

**01**  
**07.09.2022**  
Ct. No.25  
**b.das**

**W.P.A. 16760 of 2018**

**Smt. Gopa Das (Sen)**  
**Vs.**  
**The State of W. B. & Ors.**

Mr. Raghunath Chakraborty  
Md. A. Ansari  
Ms. A. De

.....for the petitioner.

Mr. Swapan Dutta  
Mr. D. Dasgupta                      ...for the State.

Ms. Manideepa (Paul) Roy  
...for the respondent Nos.7 to 9.

Ms. Nandini Mitra                      ...for the Calcutta University.

Pursuant to the earlier order dated September 6, 2022 Dr. Manideep Chandra, Principal of the Shibpur Dinobandhu Institution College is present in Court.

The writ petitioner has prayed for a direction upon the respondent authorities to disburse the full salary in the existing pay scale of Group D staff with effect from her date of appointment, that is, July 27, 2017. The husband of the petitioner, since deceased while rendering his service as a Laboratory Attendant in the department of Botany at Shibpur Dinobandhu Institution College, Howrah, (for short the 'College') died in harness on February 26, 2013.

The petitioner applied for compassionate appointment and pursuant to an order dated November 7, 2016, passed by a Co-ordinate Bench of this Court in WP 23980 (W) of 2016 the Deputy Director of Public Instruction by an order dated 10.04.2017 permitted the authorities of the College to appoint the petitioner in the vacant Group D post as per approved staff pattern from the date on which she joins. Thereafter, the Governing Body of the College unanimously decided to appoint the petitioner in Group D substantive post with effect from July 27, 2017.

The grievance of the petitioner is that though she was performing her duties in terms of the appointment given by the College, but she was only paid a consolidated amount of Rs.6,000/- with effect from July 27, 2017.

Mr. Chakraborty, learned Advocate appearing for the petitioner submits that since the petitioner has been appointed in Group D substantive post with effect from July 27, 2017, she shall be entitled to the pay in terms of the scale of pay attached to such post.

This writ petition was taken up on several occasions. Pursuant to an order dated June 30, 2022 the Principal of the College Dr. Manideep Chandra, the respondent No.8 herein filed a supplementary affidavit-in-opposition. After going through the said supplementary affidavit-in-opposition, this Court in the order dated 06.09.2022 recorded dissatisfaction over the statements made by the

Principal in the said supplementary affidavit-in-opposition. In paragraph 10 of the said supplementary affidavit-in-opposition, it has been stated by Dr. Chandra that after coming to know about the case of the petitioner, he has sent an e-mail to the Director of Public Instruction requesting immediate creation of Group D post for providing appointment to the writ petitioner. It further appears from the statement made in paragraph 11 of the said supplementary affidavit-in-opposition that on March 25, 2019 he had sent another e-mail to the Director of Public Instruction requesting immediate creation of Group D post (super numerary post) for providing appointment to the writ petitioner.

Since the said supplementary affidavit-in-opposition contained inconsistent and contradictory statements, this Court was compelled to direct the respondent No.8 to appear in person today, that is, on September 7, 2022.

The learned Advocate representing the respondent No.8 upon taking specific instructions from his client, who is personally present in Court, submitted that there are several vacancies in Group D post in the College, but the same can be filled up only after prior permission from the Director of Public Instruction is received for appointment to such post. The said learned advocate produces a copy of a letter dated September 6, 2022 which seems to have been forwarded by electronic mail to the Director of Public Instruction on September 6, 2022

at about 7.06 p.m. From the stand taken by the respondent No.8, it is evident that the said respondent tried to mislead the Court by taking inconsistent and contradictory stand only for the purpose of denying the benefits to which the petitioner is entitled to.

This Court thereafter asked Dr. Chandra to clarify his stand after going through the order dated April 10, 2017 issued by the Deputy Director of Public Instruction, wherefrom it appears that the said authority had permitted the College to appoint the petitioner in vacant Group D post as per approved staff pattern and also the letter dated 27<sup>th</sup> July, 2017 issued by the then Principal of the College, which records that in compliance with the order of the Hon'ble High Court and the order of the Director of Public Instruction, the Governing Body of the College unanimously decided to appoint the petitioner in Group D post of the College.

It is only after the aforesaid documents were brought to the notice of the Principal, he admitted that there is no further requirement to obtain any permission from the Director of Public Instruction. He also does not dispute that the Governing Body of the College gave appointment to the petitioner in Group D substantive post with effect from July 27, 2017.

This Court, however, appreciates the stand no taken by the Principal, though at a belated stage, that he will issue a letter clarifying and specifying that the petitioner

shall perform the duties of Group D, Laboratory Attendant in the department of Chemistry. He further submits that such letter shall be issued to the petitioner before the closing of the office hours of the College on September 7, 2022. He further assures the Court that all necessary papers for approval of the service of the petitioner shall be forwarded to the Director of Public Instruction, Department of Higher Education being the respondent No.3 herein on or before September 12, 2022. Such assurance is taken note of by the Court.

Mr. Dutta, learned Senior Advocate appearing for the State submits that he will instruct the concerned respondent authority to take steps for grant of approval to the petitioner expeditiously.

Taking into consideration that the respondent No.8, in course of hearing of this writ petition today admitted that he will take steps for approval of appointment of the petitioner, this Court refrains from passing any adverse order against the respondent No.8. However, the said respondent shall act in a responsible manner in further since he is holding the post of a Principal of a College.

In view of the fact that there are available vacancies and the petitioner has been appointed in the Group D substantive post, this Court holds that the petitioner is entitled to salary as per the pay scale attached to the post. Since the college authority has already appointed the petitioner in Group D substantive post, necessary

directions are to be passed for approval of the appointment, fixation of pay and release of salaries.

The writ petition being WPA 16760 of 2018 is allowed with the following directions:

- i) The Principal of the College is directed to issue the said clarificatory letter as observed hereinbefore before the closing of the office hours of the College on 07.09.2022.
- ii) The Principal of the College and the Governing Body of the said College are directed to forward the papers necessary for approval of the service of the petitioner in the post of Laboratory Attendant to the Director of Public Instruction on or before September 12, 2022.
- iii) Immediately upon receipt of the said papers from the College authority, the Director of Public Instruction, being the respondent No.3 shall take necessary steps for approval of service of the petitioner and also to fix the pay scale of the petitioner taking into account the date of appointment of the petitioner in the Group D post with effect from July 27, 2017 as expeditiously as possible and preferably on or before November 11, 2022.
- iv) Entire arrears of salary together with all allowances and benefits to which the petitioner is entitled to for holding the Group D post of

the College after adjusting the amount already paid to her, shall be released on or before November 30, 2022.

There shall, however, be no order as to costs.

Pending applications, if any, also stands disposed of accordingly.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

**(Hiranmay Bhattacharyya, J.)**