

Item-
ML-32. 09-10-2023

sg Ct. 8

FMA 290 of 2023
CAN 1 of 2023

Prof. (Dr.) Anil Chandra Pradhan
Versus
The State of West Bengal & Ors.

Mr. Ranajit Chatterjee, Adv.
Mr. Aniruddha Mitra, Adv.

...for the appellant

Ms. Lina Majumder, Adv.

...for the respondent no.5

Mr. Amal Kr. Sen, Adv.

Mr. Lal Mohan Basu, Adv.

...for the State

1. Affidavit of service filed in Court is today is taken on record.
2. The petitioner, prior to his appointment as Professor in Bidhan Chadra Krishi Viswavidyalaya, West Bengal (in short 'the University'), was a Junior Scientist-cum-Assistant Professor (Agronomy) at Birsa Agricultural University in Jharkhand (in short "BAU") from 20th August, 1982 to 2nd November, 1987. Birsa Agricultural University is a State Aided University at Jharkhand.
3. The petitioner retired from service from the University on 30th October, 2005 after 18 years service. He made an application for counting of his service at BAU for the purpose of computing of pensionary benefits.
4. The Registrar of the University recommended him on 7th May, 2012 for counting of the past service at BAU in terms of the provisions contained in paragraph 16 of Memo No. 85-Edn (U) dated 31st January, 2000 issued by the Higher Education Department towards retirement benefits. Prior thereto, several representations were made by the petitioner

and there are exchange of correspondences between the University and the Secretary/Joint Secretary of the Department of Agriculture, Education Branch.

5. In all the communications, we find that the University was of the view that the appellant is entitled for counting his past service at BAU. The appellant has disclosed a communication from the Government of West Bengal, Department of Agriculture dated 15th July, 2016, in which he was informed that the University proposed the case of counting of the past service of the appellant to the Finance Department, Pension Branch on 8th October, 2013. The Finance Department ultimately on 23rd September, 2016 opined that the said Department may not agree to the proposal of Agriculture Department for counting the past service of the petitioner in terms of G.O. No. 85. Edn (U) dated 31st January, 2000, which appears to be applicable to the teachers of the University under Education Department. Agriculture Department does not probably have the same type of an order for the extension of such benefits of teachers under Agriculture Department. The pension payment order was issued without giving him the benefit for the past service at BAU.
6. The Finance Department appears to have overlooked a communication dated 22nd May, 2000 from the Joint Secretary, Department of Agriculture, Education Department where the Government has approved the implementation of the Higher Education Department's order which, inter alia, includes the order dated 31st January, 2000 relating to

revision of pension in the said University.

7. Moreover, we find that Justice Saugata Bhattacharyya, sitting singly, in *WPA 21565 of 2016 (Dr. Asit Kumar Sarkar vs. State of West Bengal & Ors.)* decided on 26th April, 2022 in a similar circumstance, directed the University to forward the necessary papers relating to pension of the writ petitioner to the concerned authority of the State respondents and on receipt of such pension papers, the concerned State respondent was directed to complete the formalities of release of retiral dues within five years thereafter.
8. We have been informed that this order has been implemented. In fact, in the communication dated 7th May, 2012, the Registrar has categorically stated that in the past, similar benefits have been given to the persons similarly circumstanced. The relevant observations of the Registrar are as follows:

“In previous occasion, similar benefit had been extended to Dr. S.K.T., Nassar, Ex. Director of Research, BCKV, Dr. D. Sen, Ex. Director of Extension Education and other teachers as per approval from the Agril. Department, Govt. of West Bengal.

So you are kindly requested for giving permission for counting the past Service of Dr. A.C. Pradhan during the period from 20-08-1982 to 02-11-1987 at B.A.U. in terms of provisions contained in Para 16 of Memo No. 85-Edn (U) dated 31-01-2000 towards retirement benefit.”

9. All the persons named in the said communication have been accorded with the benefit to which the petitioner has been

presently denied in view of the stand taken by the Finance Department. In fact, we find that before the learned Single Judge, the learned Additional Government Pleader submitted that fixation of the initial pay of the writ petitioner at the time of joining of the University when the petitioner was granted pay protection of his service does not have any nexus with the sanction of the retiral dues of the petitioner. Therefore, the State respondents have rightly sanctioned the retiral dues including the pension in favour of the writ petitioner reckoning the date of joining of the petitioner in the University. According to the State respondents albeit the Orissa University of Agriculture and Technology where Dr. Sarkar was a Reader is an approved Institute under the Indian Council of Agricultural Research but that accreditation is not there in the case of RRTTS, Ranital where the writ petitioner rendered his past service.

10. The recognition of the Institute is not an issue in this writ petition. Unlike Dr. Sarkar's case, the Finance Department has raised objection only on the ground of paragraph 16 of the Notification dated 31st January, 2000. The petitioner was also given pay protection.
11. In view of the communication of the Education Department dated 22nd May, 2000 and having regard to the fact that similar benefits have been extended to the persons named in the communication dated 7th May, 2012, we are of the view that the writ petitioner is entitled to the same and/or similar benefits. Moreover, it appears that no instance where any such reciprocal arrangement has been denied.

12. The learned Advocate for the University has stated that they have not come across any instance as on date where there has been a denial of reciprocal arrangement may be due to the reason that no Professor from the University has opted for BAU in Jharkhand.
13. In any event, the absence of a recognized reciprocal arrangement could not stand in the way in view of the reasons stated above. Moreover, the reciprocal arrangement is not a ground on which the benefit was denied to the writ petitioner.
14. The learned Single Judge has made out a case which is not reflected from the communication of the Finance Department dated 23rd September, 2016 as it was not denied due to absence of any recognized reciprocal arrangement.
15. Under such circumstances, the impugned order is set aside.
The appeal is allowed.
16. In view of the fact that all necessary papers have already been forwarded on 8th October, 2013, the State respondents are directed to complete the formalities and release the retiral dues upon issuing revised pension payment order within five weeks thereafter and shall make payment of the arrear pension amount within the aforesaid period.
17. Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(Uday Kumar, J.)

(Soumen Sen, J.)