

102 07.06.2022
BD Ct.15

W.P.A. 14532 of 2016

Professor Nilotpal Ghosh & Anr.

-vs-

The State of West Bengal & Ors.

Mr. Ranajit Chatterjee
... for the petitioner.

Mrs. Lina Majumder
Mr. Arijit Dey
... for the respondent nos. 3 & 4.

Mr. Tulsidas Ray
... for the State.

Matter relates to grant of non-practicing allowance in favour of the writ petitioners.

Mr. Ranajit Chatterjee, learned advocate appearing for the petitioners has submitted that the petitioners are the Veterinary Professors of Bidhan Chandra Krishi Viswavidyalaya. Both the petitioners were appointed on 7th April, 1995. Prior to such appointments recommendation was made by the Bidhan Chandra Krishi Viswavidyalaya for sanction of non-practicing allowance to the employees of the University possessing bachelors of Veterinary Science and Animal Husbandry qualification at the rate sanctioned by the State Government. However, it was made clear that such benefit would be allowed to the employees provided necessary fund is allotted by the State Government.

During course of submission Mr. Chatterjee has placed reliance on an order dated 15th December, 2005 passed by a co-ordinate Bench on a writ petition being WPA 239 of 2003 (Sagar Sanyal & Ors. -vs- West Bengal University of Animal & Fishery Sciences & Ors.) and it is submitted that similarly circumstanced candidates were sanctioned NPA allowance pursuant to the order passed by the co-ordinate Bench. It has also been submitted that one appeal was preferred by the respondents in the writ petition being WPA 239 of 2003 being FMA 2508 of 2007 which stood dismissed vide order dated 10th February, 2009, page 79 of the writ petition.

On behalf of the petitioners, it has been submitted that similarly circumstanced professors having requisite qualifications in veterinary science are getting NPA while working in Uttar Banga Krishi Vidyalaya. It has also been apprised by Mr. Chatterjee that out of two petitioners in this writ petition, petitioner no. 1 has subsequently been appointed as a member of the faculty of veterinary science in West Bengal University of Animal and Fishery Sciences and on being appointed in the said University the petitioner no. 1 is in receipt of NPA allowance. It is contended that since no

decision has been taken by the concerned State respondents with regard to allotment of funds based on recommendation made by the Bidhan Chandra Krishi Viswavidyalaya the petitioners are deprived of the benefit of NPA.

Attention of this Court has been drawn to a Memo dated 7th January, 2016 issued by the Additional Secretary, Department of Agriculture, Education Branch, Government of West Bengal, whereby it was intimated to the Registrar of Bidhan Chandra Krishi Viswavidyalaya that the concerned administrative department may take up the issue with the 6th Pay Commission which has been constituted for the State Government employees and other certain categories of employees vide resolution dated 27th November, 2015.

Taking a cue from the said Memo dated 7th January, 2016 issued by the Additional Secretary, enclosing extract notes and orders passed by the Agricultural Department it has been submitted on behalf of the petitioners that the petitioners are not coming within the ambit of 6th Pay Commission constituted by the State Government since it has been made clear vide Resolution dated 27th November, 2015 that members of the services to whom UGC scale of pay and AICTE scales of pay

are applicable were kept outside the ambit of the 6th Pay Commission.

Mr. Tulsidas Ray, learned advocate, appears on behalf of the State respondents and Bidhan Chandra Krishi Viswavidyalaya is represented by Mr. Arijit Dey, learned advocate.

This Court has heard the learned advocates representing the parties and perused the relevant documents available on record.

Considering the observations made by the co-ordinate Bench vide order dated 15th December, 2005 this Court finds it fit to direct the Additional Secretary, Department of Agriculture, Government of West Bengal, being the respondent no. 5 to take a decision on entitlement of the petitioners to receive non-practicing allowance. It appears to this Court that till date no formal decision has been taken on the claim of the petitioners to receive non-practicing allowance. Respondent no. 5 before taking such decision shall give an opportunity of hearing to both the petitioners or their representatives and the representative of Bidhan Chandra Krishi Viswavidyalaya and pass a reasoned decision within a period of 8 weeks from the date of communication of this order. It is made clear that while taking such decision on the claim

of the petitioner for sanction of non-practicing allowance respondent no. 5 shall take into consideration the decision of the co-ordinate Bench as contained in order dated 15th December, 2005 and also relevant facts that other similarly circumstanced veterinary professors are receiving non-practicing allowance while working in the universities under the State Government.

With the above direction the writ petition stands disposed of. However, there shall be no order as to costs.

Affidavits filed on behalf of the parties to this writ petition are taken on record.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)