstatement of the petitioner in view of the nature of work. Appellant claims to have good grounds to succeed in the appeal and accordingly, it is urged that the operation of Judgment impugned be stayed. The appellant further urges that without calling for affidavit the writ petition could not have been disposed.

11. In reply Mr. Bhattacharyya, learned Counsel for Respondent no. 1, submitted that the writ petitioner was appointed at Visva-Bharati University on 24th July, 2000 against the post of Press Liaison-cum-Media Placement Coordinator, Centre for Journalism and Mass Communication, Visva-Bharati, initially for a period of six months. The tenure of the petitioner was extended

from time to time and on 12.3.2001, the appellant authorities extended the tenure of the petitioner in the said post until further orders. On 25th June, 2005 the post was re-designated as Field Officer as a Single Cadre Post. The post of Field Officer is a permanent, full time post and, in that capacity, he performs teaching and non-teaching duties.

12. Refuting the case of the appellant it is claimed that the post of the petitioner is now a Full-time post and the statement made by the appellant is misleading as the petitioner has been discharging his duties continuously for two decades, without any break and the service of the petitioner was further extended on 26.8.2016.

13. It is gathered that by letter of the Registrar (Acting) dated 17.3.2021 the petitioner was directed to show-cause but the charge was not established. Learned advocate for the respondent referring to Office Order No. G/G-15/459 dated 25th June, 2005 submitted that duties which were to be performed by the petitioner was on full time basis and he was also required to provide administrative support to the Teacher-in-charge of CJMC.

14. Learned advocate for the respondent submitted that by letter dated 17.3.2021 issued by a Registrar (Acting) Visva-Bharati, the Respondent No.1/ writ petitioner was directed to submit an explanation about a publication in 'Aajkaal' newspaper dated 17.3.2021 which was reproduced in TV channel 'Ek Jhalak' on 16.3.2021 as to whether such news item was written by him. It is submitted that the respondent replied to the letter on 19th March, 2021 denying the charge but received no further communication regarding the said

issue. On 24th March, 2021 the Writ petitioner/ Respondent No. 1 received a communication issued by the In-charge, CJMC that the engagement of the petitioner with the CJMC, Visva-Bharati was dispensed with immediate effect and in the communication dated 24.3.2021 the petitioner was described as 'temporary'.

15. Learned advocate for the respondent urged that the engagement of the petitioner cannot be dispensed with as the nature of the job of the petitioner is Full time and he has been rendering service uninterruptedly for 20 years. The petitioner thereafter preferred an appeal under Statute 20 P of the Statutes of the University, before Karma Samiti (Executive Council), being the Appellate authority and submitted his letter dated 18.4.2021 with relevant annexures and prayed for setting aside of the communication dated 24.3.2021 issued by the Registrar (Acting). Writ Petition No. WPA 11238 of 2021 was filed by the petitioner which was disposed by the Hon'ble Court on 19th July, 2021, by which Karma Samiti was directed to pass a reasoned order in the appeal filed by the petitioner. The 'Karma Samiti' heard the matter and issued a letter dated 24th August, 2021 stating that the service of the petitioner was not required now in view of the fact that physical classes, field work of student are not being held due to pandemic.

16. Heard the Counsel for the parties. We find from Memo No. G/G-15/1459 dated 25.6.2005 that the Registrar of Visva-Bharati re-designated the petitioner as Field Officer which is also a temporary engagement and the terms and conditions applicable to the petitioner has been laid down which includes

that he shall work on 'full time' basis and provide administrative support to the Teacher-in-charge of CJMC.

17. After receiving the letter for discontinuation of the engagement at the University on the charge that he published fabricated news critical to the University, the petitioner preferred an appeal before the Karma Samiti, on 18.4.2021 which was disposed of in a meeting on 14.8.2021 and the same was communicated to the petitioner in letter no. Admin/G/201 dated 24.8.2021 as set out below;

“After having considered all these documents, it was unanimously resolved that the order issued by In-charge of Centre for Journalism & Mass Communication, Visva-Bharati to you on 24/3/2021 discontinuing your engagement at the University shall remain in-force as your services are not required now in view of the fact that physical classes field work of students are not being held now due to pandemic.”

18. The above communication dated 24.8.2021 does not even faintly refer to the initial charge which was levelled against him relating to publication of a news item in newspaper and telecast in a local TV channel 'Ek-Jhalak' with his alleged approval which was critical to the University. Therefore, it appears to this Court that the communication dated 24.8.2021 issued by Registrar (Acting) of Visva-Bharati on behalf of the Executive Council (Karma Samiti) is devoid of reasons in respect of imputations against the petitioner made in letter dated 17.3.2021.

19. It is explicit from the contents of letter dated 24.3.2021 that it is related to disengagement of the petitioner at the Centre for Journalism and Mass

Communication with immediate effect. The said communication issued by In-charge CJMC does not disclose the reason why the engagement was being dispensed with. It also does not make any reference to the charge brought against him in letter dated 17.3.2021.

20. The reason assigned by the Executive Council, for discontinuing the engagement of the petitioner is extraneous to the charge initially raised against the petitioner regarding publication and telecasting of a news item at his instance which was presumably critical to the University. Therefore, the decision of the Executive Council and its communication dated 24.8.2021 is a '*non-sequitur*', being not related to its previous communication and the same amounts to non-compliance of the direction passed by the Hon'ble Court in order dated 19.7.2021 in WPA No. 11283 of 2021. The Hon'ble Single Bench is therefore justified in holding that the order passed and the letter communicating discontinuation of service of the petitioner were arbitrary and could not be sustained.

21. Accordingly, impugned order of the Executive Council dated 14.8.2021 which was communicated by letter dated 24.8.2021 stands set aside.

22. This Court stands persuaded by the telling reasoning of the Hon'ble Single Bench and finds no grounds to differ or interfere with the impugned order. The prayer for stay of the impugned order is therefore not tenable. In the light of the above discussion and treating the facts laid down in the Stay Application to the Memorandum of Appeal as the Affidavit of the appellant, the

appeal being **MAT No. 653 of 2022** along with **CAN 2 of 2022** are thus **dismissed**.

23. All parties to act on the basis of a server copy of the Judgment and Order placed on the official website of the Court.

24. Urgent Photostat certified copy of this judgment, be supplied to the parties if applied for, maintaining all formalities.

I Agree,

(Subrata Talukdar, J.)

(Ananda Kumar Mukherjee, J.)

Later:

After pronouncing the Judgment, Learned Counsel for the appellant prays for stay of operation of the Judgment passed by this appellate Court.

Considered.

Prayer for stay is refused.

I Agree,

(Subrata Talukdar, J.)

(Ananda Kumar Mukherjee, J.)