

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

Present:

**THE HON'BLE JUSTICE HARISH TANDON
&
THE HON'BLE JUSTICE PRASENJIT BISWAS**

WPST 45 of 2022

**Dr. Parameswar Jana
Vs.
The State of West Bengal & Ors.**

Appearance:

For the Petitioner : **Mr. Somdeep Chakraborty, Adv.**

Mr. Victor Chatterjee, Adv.

Mr. Barnamoy Basak, Adv.

For the Respondent : **Mr. Souvik Nandy , Adv.**

Ms. Chama Mookherji, Adv.

Mr. Gourav Das, Adv.

Judgment On : **01.05.2023**

Prasenjit Biswas, J. :

The point for consideration in this appeal is that whether the service rendered by the petitioner as demonstrator would be considered as experience of a teaching faculty under the West Bengal Ayurvedic Education Service.

The petitioner was appointed as a demonstrator of DravyaVijnan and Rasashastra and Centre for training in ayurveda at Vishwanath Ayurveda Mahavidyalaya on 31st October, 1984 and subsequently by a notification dated- 31.03.2004 he was appointed to the post of Superintendent and Ex-Officio cum Visiting Physician at Vishwanath Ayurveda Mahavidyalaya. It is the specific contention of the petitioner that by enacting the West Bengal State Ayurvedic Health Service Act, 2002 two services i.e. the West Bengal Ayurvedic Education Service and the West Bengal Ayurvedic Health Service were recognized. Since the post of Superintendent and Ex-Officio cum Visiting Physician were not included either in two categories and as the said post remained undecided, revision of scale of pay was not extended to him. Although, this applicant rendered service of teaching faculty and service of an administrator in the Institute he did not get the benefit of enhanced scale of pay and he is entitled to get the scale of Professor under the West Bengal Ayurvedic Education Service.

Learned counsel appearing on behalf of the petitioner was very much vocal on the point that due to non-inclusion of the post being held by him in any of the two services as created by the West Bengal State Ayurvedic Health Service Act, 2002 a huge difference arose between the scale of pay of Superintendent and Ex-Officio cum Visiting Physician and Professor and he is being made to suffer due to action of the respondent in not including the said post. It is further submitted on behalf of the petitioner that the tribunal erred in observing that the service rendered by him in the post of demonstrator cannot be considered as experience of a teaching faculty and it is clear from the amendment Act, 2003 that the post of demonstrator was a

teaching post which is now renamed as lecturer. Learned counsel vociferously argued that since the petitioner was appointed in the year 1984 as a demonstrator which is a teaching post the respondents herein could not have raised any dispute regarding the same.

Learned counsel appearing on behalf of the respondents reiterated the same submission which has been advanced before the Tribunal.

We have anxiously considered the rival submissions advanced by the parties. Perused the impugned order passed by the Tribunal and have gone through all the documents as annexed with the present petition.

The petitioner has been unable to show that there is an existing channel of consideration of the service rendered by this applicant as demonstrator before joining the post of Superintendent and Ex-Officio cum visiting physician which may be considered as experience of a teaching faculty. No rules or regulation have been shown to this court which would have formed the basis of such a claim of the petitioner and the consequent grievance on account of violation of such rules. If that be so, then the very foundation of the case of the petitioner is without any basis.

It further appears that the petitioner was appointed to the post of Superintendent and Ex-Officio cum Visiting Physician by a notification dated- 31.03.2004 at Vishwanath Ayurveda Mahavidyalaya in terms of order dated- March 31, 2004 and demitted the office on superannuation on July 31, 2010 from the same post of the same institute. The West Bengal State Ayurvedic Health Service Act, 2002 was came into picture and by enacting

the said Act two types of services were recognized i.e. 1) the West Bengal Ayurvedic Education Service and 2) the West Bengal Ayurvedic Health Service and as a result all the existing posts under the Directorate of Ayurveda were classified in the above referred two services. The post of Superintendent and Ex-Officio Professor cum visiting physician was not included in any of the two services.

No convincing document has been shown on behalf of the petitioner that the service rendered by the applicant as demonstrator before joining the post of Superintendent and Ex-Officio Professor cum Visiting Physician can be considered as experience of a teaching faculty and accordingly he cannot be said to be entitled for the scale of Professor. The argument advanced on behalf of the petitioner does not inspire confidence of this court that he was entitled to get scale of professor under the West Bengal Ayurvedic Education Service.

Under these circumstances, this court is of the considered opinion that no case is made out warranting interference of the impugned order passed by the Tribunal.

Writ petition is thus dismissed.

The impugned order dated 18.12.2019 passed by the Tribunal in Case No. O.A. 99 of 2018 is hereby affirmed.

No order as to costs.

As a sequel, applications pending, if any, in connection with this writ petition, shall stand close.

Urgent photostat certified copies of this order, if applied for, be made available to the parties subject to compliance with requisite formalities.

I agree.

(Harish Tandon, J.)

(Prasenjit Biswas, J.)