

12.6.2023

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**WPA 3302 of 2022**

**Dr. Jaganamay Biswas  
Vs.  
State of West Bengal & Ors.**

Mr. Ranojit Chatterjee  
Mr. Aniruddha Mitra  
... For the petitioner.

Mr. Prabir Dasgupta  
Mr. Suman Dey  
... For the University.

Mr. Supriyo Chattopadhyay  
Ms. Iti Dutta  
... For the State.

The petitioner retired as a Professor on February 29, 2012 from Bidhan Chandra Krishi Viswavidyalaya, Nadia (in short, the University).

It is not in dispute that his re-employment was considered by a screening committee duly constituted by the University. The said screening committee recommended extension of service of the petitioner for a further period of two years. The said resolution of the screening committee was approved by the Executive Committee of the University on March 20, 2012.

The petitioner in the year 2017 filed a writ petition before this Court contending, inter alia, that he had worked for an additional two years but the University did not give him any remuneration for the service.

That writ petition was disposed of by a Coordinate Bench of this Court on October 30, 2019 by giving a direction upon the State to consider the prayer of the writ petitioner. The State ultimately by an order dated December 30, 2019 rejected the prayer of writ petitioner primarily on the ground that approval of the State was not obtained for extending service of the writ petitioner.

In this writ petition the said order of State dated December 30, 2019 has been impugned.

Mr. Ranojit Chatterjee, learned advocate appearing for the petitioner submits that since the petitioner's service was utilised by the University even after his superannuation for a further period of two years, both the University and the State are obliged to pay remuneration for the said period. The screening committee was constituted in terms of the Government Order dated May 18, 2009 and the approval of the State was a mere formality. It has been further submitted by Mr. Chatterjee law has been settled by this Court that even in cases where the State does not accord its approval for an extended period of service, a Professor cannot be denied the remuneration for the service rendered by him.

Mr. Prabir Dasgupta, learned advocate appearing on behalf of the University, on the other hand, submits that the petitioner did not at all serve the University after his retirement on February 29, 2012. He has

referred to paragraph 4 of the affidavit-in-opposition affirmed by the University where the University has asserted as follows: -

*“It is pertinent to mention, in this situation that it was his duty to discontinue as Chairman, Advisory Committee. Also it is a moral duty of the teacher to sign the Thesis of students under his Chairmanship even after his retirement. This is not to be considered as University service.*

*Moreover it may be noted that no students were allotted to him after his retirement. Neither any class nor any duty was allotted to him.”*

He further points out that to dislodge the stand of the University, the petitioner affirmed an affidavit-in-reply on November 21, 2017 annexing a class routine to suggest that he was allotted classes regularly by the University even after his retirement.

He refers to the affidavit affirmed on behalf of the University on March 01, 2023. Annexure ‘R-1’ of that affidavit that discloses a Corrigendum dated March 15, 2012 that reads as follows: -

*“Dear colleagues*

*It has been brought to my notice today that the name of Dr. J. Biswas (retired on 29/02/12) been mistakenly associated with some of the courses offered in both Msc & Phd course*

*schedule for the current semesters (notice dt 7<sup>th</sup> March 2012). I apologize to the error committed the name of Dr. Biswas shall remain, withdrawn at the present and till further notice.”*

The corrigendum bears an endorsement from the petitioner to the following effect:

*“Receive the letter on 15/3/12 at 4.30 P.M. after sign in the roster form of M. Sc. (Hort.) 2<sup>nd</sup> & 4<sup>th</sup> semester & Ph. D 2<sup>nd</sup> Semester as because the undersigned receive the class routine on 7/3/12, circulated by the Head, Dept. of Floriculture & Landscaping. F/Hort. BCKV.”*

The corrigendum and the endorsement as quoted above clearly suggest that though initially, the petitioner was allotted some assignments, they were withdrawn within seven days since there was no approval from the State Government for the extension of service of the petitioner.

The documents as noticed above, do not indicate that the petitioner had actually rendered any service after his retirement, although he might have completed the procedural formalities by signing documents for Ph. D. students.

Mr. Chatterjee, however, sought to refute the stand of the University by referring annexure 'R-2' of the affidavit-in-reply filed by the petitioner. He also suggests that after the corrigendum was issued, the Executive Committee of the University decided to extend the service of the petitioner.

The said fact, even if accepted, does not substantiate that the petitioner actually served in the University after his retirement.

In that view of the matter, this writ petition is found to be meritless and accordingly the same is dismissed.

**WPA 3302 of 2022** is dismissed.

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

(Kausik Chanda, J.)