

S/L 24
26.8.2022
Court No.21
SD

WPA 17543 of 2022

Dr. Sk. Musiar Ali
Vs.
The State of West Bengal & Ors.

Mr. Samiran Giri

...for the Petitioner.

Mr. Swapan Kr. Datta

Mr. Tapas Kr. Dey

...for the State.

Ms. Lina Majumder

...for the Respondent Nos.2-4.

Affidavit of service filed by the petitioner in Court today be kept with the records.

By an order dated December 17, 2020, a Division Bench of this Court (to which I was a party) directed, *inter alia*, as follows:-

“In those circumstances, we are of the opinion that the appellant shall continue in the said post where he has been appointed. However, the University shall take a reasoned decision whether the said appointment fulfills the above stipulations in the said order of the division bench and communicate the same to the appellant within eight weeks of communication of this order.

If according to the decision the appointment is not in terms of the said division bench order the University will take steps to give the appellant a suitable appointment, in terms of the division bench order, within a further period of eight weeks.”

Following the said judgment and order, an order was passed by the University on October 1, 2021. The relevant portion of the said order is quoted below:-

“In terms of the solemn order of the Hon’ble Division Bench of Calcutta High Court dated 17.12.2020 in MAT No. 1118 of 2019 (Dr. Sk. Musiar Ali –vs- The State of West Bengal & Others) and as per recommendation of the Committee constituted vide notification No.REG/315(5), dated 02.9.2021, the Hon’ble Vice-Chancellor, BCKV has been pleased to place Dr. Sk. Musiar Ali presently Editor, N.A.R.P., Directorate of Research, BCKV to the post of Superintendent of Farms under the Directorate of Farms, BCKV in the Pay Band: Rs.15600-39100 + A.G.P. Rs.8000/- (UR) with effect from December 2017.

His pay and other allowances in Pay Band: Rs.15600-39100 + A.G.P. Rs.8000/- is to be fixed as per admissible rules of this Viswavidyalaya. The salary bill of Dr. Sk. Musiar Ali is to be drawn from the new head of account with effect from the month of October, 2021. He is placed at the Central Research Farm, Gayeshpur, Directorate of Farms, BCKV on and from 01.10.2021. however, the period from 01.12.2017 to 31.12.2018 in which period he did not serve the University will be treated as leave without pay with the provision of service continuation.

The financial benefit arising out of this order shall be effective on receiving the requisite fund from the funding authority.

Dr. Sk. Musiar Ali should submit his letter of acceptance to the undersigned and join to his new place of posting under the Directorate of Farms, after being release from the Directorate of Research, BCKV w.e.f. October 01, 2021.”

It is the grievance of the petitioner that no financial benefit has been extended to him till date in terms of the said order dated October 1, 2021.

Ms. Lina Majumder, learned advocate representing the University, submits that a demand with regard to the financial benefit of the petitioner was placed before the Additional Secretary, Department of Agriculture, Government of West Bengal on February 14, 2022 and again on July 22, 2022 but no response has been received from the authority.

In that view of the matter, this writ petition is disposed of with a direction upon the Principal Secretary, Department of Agriculture, Government of West Bengal to release the fund as asked by the University within a period of two months from the date of communication of this order, if the petitioner is otherwise entitled to the same.

Mr. Swapan Kr. Datta, learned advocate representing the State, submits that the entitlement of the petitioner should also be decided by the said authority.

Needless to mention that the demand as placed by the University shall be considered by the Principal Secretary, Department of Agriculture, Government of West Bengal in accordance with law.

Urgent certified photocopy of this order, if applied for, be given to the parties, upon compliance with all formalities.

(Kausik Chanda, J.)